

LDC 25-1126 TEXT AMENDMENT
LAND DEVELOPMENT CODE
PART 3.05.00 WELLHEAD AND SURFACE WATER RESOURCE PROTECTION

PART 3.05.00 WELLHEAD AND SURFACE WATER RESOURCE PROTECTION¹

Sec. 3.05.01. Purpose

- A. The purpose of this Part is to ensure the protection of the quality of existing and future public potable water supplies in Hillsborough County, Florida, through the establishment of Wellhead Resource Protection Areas (WRPA) around public potable water supply wells, Surface Water Resource Protection Areas (SWRPA) around surface water bodies that are upstream of a potable water supply system, and Potable Water Wellfield Protection Areas (PWWPA) around potable water wellfields, and the setback prohibition or regulation of specific activities and facilities in these areas.
- B. The Hillsborough County Board of County Commissioners hereby declares that in order to ensure an adequate and safe future supply of potable water that certain land uses and associated activities, which are deemed by the County to be potential sources of degradation of the drinking water quality in Hillsborough County, may be regulated or prohibited within defined areas. This Part sets forth regulations and prohibitions deemed necessary by the Hillsborough County Board of County Commissioners to ensure protection of the present and future public potable water supply wells, surface water supply sources and potable water wellfields.
- C. After adoption of this Ordinance by the Board of County Commissioners, the County Administrator will establish administrative procedures for facilities to comply with the requirements of this Part. These procedures will establish priorities for compliance and compliance timeframes. Priorities will be based on known groundwater threats to the resource, proposed new prohibited activities and known surface water threats to the resource.
- D. Notwithstanding the vesting (Section 11.02.00) and non-conforming use (Section 11.03.00) provisions of the Land Development Code, all Prohibited ~~and Restricted~~ Activities are required to comply with the requirements of this Part.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.02. Wellhead Resource Protection Area Map, Surface Water Resource Protection Area Map and Potable Water Wellfield Protection Area ~~Map~~

A Wellhead Resource Protection Area Map consists of the delineation of wellhead resource protection areas. A Surface Water Resource Protection Area Map consists of the delineation of surface water protection areas. A Potable Water Wellfield Protection Area ~~Map~~ consists of the [Florida Department of Environmental Protection well designations for Non-Transient Non-Community and Community Water Systems and a 500-foot setback delineation of potable water wellfield protection areas.](#)

- A. Designation of Wellhead Resource Protection Areas

Zones around public potable water supply wells or Aquifer Storage and Recovery Wells that meet the criteria of a public potable water supply well are designated as Wellhead Resource Protection Areas (WRPA) to protect the quality of existing and future potable water resources. The Wellhead Resource

¹Editor's note(s)—Ord. No. 04-27, § 2, adopted June 10, 2004, amended Part 3.05.00, in its entirety, to read as herein set out in §§ 3.05.01—3.05.11. Prior to inclusion of said ordinance, Part 3.05.00 pertained to wellhead protection. See also the Table of Amendments.

Protection Areas for unincorporated Hillsborough County are designated on the Hillsborough County Wellhead Resource Protection Area Map, ~~in two zones: Zone 1—Potable Water Protection Impact Zone and Zone 2—Public Potable Water Supply Well Protection Zone.~~

B. Designation of Surface Water Resource Protection Areas

Lands located adjacent to or near surface water bodies that are upstream of potable water supply systems are designated as Surface Water Resource Protection Areas (SWRPA) to protect downstream water quality from threats of certain types of land use activities and surface water discharges. SWRPA zones which include the land area of surface water bodies and watercourses are designated on the Surface Water Resource Protection Area map.

C. Designation of Potable Water Wellfield Protection Areas

Potable water wellfields shall have a Potable Water Wellfield Protection Area (PWHPA) of a 500-foot radial setback from a ~~community or non-transient non-community~~ potable water well ~~as defined by the Safe Drinking Water Act~~. The potable water wellfield protection area shall be established for potable water wells to be consistent with State statutes and administrative regulations.

D. Interpretation of Wellhead Resource Protection Area, ~~and~~ Surface Water Resource Protection Area ~~and Potable Water Wellfield Protection Area Designations~~

To determine the location of ~~properties and facilities~~ land within the resource protection areas delineated on the Hillsborough County Wellhead Resource Protection Area Map, ~~and~~ the Surface Water Resource Protection Area Map, ~~and the Potable Water Wellfield Protection Area Map~~, the following general rules shall apply:

1. Map boundaries.

Provisions of this regulation shall apply for that portion of a parcel of land which lies within a WRPA, ~~or~~ a SWRPA ~~or a PWHPA~~, to the extent of the boundary delimitation shown on the Hillsborough County Wellhead Resource Area Protection Map, ~~or~~ the Surface Water Resource Protection Area Map ~~or the Potable Water Wellfield Protection Area Map~~.

2. Changes to map boundaries.

Wellhead Resource Protection Area, ~~and~~ Surface Water Resource Protection Area ~~and Potable Water Wellfield Protection Area~~ designations may be changed by the Board of County Commissioners, on the basis of defined criteria, including but not limited to changes in the technical knowledge concerning the aquifers or surface waters of Hillsborough County, changes in pumping rates for public potable water supply wells in wellfields, wellfield reconfiguration, the addition of new public potable water supply wells to a wellfield, the addition of new surface water withdrawals for public supply, the addition of potable water wellfields, changes to the Tampa Bay Water Master Water Plan, the establishment of Minimum Aquifer Levels and Minimum Flows and Levels or approval of additional wellfields or surface water withdrawals.

E. Identification of Potable Water Wellfield Protection Areas

To determine the location of land within the Potable Water Wellfield Protection Areas, the Florida Department of Environmental Protection's database shall be used to identify the community and non-transient non-community potable water wells and shall consist of a 500-foot radial setback from each well.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.03. Prohibited Activities In The Wellhead Resource Protection Areas and Surface Water Resource Protection Areas

A. ~~Prohibited Activities In WRPA Zone 1~~

~~Property that is located in both a WRPA Zone 1 and a SWRPA is subject to both 3.05.03.A and 3.05.03.B.~~

~~Property that is located in both a WRPA Zone 1 and a PWWPA is subject to both 3.05.03.A and 3.05.05.~~

- ~~1. New sanitary landfills, including new phosphogypsum piles, and any other disposal of a solid waste as permitted under Chapter 62-701.020, F.A.C.~~
- ~~2. New industrial land use designations.~~
- ~~3. New Interim wastewater treatment plants, unless Advanced Wastewater Treatment (AWT) standards and other regulatory requirements for Community Wastewater Treatment Plants are met.~~
- ~~4. New concentrated animal feeding operations as defined in Chapter 62-670.200, F.A.C.~~
- ~~5. New dairy farm storage and treatment facilities, high intensity areas and land application areas as defined in Chapter 62-670.200, F.A.C.~~
- ~~6. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan Aquifer.~~
- ~~7. Any new land applications of sludge and septage.~~
- ~~8. New underground storage facilities shall be prohibited within a distance of 1,000 feet from a public potable water supply well.~~

B. ~~Prohibited Activities In WRPA Zone 2 and/or SWRPA~~

~~Property Land that is located in both a WRPA Zone 2 or a SWRPA and a PWWPA is subject to both 3.05.03 AB and 3.05.05 is subject to the following prohibited activities:-~~

1. The use, handling, production, disposal, and storage of Regulated Substances associated with nonresidential activities greater than a maximum of 100 gallons of any one regulated substance or greater than a maximum of 500 gallons of all regulated substances combined at any given time is prohibited in the WRPAs and SWRPAs, except as provided under this Part.
 1. Where Regulated Substances are dissolved in or mixed with other non-Regulated Substances, only the actual quantity of the Regulated Substance shall be used.
 2. Where a Regulated Substances is a liquid, the total volume of the Regulated Substances present in a solution or mixture of said substance with other substances shall be determined by volume percent composition of the Regulated Substance.
 3. Where the quantity of one or more Regulated Substances percent composition is unknown, the total amount of the mixture or solution shall be the quantity of Regulated Substance(s).
- ~~2. No installation shall discharge into groundwater, either directly or indirectly, any contaminant that causes a violation in the water quality standards and criteria for the receiving groundwater as established in Chapter 62-520, F.A.C.~~
23. Discharges through natural or manmade conduits, such as wells and sinkholes, that allow direct contact with Class G-I and Class G-II groundwater are prohibited, except for projects designed to recharge aquifers with surface water of comparable quality, or projects designed to transfer water across or

between aquifers of comparable quality for the purpose of storage or conservation, or residential stormwater discharging through wet retention/detention ponds.

- ~~34.~~ Industrial stormwater discharges requiring a NPDES Stormwater Industrial Multi-Sector Generic Permit (MSGP) to retention/detention ponds are prohibited unless otherwise exempt in this Part. Industrial sectors maintaining a No Exposure Certification for Exclusion (NEX) from NPDES Stormwater Permitting shall be exempt from the NPDES MSGP prohibition.
- ~~45.~~ Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan aquifer system is prohibited.
- ~~6.~~ There will be no new land use activities which are classified under the definition of Heavy Industrial.
- ~~75.~~ Heavy Manufacturing and/or Industrial uses are is prohibited.
- ~~68.~~ Construction and operation of new solid waste disposal facility as defined by Chapter 62-701.200 F.A.C. shall be prohibited. Operation of all existing sanitary landfills including new phosphogypsum piles, and any other disposal of a solid waste as permitted under Chapter 62-701, F.A.C. will be terminated within one year and a permanent leachate monitoring system installed to monitor movement of leachate. New Solid Waste Management Facilities, including Construction and Demolition Debris, regulated under Chapter 62-701, F.A.C. for Solid Waste Management Facilities, are prohibited.
- ~~79.~~ Junkyards and Vehicle Recycle activities are prohibited.
- ~~10.~~ Industrial septic tank disposal systems are prohibited.
- ~~811.~~ New underground storage tank systems and aboveground storage tank systems, are prohibited within a WRPA ~~Zone 2~~ or a SWRPA.
- ~~1.~~ Replacement or upgrading of an existing aboveground storage tank or addition of new aboveground storage tanks which are regulated under Chapter 62-762, F.A.C. for Aboveground Storage Tank Systems, at a facility with other such aboveground storage tanks is exempt from this provision, provided that the replacement or new aboveground storage tank system meets the applicable provisions of Chapter 62-762, F.A.C.
- ~~912.~~ New underground storage tanks regulated under Chapter 62-761, F.A.C. shall be prohibited.
- ~~1.~~ Replacement of an existing underground storage tank system regulated under Chapter 62-761, F.A.C. for Underground Storage Tank Systems, within the same excavation, or addition of new underground storage tanks regulated under Chapter 62-761, F.A.C., at a facility with other such underground storage tanks is exempt from this provision, provided that the replacement or new underground storage tank system is installed with secondary containment as required in Chapter 62-761, F.A.C.
- ~~1012.~~ Any new land applications of domestic wastewater residuals, sludge, septage and domestic septage are prohibited. New domestic wastewater residuals land application sites, as defined in Chapter 62-640, F.A.C. for Biosolids, shall be prohibited.
- ~~13.~~ New Interim wastewater treatment plants are prohibited, unless Advanced Wastewater Treatment (AWT) standards and other regulatory requirements for Community Wastewater Treatment Plants are met. New domestic wastewater treatment facilities shall be prohibited unless provided with Class I reliability as described in Chapter 62-600, F.A.C. for Domestic Wastewater Facilities, and flow equalization. New wastewater ponds, basins, and similar facilities shall be prohibited unless lined or sealed to prevent measurable seepage. Unlined reclaimed water storage systems are allowed for reuse projects permitted under Part III of Chapter 62-610, F.A.C. for Reuse of Reclaimed Water and Land Application.

~~1114.~~ ~~Industrial Wastewater Treatment Plants are prohibited.~~ New discharges of industrial wastewater, as regulated under Chapter 62-660 for Industrial Wastewater Facilities, Chapter 62-670, F.A.C. for Feedlot and Dairy Wastewater Treatment and Management Requirements, Chapter 62-620, F.A.C. for Wastewater Facilities and Activities Permitting and 62-621, F.A.C. for Generic Permits, shall be prohibited.

~~1215.~~ New concentrated animal feeding operations as defined in Chapter 62-670.200, F.A.C. are prohibited.

~~1316.~~ New dairy farm aboveground or underground storage facilities and wastewater treatment plant, high intensity areas and land application areas as defined in Chapter 62-670.200, F.A.C. are prohibited.

~~1417.~~ ~~New mining operations permitted under Chapters 62-671, 672, and 673, F.A.C. are prohibited.~~ New phosphogypsum stack systems and phosphate mining waste, as regulated and defined under Chapter 62-671, F.A.C. for Phosphate Mining Waste Treatment Requirements and 62-673, F.A.C. for Phosphogypsum Management, are prohibited.

~~18.~~ ~~Land application of industrial waste water and industrial reuse water is prohibited.~~

~~1519.~~ Human cemeteries are prohibited.

~~1620.~~ Land Excavations are prohibited. Notwithstanding, land excavations for the purpose of agriculture irrigation that receive authorization, including permits and exemptions, through the Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP) under Environmental Resource Permit or Water Use Permit rules, may be allowed subject to the requirements of Sections 6.11.54 or 6.11.117 of this Code.

~~1721.~~ ~~Reclaimed Aquifer Storage and Recovery (ASR) wells are prohibited.~~

~~1822.~~ New Class I and Class III underground injection control wells, as regulated in Chapter 62-528, F.A.C. for Underground Injection Control, are prohibited.

~~1923.~~ New Class V underground injection control wells, as regulated in Chapter 62-528, F.A.C. for Underground Injection Control, are prohibited except as provided below:

1. Thermal exchange process wells (closed-loop without additives) for use at single family residences; and
2. Aquifer storage and recovery systems wells, where the injected fluid meets the applicable drinking water quality standards in Chapter 62-550, F.A.C. for Drinking Water Standards, Monitoring, and Reporting.

~~204.~~ New hazardous waste treatment, storage, disposal, and transfer facilities requiring permits under Chapter 62-730, F.A.C. for Hazardous Waste, are prohibited.

~~215.~~ New aboveground and underground tankage of hazardous wastes regulated under Chapter 62-730, F.A.C. for Hazardous Waste, is prohibited.

~~22.~~ New generators of hazardous waste, as regulated under Chapter 62-730, F.A.C. for Hazardous Waste, which excludes household hazardous waste as defined in 40 C.F.R. Part 261.4(b)(1) (1994), hereby incorporated and adopted by reference, shall be prohibited.

BC. Existing Prohibited Activities

All prohibited activities identified in 3.05.03 A ~~and B~~ existing on the effective date of this regulation within a WSPA or SWSPA shall obtain an Operating and/or Closure Permit under Section 3.05.078.

CD. Expansion or Modification of an Existing Prohibited Activity

Any expansion or modification of, or any other improvement made to an existing prohibited activity or facility identified in Section 3.05.03 A ~~and B~~ above which will extend the useful life of the activity or facility,

or increase the intensity or productivity of the activity or facility beyond that existing on the effective date of this regulation, shall require a Prohibited Use Operating Permit under Section 3.05.067. The Board of County Commissioners must make a finding of an overriding public interest being served by the expansion of the prohibited activity in order for the Prohibited Use Operating Permit to be approved.

DE. Permitting for New Prohibited Activities

1. In situations where a new Prohibited Activity will serve an overriding public interest or a compelling public purpose by being located within a WRPA or SWRPA, a Prohibited Use Operating Permit under Section 3.05.067 may be sought. The Board of County Commissioners must make a finding of an overriding public interest being served by the prohibited use in order for the Prohibited Use Operating Permit to be approved. An applicant must meet the provisions of Section 3.05.067 Prohibited Use Operating Permits of this Part.
2. A Closure Permit is required under Section 3.05.03 for Prohibited Activities.

(Ord. No. 04-27, § 2, 6-10-04; Ord. No. 11-19, § 2(Item V-B)(11-0604), 11-3-11, eff. 2-1-12)

~~Sec. 3.05.04. Restricted Activities in the Wellhead Resource Protection Areas and Surface Water Resource Protection Areas~~

~~A. Restricted Activities in WRPA Zone 1~~

~~Property that is located in both a WRPA Zone 1 and a SWRPA is subject to both 3.05.04.A and 3.05.04.B.~~

~~Property that is located in both a WRPA Zone 1 and a PWWPA is subject to both 3.05.04.A and 3.05.05.~~

~~The following activities are restricted in the Wellhead Resource Protection Areas Zone 1, shall require an Operating Permit, and may require a Closure Permit from the County:~~

~~1. Sludges.~~

~~Existing sludge spreading activities in a WRPA must be permitted by and meet the requirements of State and Local environmental permitting agencies and this Part. Renewal of an Operating Permit and Special Use Permit under this Part shall not be granted.~~

~~2. Septages.~~

~~Existing septage spreading activities in a WRPA must be permitted by and meet the requirements of State and Local environmental permitting agencies and this Part. Renewal of an Operating Permit and Special Use Permit under this Part shall not be granted.~~

~~3. Regulated substances.~~

~~Any new facility that uses, handles, stores, or generates a Regulated Substance in an amount equal to or greater than the Final Reportable Quantity (RQ) must be permitted by and meet the requirements of State and Local environmental permitting agencies and this Part.~~

~~B. Restricted Activities In WRPA Zone 2 and/or SWRPA~~

~~Property that is located in both a WRPA Zone 2 or a SWRPA and a PWWPA is subject to both 3.05.04 B and 3.05.05.~~

~~The following activities are restricted in the Wellhead Resource Protection Areas Zone 2 and Surface Water Resource Protection Areas, shall require an Operating Permit, and may require a Closure Permit from the County. In order to be approved by the County, the applicant shall demonstrate the use of Best Available Technology (BAT) and/or Best Management Practices (BMP) for the particular activity:~~

~~1. Domestic Wastewater Treatment Plants~~

- ~~2. Animal Production Unit/Type 1 or Type 2~~
- ~~3. Construction and Demolition Debris~~
- ~~4. Dry Cleaner/Small or General~~
- ~~5. Dry Cleaning Plants~~
- ~~6. Outdoor Firing Ranges~~
- ~~7. Manufacturing Processing and Assembly (not to include activities that are considered to be Heavy Manufacturing or Minor Industry)~~
- ~~8. Furniture Finishing and Repair~~
- ~~9. Utility Refueling Facilities and Sulfuric Acid Tanks~~
- ~~10. Golf Courses~~
- ~~11. New generators of hazardous waste, as regulated under Chapter 62-730, F.A.C., which excludes household hazardous waste as defined in 40 C.F.R. Part 261.4(b)(1) (1994), hereby incorporated and adopted by reference, shall comply with the secondary containment requirements of 40 C.F.R. Part 264 Subpart I (1994), hereby incorporated and adopted by reference.~~

~~C. Existing Restricted Activities~~

~~Existing activities identified in 3.05.04 A. and B. are restricted in the Wellhead Resource Protection Areas and Surface Water Resource Protection Areas, and shall require an Operating Permit, and may require a Closure Permit from the County, unless qualifying as a General Exemption in Section 3.05.06. In order to be approved by the County, the applicant shall demonstrate the use of Best Available Technology (BAT) and/or Best Management Practices (BMP) for the particular activity.~~

~~(Ord. No. 04-27, § 2, 6-10-04)~~

Sec. 3.05.054 Potable Water Wellfield Protection Measures

Per Chapter 62-521 F.A.C. for Wellhead Protection, the area located within a 500-foot radial setback from a potable water well is designated by the Florida Department of Environmental Protection as a wellhead protection area. These wellhead protection areas are designated Potable Water Wellfield Protection Areas (PWWPA) in Hillsborough County. Facilities located in a PWWPA are subject to the restrictions and prohibitions found in Chapter 62-521.400 F.A.C., as amended. Chapter 62-521 F.A.C. requires compliance with location of certain land uses. Operating and Closure Permits are required and shall comply with requirements of Section 3.05.078 of this Part.

A. Existing Prohibited Activities

All prohibited activities identified in Chapter 62-521, F.A.C. existing on the effective date of this regulation within a PWWPA shall obtain an Operating and/or Closure Permit under Section 3.05.07.

B. Expansion or Modification of an Existing Prohibited Activity

Any expansion or modification of, or any other improvement made to an existing prohibited activity or facility identified in Chapter 62-521, F.A.C. which will extend the useful life of the activity or facility, or increase the intensity or productivity of the activity or facility beyond that existing on the effective date of this regulation, shall require a Prohibited Use Operating Permit under Section 3.05.06. The Board of County Commissioners must make a finding of an overriding public interest being served by the expansion of the prohibited activity in order for the Prohibited Use Operating Permit to be approved.

C. Permitting for New Prohibited Activities

1. In situations where a new Prohibited Activity will serve an overriding public interest or a compelling public purpose by being located within a PWWPA, a Prohibited Use Operating Permit under Section 3.05.06 may be sought. The Board of County Commissioners must make a finding of an overriding public interest being served by the prohibited use in order for the Prohibited Use Operating Permit to be approved. An applicant must meet the provisions of Section 3.05.06 Prohibited Use Operating Permits of this Part.
2. A Closure Permit is required under Section 3.05.03 for Prohibited Activities.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.056. General Exemptions

The following legally existing activities and facilities are deemed by the County to be generally exempt from the requirements of this Part. These general exemptions shall not be construed or otherwise interpreted to exempt those activities or facilities prohibited or permitted in this Part. General Exemption for a particular activity or facility shall not automatically expire so long as the activity or facility meets the criteria of this Part. However, a General Exemption for a particular activity or facility shall be subject to revision or revocation as provided in this Part.

A. General Exemption for Continuous Transit

The transportation of any Regulated Substance through a WRPA or SWRPA or PWWPA shall be exempt from the provisions of this Part provided that the transporting motor vehicle is in continuous transit. The transport of any Regulated Substance through existing permanent pipelines shall also be exempt provided that the currently authorized use or uses are not changed.

B. General Exemption for Vehicular Fuel and Lubricant Use

The use of any petroleum product solely as a fuel in a vehicle's fuel tank or as a lubricant in a vehicle shall exempt the vehicle from the provisions of this Part.

C. General Exemption for the Use of Nitrates Contained in Fertilizers

The use of fertilizers containing nitrates shall be generally exempt from this Part. However, BMP's specified in FDEP's publication Best Management Practices for Agrichemical Handling and Farm Equipment Maintenance shall be utilized for the storage and loading of fertilizers and BMP's contained within the University of Florida's Institute of Food and Agricultural Sciences crop-specific publications shall be utilized for the application of fertilizers. BMP's shall include those which are generally recognized and accepted by IFAS, DACS, FDEP or USDA.

D. General Exemption for Janitorial Uses

The use of Regulated Substances for the maintenance and cleaning of residential, commercial and office buildings is generally exempt from the provisions of this Part.

E. General Exemption for Construction Activities

The activities of constructing, repairing or maintaining any facility or improvement on land within a WRPA or SWRPA or PWWPA shall be generally exempt from the provisions of this Part provided that all contractors, subcontractors, laborers, material men and their employees or agents, when using, handling, storing, producing, transporting or disposing of Regulated Substances use applicable Best Management Practices.

F. General Exemption for Laboratory or Instrument Use

Professional laboratories shall not be required to obtain an Operating Permit for the handling, storage, use, generation, transport or disposal of Regulated Substances, if and only if, these substances are stored, generated, transported, handled, used or disposed of in the normal course of business of the laboratory.

G. General Exemption for Retail Sales Activity

Retail sales establishments which store and handle, for resale, Regulated Substances in the substance's original and unopened containers shall not be required to obtain an Operating Permit, when using, handling, storing, producing, transporting or disposing of Regulated Substances, use applicable Best Management Practices, and are generally exempt from the provisions of this Part.

H. General Exemption for Application of Pesticides, Herbicides, Fungicides, and Rodenticides

The application of those Regulated Substances used as pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control, and aquatic weed control activities shall be exempt from the provisions of this Part provided that:

1. Application of the substance is in strict conformity with the use requirements as set forth in the EPA registry for that substance and as indicated on the containers in which the substances are sold.
2. The application is in strict conformity with the requirements as set forth in Chapter 482 and 487 Florida Statutes, and the Florida Administrative Code.
3. The application of any of the pesticides, herbicides, fungicides, and rodenticides shall be highlighted in the records of the certified operator supervising its use. The certified operator shall provide specific notification in writing to the applicators under his or her supervision that they are working at a site located in a potable water Wellhead Resource Protection Area or Surface Water Resource Protection Area or Potable Water Wellfield Protection Area for which particular care is required. Record shall be kept of the date and amount of those substances applied at each location and said records shall be available for inspection by the County.
4. There is no permanent storage of the pesticides, herbicides, fungicides and rodenticides.

I. General Exemption for Office Uses

Office uses, except for the storage, handling or use of Regulated Substances as provided for in this Part, shall be generally exempt from the provisions of this Part.

J. General Exemption for Residential Uses

Residential uses shall be generally exempt from this Part. However, a minimum lot size of one acre of upland is required for the use of a septic system in WRPA ~~Zone 1 and/or WRPA Zone 2~~.

K. General Exemption for Utilities

Utilities are generally exempt from the prohibitions of this Part. However, if a utility has a refueling facility or sulfuric acid tanks located within a WRPA ~~Zone 2~~ or a SWRPA, an Operating Permit shall be obtained pursuant to Section 3.05.07~~8~~.

J. General Exemption for Auxiliary Power Systems

Storage tanks which meet the auxiliary power provisions of Rule 62-555.320(6), F.A.C., for operation of a potable water well and storage tanks for substances used for the treatment of potable water are exempt from the provisions of this rule. Storage tanks regulated by Chapters 62-761 for Underground

[Storage Tank Systems and Chapter 62-762, F.A.C. for Aboveground Storage Tank Systems, shall continue to meet the requirements of those chapters.](#)

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.067. Prohibited Use Operating Permits

A. Generally

In situations where a Prohibited Activity will serve an overriding public interest or a compelling public purpose by being located within a WRPA or SWRPA, a Prohibited Use Operating Permit may be sought. The Board of County Commissioners must make a finding of overriding public interest in order for the Prohibited Use Operating Permit to be approved. The applicant must demonstrate that special or unusual circumstances and adequate technology exist to isolate the facility or activity from the potable water supply.

In granting the Prohibited Use Operating Permit, the County may prescribe any additional appropriate conditions and safeguards which are necessary to protect the WRPA or the SWRPA. Prohibited Use Operating Permit conditions can include, but are not limited to:

1. Submittal of existing monitoring reports to the County.
2. Required actions to prevent an illegal discharge.
3. Establishing a permit renewal and inspection cycle more frequent than otherwise required.
4. A requirement for monitoring of groundwater or surface water quality.
5. Actions which are conditions of approval of the permit which must be maintained in compliance for the permit to be in effect
6. Surety, bond, escrow, letter of credit, or other common form of financial assurance.

B. Duration

A Prohibited Use Operating Permit for a particular activity or facility shall remain valid for a five-year period provided the permittee is in compliance with the terms and conditions of the permit and there is no change in the activity or use of the property. A Prohibited Use Operating Permit for a particular activity or facility shall expire automatically five years after issuance, unless revised, revoked or extended as provided in this Part. An applicant must apply for an Extension and obtain approval before the expiration of the permit. Permits may be extended more than once.

C. Conditions and Safeguards

In granting the Prohibited Use Operating Permit, additional conditions and safeguards may be prescribed which are deemed necessary to protect the existing impacted well(s), future identified well(s) or future potable surface water supply resources. The applicant for a Prohibited Use Operating Permit shall demonstrate by the preponderance of competent substantial evidence of:

1. Overriding public interest.

The Board of County Commissioners must make a determination that there is an overriding public interest or a compelling public purpose being served by allowing a prohibited use to locate or expand in a WRPA or a SWRPA.
2. Unique hardship.

Unique circumstances exist which are peculiar to the particular non-residential activity or facility and which are different than any other prohibited or permitted non-residential activity or facility; and

3. Best Available Technology.

Best Available Technology exists which will isolate the activity or facility from contaminating the existing or future potable water supply resources; and

4. Hydrogeologic data and analysis.

Site-specific hydrogeologic data and analysis establish that the activity or facility will not elevate water quality parameters above the limits set forth in Chapters 62-302, [F.A.C. for Surface Water Quality Standards, Chapter 62-520, F.A.C. for Ground Water Classes, Standards, and Exemptions, Chapter 62-522, F.A.C. for Ground Water Permitting and Monitoring Requirements in Chapter](#) and [Chapter 62-550 Florida Administrative Code for Drinking Water Standards, Monitoring, and Reporting](#) at the point of discharge, and

5. Best Management Practices.

Utilization of Best Management Practices shall be required.

D. Application to the County.

Activities claiming Prohibited Use Operating Permit with best available technology to isolate the facility or activity from the potable water supply facility and protect the potable water supply wellfield must submit:

1. A Prohibited Use Operating Permit application claiming special or unusual circumstances and adequate protection technology.
2. Such application shall contain a statement by the applicant detailing the circumstances which the applicant feels would entitle him to an exemption pursuant to this section.
3. Information must be provided that proves that an overriding public interest is being served by the prohibited use.

E. Review of Prohibited Use Operating Permit Applications

Applications will be reviewed for:

1. An overriding public interest being served by the prohibited use.
2. Impacts of the activity on public potable water supply wells and public potable water supply systems or surface waters.
3. Results of the required Inspection Report showing any determinable violation of the code requirements.
4. A determination that there is or is not a proposed activity or facility which requires permit conditions.
5. Determination of proposed use of Best Available Technology.
6. Determination of unique hardship.
7. Determination of proposed Best Management Practices.
8. In order to authorize any Prohibited Use Operating Permit, the Wellhead Hearing Master shall consider the following criteria:
 - a. Special conditions: That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.

- b. No special privilege: That granting the Prohibited Use Operating Permit requested will not confer on the applicant any special privilege that is denied by this Article to other similar lands, buildings, or structures in the WRPA or SWRPA.
 - c. Unnecessary hardship: That literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties under the terms of this Article.
 - d. Prohibited Use Operating Permit is necessary: That the Prohibited Use Operating Permit granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - e. Purpose and intent compliance: That the grant of the Prohibited Use Operating Permit will be in harmony with the general intent, purpose, and spirit of this Article, and with the comprehensive plan adopted pursuant to state law.
 - f. No detriment to public welfare: That such Prohibited Use Operating Permit will not be injurious to the area involved or otherwise detrimental to the public welfare.
 - g. Establishing conditions or safeguards: That in granting any Prohibited Use Operating Permit, the Wellhead Hearing Master may prescribe appropriate conditions and safeguards to ensure proper compliance with the general spirit, purpose, and intent of this Article. Noncompliance with such conditions and safeguards, when made a part of the terms under which the Prohibited Use Operating Permit is granted, shall be deemed a violation of this Article.
 - h. Expiration: All Prohibited Use Operating Permits granted by the County shall be deemed to automatically expire in the event a structure or use of land which is the subject of the Prohibited Use Operating Permit has been discontinued.
- F. Revocation Or Revision of Prohibited Use Operating Permits
- 1. Any permit issued under the provisions of the Code shall not become vested in the permittee. The Administrator will revoke any permit by first issuing a written notice of intent to revoke by certified mail, return receipt requested, or hand delivery, if he finds that the permit holder:
 - a. Has failed or refused to comply with any of the provisions of the Code, including but not limited to permit conditions and bond requirements.
 - b. Has submitted false or inaccurate information in his application.
 - c. Has failed to submit operational reports or other information required by this Article.
 - d. Has refused lawful inspection.
 - e. Is subject to revocation.
 - 2. The Administrator may revise any permit by first issuing a written notice of intent to revise, sent by certified mail, return receipt requested, or hand delivery.
 - 3. Within 30 days of any spill of a Regulated Substance in the WRPA or SWRPA the County shall consider revocation or revision of the permit or revise the bond amount. In consideration of whether to revoke or revise the permit, the Administrator may consider the intentional nature or degree of negligence, if any, associated with the spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee, and the potential degree of harm to the surface water, groundwater or surrounding wells due to such spill.
 - 4. For any revocation or revision by the County of a Prohibited Use Operating Permit as provided under the terms of the Code, the Administrator shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise the Operating Permit.

5. The written notice of intent to revoke or revise shall contain the following information:
 - a. The name and address of the permittee, if any, and property owner, if different.
 - b. A description of the facility which is the subject of the proposed revocation or revision.
 - c. Location of the spill, if any.
 - d. Concise explanation and specific reasons for the proposed revocation or revision.
 - e. A statement that "Failure to file a petition within 30 days after the date upon which permittee receives written notice by certified or registered letter to the lessor and landowner of the intent to revoke or revise shall render the proposed revocation or revision final and in full force and effect."
6. Failure of the permittee to file a petition shall render the proposed revocation or revision final and in full force and effect.
7. Nothing in this section shall preclude or be deemed a condition precedent to the County seeking a temporary or permanent injunction.

G. Inspection

1. Inspection Upon Application for Permit

Facilities and properties applying for a Prohibited Use Operating Permit are subject to onsite inspection of the physical buildings and property by a County inspector before any permit is issued.

2. Inspection for Violations of County Code

Facilities and properties which are covered under Part 3.05.00 of the Land Development Code may be inspected for compliance with the Code provisions.

H. Hearing Before Wellhead Hearing Master

1. Findings and Recommendations

- a. The Wellhead Hearing Master shall file his recommendation and submit the record of the hearing to the Clerk of the Board of County Commissioners within 15 days of the close of the hearing.
- b. The Clerk of the Board of County Commissioners shall, within three working days from the date that the Wellhead Hearing Master's recommendation and the record of the hearing are filed, deliver a copy of the recommendation to the applicant, and the Administrator.
- c. The recommendation of the Wellhead Hearing Master shall include:
 1. Summary of evidence presented.
 2. Findings of fact.
 3. Conclusions of law.
 4. A finding of compliance or a finding of all points of noncompliance with this Code and the Comprehensive Plan.
 5. A recommendation to either approve or deny the application with reasons therefore specified, including any recommended conditions.
- d. No application shall be recommended for approval by the Wellhead Hearing Master unless it is found that the application is in compliance with this Code and the Comprehensive Plan.

2. Record of Hearing Before the Wellhead Hearing Master

The record of the hearing before the Wellhead Hearing Master, which shall be submitted to the Clerk of the Board of County Commissioners, shall consist of:

- a. The application and accompanying documents.
- b. Staff reports and recommendations.
- c. All exhibits and documentary evidence.
- d. The summary, findings, conclusions, and recommendation of the Wellhead Hearing Master.
- e. The tape recording of testimony at the hearing.
- f. Verbatim transcript of the proceedings.

I. Consideration by the Board of County Commissioners

1. Notice Date for Board of County Commissioners' Consideration

- a. Any person wishing to receive notice of the date when the Board of County Commissioners will consider an application may supply the Clerk of the Board of County Commissioners with their name, address, and a stamped self-addressed envelope for that purpose.
- b. A date and time at which the Board of County Commissioners will consider an application shall be established no later than 15 days from the conclusion of the public hearing before the Wellhead Hearing Master. The Administrator shall arrange for the setting of said date and shall ensure that the Clerk of the Board of County Commissioners is advised at least 30 days in advance of said date.
- c. Upon notification of the date and time at which the Board of County Commissioners will consider an application for final decision, the Clerk of the Board of County Commissioners shall give notice of same by proof of mailing receipt, to the applicant and to all owners of property who were notified for the public hearing before the Wellhead Hearing Master as required by 3.05.067.1.6. Other parties of record and all persons who supplied the Clerk with their names, addresses, and a stamped self-addressed envelope for the purpose of receiving notice shall also receive notice. Such notice shall be mailed at least 20 days prior to the date set.

2. Evidence Before the Board of County Commissioners

- a. The record before the Board of County Commissioners upon consideration of an application shall be the complete record of the hearing before the Wellhead Hearing Master, including his recommendation. Except in those instances where the application is part of the review and application for development approval pursuant to Chapter 380.06, Florida Statutes, the Board after reviewing the record and recommendations, shall consider additional evidence only as considered in 2.B below.
- b. Additional evidence may be allowed pursuant to the provisions of this Subsection, if:
 1. Through the exercise of due diligence it could not have been discovered in time to present same to the Wellhead Hearing Master; and/or
 2. The witness could not appear at the public hearing for good reason beyond his control.
- c. Within seven calendar days after the date of filing of the Wellhead Hearing Master's recommendation, the individual seeking to introduce the additional evidence described in 2 above, shall file with the Clerk of the Board a written request including:
 1. The additional evidence, and

2. The reasons why the evidence could not through the exercise of due diligence have been discovered in time to present same to the Wellhead Hearing Master; and/or
 3. The reasons why the witness could not appear.
 - d. The request shall be filed on forms available from the Administrator. A copy of said request shall be maintained by the Administrator and maintained in a master file available to the public and the Board.
 - e. The additional evidence, if documentary, shall be attached to the request. If testimonial in nature, a summary of the testimony shall be provided.
 - f. The Board shall consider the request for presentation of additional evidence and responses thereto at the public meeting on the Wellhead Hearing Master's recommendation. Staff of the Office of County Attorney shall review the additional evidence request in regard to whether or not the request meets the criteria stated in 2. above and whether or not the additional evidence is duplicative of material already in the record before the Wellhead Hearing Master. Staff of the County Attorney's Office shall report its findings at the meeting before the Board. The Board shall remand the proceeding to the Wellhead Hearing Master for the purpose of consideration of the additional evidence if he finds all the following:
 1. The additional evidence could not through the exercise of due diligence have been discovered in time to present same to the Wellhead Hearing Master, or the witness could not appear at the public hearing for good reason beyond his control.
 2. That the additional evidence is not duplicative of material already in the record before the Wellhead Hearing Master.
 3. The evidence is relevant to the issues raised by the petition at issue.
 - g. If the Board finds that the additional evidence is not admissible based upon the criteria contained herein, then the Board shall deny the request and proceed to consider the petition. The Board of County Commissioners shall specifically state on the record why a request has been denied. Once a request is denied, the material presented shall not be considered by the Board in its deliberations.
 - h. If the Board finds that the additional evidence is admissible and therefore elects to remand the proceedings to the Wellhead Hearing Master, then the Board shall establish a date for said hearing. The remanded proceedings shall be conducted in accordance with the terms of this Code applicable to proceedings before the Wellhead Hearing Master, except that said proceeding does not have to be renoticed. At the conclusion of the remanded proceedings, the Wellhead Hearing Master shall file an amended recommendation which has considered the introduction of the additional evidence. The Clerk of the Board shall renotify all parties of record of the new set time and date at which the Board will consider an application for a final decision.
 - i. If the applicant elects to waive any objection to the additional evidence, the Board of County Commissioners may proceed to consider the petition without remand.
3. Proceedings Before the Board of County Commissioners
 - a. The participants before the Board of County Commissioners shall be the applicant, County agencies and Parties of Record. The order of appearance and time allotments shall be as follows, provided that for good cause shown, the Board may grant additional time. Testimony shall be limited to matters directly related to the record of the proceedings before the Wellhead Hearing Master.
 - b. The presentation shall be as follows:

1. Applicant and witnesses; proposal: 15 minutes, plus an additional 15 minutes if requested by the applicant.
 2. Administrator, summary of the application, County staff and department findings: five minutes.
 3. Proponents; argument for the application: 15 minutes.
 4. Opponents; argument against the application: 15 minutes.
 5. Staff, amended recommendations, if any: five minutes.
 6. Applicant; rebuttal and summation: five minutes.
 - c. The Board of County Commissioners may continue the hearing upon a finding that said continuance is necessary to a complete review of the Wellhead Hearing Master's recommendation. Said continuance shall be to a date and time certain.
 - d. The Board of County Commissioners reserves the right to remand an application to the Wellhead Hearing Master when additional review is needed. If the Board elects to remand an application to the Wellhead Hearing Master, the Board shall establish a date and time for said hearing, which shall not exceed 45 days from the date of the Board hearing.
4. Party of Record
- A party of record is:
- a. A person who was present at the hearing before the Wellhead Hearing Master and presented either oral testimony or documentary evidence.
 - b. A person who was notified of the hearing before the Wellhead Hearing Master by proof of mail pursuant to the terms of this Section.
5. Consideration and Final Decision of the Board of County Commissioners
- The Board of County Commissioners shall consider the record of hearing before the Wellhead Hearing Master, and any testimony or additional evidence received pursuant to the terms contained herein, and shall approve or deny the application subject to such conditions as may be necessary and appropriate.
6. Notice
- a. Notice of review by the Wellhead Hearing Master of applications for Prohibited Use Operating Permits shall be provided by the applicant by proof of mailing receipt, to all owners of property within 500 feet of the perimeter of the boundary of the proposed activity. Public rights-of-way less than 1,000 feet in width as measured at the site shall be excluded in calculating notification distances. When a water body less than 1,000 feet in width intervenes in the required notice distance and extends beyond the notice distance, only the property owners adjacent to the water body will receive the extended notice. However, when a water body intervenes, but does not extend beyond notice distance, the water body shall not be recognized for the purpose of notice. The names, addresses and tax folio numbers of all such owners shall be obtained by reference to the latest ad valorem tax records. In addition, notice shall be provided in the same manner to all duly registered neighborhood organizations lying within one mile of the boundary of the proposed activity. Said notice by mail is the responsibility of the applicant and shall be mailed no later than 20 calendar days after filing of the application. Said notice shall be mailed again by the applicant by proof of mailing receipt, upon establishment of the Wellhead Hearing Master's date and Board of County Commissioners meeting date. The notice shall indicate both dates the application will be considered on, in addition to the requirements of 3.05.076.1.6.D, and shall be

mailed no later than 15 calendar days prior to the Wellhead Hearing Master's hearing. In the event the date of the hearing is changed, a new notice shall be sent by the applicant. Further notice shall be given by the Administrator by posting a sign in a conspicuous place on the property which is the subject of the proposed activity at least 15 calendar days prior to the Wellhead Hearing Master's hearing date.

- b. Where an application to amend a DRI Development Order is brought to the Board of County Commissioners directly, as authorized in 10.03.00, notice shall be provided by the applicant proof of mailing receipt, to all owners of property within 500 feet of the perimeter of the proposed activity which is the subject of the amendment, excluding public rights-of-way less than 1,000 feet in width. When a water body less than 1,000 feet in width intervenes in the required notice distance and extends beyond the notice distance, only the property owners adjacent to the water body will receive the extended notice. However, when a water body intervenes, but does not extend beyond notice distance, the water body shall not be recognized for the purpose of notice.
- c. Notice of review by the Wellhead Hearing Master, as well as notice of final consideration by the Board of County Commissioners of the recommendations of the Wellhead Hearing Master, shall be provided in accordance with 10.03.00 of this Code, and the requirements of Chapter 380, Florida Statutes.
- d. For purposes of paragraphs A and B above, mailed notices shall contain the following information:
 - 1. Date, time and location of the hearing;
 - 2. A description of the request;
 - 3. A legal description of the property;
 - 4. Location of the property;
 - 5. Instructions for obtaining further information regarding the request; and
 - 6. The applicant's name.

(Ord. No. 04-27, § 2, 6-10-04; Ord. No. 06-34, § 2(Exh. A), 11-2-06)

Editor's note(s)—It should be noted that § 4 of Ord. No. 06-34, adopted November 2, 2006, provides for an effective date of February 1, 2007.

Sec. 3.05.087. Operating and Closure Permits

A. Generally

Permits for Existing Prohibited Activities in Section 3.05.03 ~~BC, Restricted Activities identified in Section 3.05.04~~ and ~~Restrictions and~~ Prohibitions in Section 3.05.054 are considered Administrative Permits under Section 10.01.00 of the Land Development Code and are issued in accordance with the adopted Development Review Procedures Manual (DRPM).

B. Conditions and Safeguards

The Operating Permit conditions shall ensure compliance with all the prohibitions, restrictions, and requirements as set forth in this Part. Such conditions may include, but are not limited to, monitoring wells, outfall discharge monitoring points, periodic water quality analysis and discharge monitoring reports, and compliance schedules. Such conditions may also include requirements in a Closure Permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to surface water and ground water quality.

Operating Permits may have approval conditions attached which reflect actions or conditions necessary for operation or continuance or closure of the activity.

Operating Permit conditions can include, but are not limited to:

1. Submittal of existing monitoring reports to the County.
2. Required actions to prevent an illegal discharge including, but not limited to, containment of Regulated Substances utilizing devices such as leak-proof trays, under containers, or floor curbing constructed of adequate size such that any accidental breakage or spillage will be totally contained and prevented from reaching any waterway, storm or sanitary drains or the ground unless otherwise exempt in this Part. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by the County administrator. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas. Underground and aboveground storage tanks which are regulated by Chapter 62-761 and 62-762, Florida Administrative Code, should adhere to the regulations as set forth in those chapters.
3. Establishing a permit renewal and inspection cycle more frequent than otherwise required.
4. A requirement for monitoring of groundwater or surface water quality.
5. Actions which are conditions of approval of the permit which must be maintained in compliance for the permit to be in effect.
6. Best Management Practices as requirement for the permit
7. Spill Prevention and Response Plan (SPRP): An emergency plan shall include procedures which will be followed in the event of spillage of a Regulated Substance to control and collect all such spilled material in a manner to prevent spillage from reaching any waterway, storm or sanitary drains or the ground.
- ~~8.~~ Surety, bond, escrow, letter of credit, or other common form of financial assurance.

C. Requirements for issuance of other permits.

No site plan approval, building permit, or certificate of occupancy for any activity shall be issued by the County that would allow development or construction that is contrary to the restrictions and provisions provided in this Part. Permits issued in violation of this Part confirm no right or privilege on the grantee.

D. Issuance of Permit

1. An application which satisfies the requirements of this Part shall be approved and an Operating Permit or Closure Permit issued. The County may deny a permit based on repeated violations of this Part.
2. All of the facilities owned and/or operated by one person, when these structures and activities are located on contiguous parcels of property, even where there are intervening public or private roads, may be covered under one permit.
3. Applications will be reviewed for:
 - a. Impacts of the activity on public potable water supply wells, public potable water supply systems, surface water and potable water wellfields.
 - b. Results of the required Inspection Report showing any determinable violation of the code requirements.
 - c. A determination that there is or is not an activity or facility present which requires permit conditions to correct a violation of the requirements of the code.

E. Duration

An Operating Permit shall remain valid for a five-year period provided the permittee is in compliance with the terms and conditions of the permit and there has been no change in activity or use of the property. An Operating Permit shall expire automatically five years after issuance, unless revised, revoked or extended as provided in this Part. An applicant must apply for and obtain approval of an Extension before expiration of the permit. Permits may be extended more than once.

F. Inspections

The County shall have the right to make inspections of facilities at reasonable times to determine compliance with this Part. Facilities and properties applying for an Operating Permit are subject to on-site inspection of the physical buildings and property by a County inspector before any permit is issued. Facilities and properties which are covered under Part 3.05.00 may be inspected for compliance with the Code provisions.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.089. Extensions

A. Generally

An Extension must be obtained for Prohibited Use Operating Permits, for Operating Permits, and for Closure Permits before the expiration of the permit.

B. Duration

Extensions are for five year periods provided the permittee is in compliance with the terms and conditions of the permit and there is no change in the activity or use of the property.

C. Conditions

In granting the Extension, additional conditions and safeguards may be prescribed which are deemed necessary to protect the existing impacted well(s), future identified well(s), future potable surface water supply resources or potable water wellfields.

D. Review of Extension Applications

The applicant must submit an application for an extension and make an appointment for an inspection of the physical buildings and property by a County inspector. If the inspection shows that the use or activity has changed since the issuance of the Permit, a new Permit must be applied for and approval obtained. An extension will be granted if the inspection or application materials show no change in the activities or use on the property.

E. Inspections

The County shall have the right to make inspections of facilities at reasonable times to determine compliance with this Part.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.109. Permitting Appeals

A person or applicant may appeal permitting actions and permits denied by the County.

A. Appeal of Administrative Permits

Administrative permits under section 3.05.078 D. which are denied may be appealed to a Wellhead Hearing Master under the procedures in the Land Development Code and the Development Review Procedures Manual.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.101. Protection of Future Wellfield and Surface Water Sources

The prohibitions and restrictions set forth in this Part and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the Board of County Commissioners as future wellfields as recommended by Tampa Bay Water. Such prohibitions and restrictions shall become effective upon approval by the Board of County Commissioners of the WRPA or PWWPA maps for the designated future wellfield source. Any site designated as a Future Wellfield shall receive a designation as a WRPA and receive the protections described in this ordinance.

The prohibitions and restrictions set forth in this Part and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the Board of County Commissioners as future surface water protection areas, as revised and amended through FEMA map changes which designate the boundary of a ~~100-year~~100-year floodplain as approved by the BOCC. Such prohibitions and restrictions shall become effective upon approval by the Board of County Commissioners of the SWRPA maps for the designated future surface water source.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.112. ~~Biennial~~ Five Year Review and Update of Wellhead Resource and Surface Water Resource Protection

The County shall maintain its source water protection program known as the Wellhead Resource and Surface Water Resource Protection Program through a ~~biennial~~ five year review and update of the policies, official maps, and best available data and undertake changes to the Land Development Code as are necessary to protect source waters.

(Ord. No. 07-18, § 2, 7-19-07, eff. 10-1-07)

LDC 25-1126 TEXT AMENDMENT
LAND DEVELOPMENT CODE
PART 6.11.00 – SPECIAL AND CONDITIONAL USES

Sec. 6.11.54. Land Excavation

The purpose of these regulations is to protect the public health, safety and welfare and community character from the adverse impacts generated by land excavations, such as but not limited to noise, dust, vibrations, water table drawdown and truck traffic, through the establishment of regulations for the location and operation of land excavations. It is intended these regulations be utilized in concert with the land excavation operating standards found in Part 8.01.00 of this Code. However, approval of a Special Use Land Excavation Permit shall not guarantee that an Operating Permit will be approved.

It is further intended that where these regulations make special provisions for land excavations for the purpose of agricultural irrigation that are authorized by the Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP), those provisions shall cease to be in effect in the event that SWFWMD or FDEP no longer issues such authorizations and the excavations shall comply with all standard requirements of this Section and Section 6.11.117.

A. Locational Criteria

1. Where Allowed for Consideration

- a. Lake creations, lake cleaning and stockpile removal may be considered in all zoning districts.
- b. "Dry" land excavations may be considered only in the following districts:
 - (1) AM, A, AR, A-I, BPO, CN, CG, CI, M, SPI-UC-2, SPI-AP-1, SPI-AP-2, SPI-AP-3, SPI-AP-4, SPI-AP-5 and SPI-AP-V.
- c. Agricultural reservoirs permitted in accordance with Section 6.11.117 of this Code may be considered in all agricultural zoning districts.

2. Required Separations

All excavated areas, with the exception of perimeter ditches and recharge ditches, shall meet the following separation requirements. All separations shall be measured in a straight line along the shortest distance from the edge of the excavated areas to the applicable right-of-way lines, boundary lines, property lines and conservation/preservation area lines, irrespective of any intervening properties and natural or man-made features.

- a. Twenty-five feet from any right-of-way line of a publicly owned road or street, except for "dry" land excavations which shall be 150 feet from any publicly-owned local road or street and 200 feet from any right-of-way line of a publicly-owned arterial or collector.
- b. Twenty-five feet from the boundary line of any publicly owned drainage or utility easement.
- c. Twenty-five feet from any non-residential property line, including agricultural use.
- d. Five hundred feet from any residentially developed or residentially zoned property line.
- e. One thousand feet from any school, hospital or church property line.
- f. Thirty feet from any wetland/waterbody Conservation Area line and 50 feet from any wetland/waterbody Preservation Area line, whether off site or on site (see definition of Environmentally Sensitive Area). Greater separations may be required by the Environmental Protection Commission of Hillsborough County depending on the environmental sensitivity of the area.

3. Access

a. Land excavations shall be located on sites which:

- (1) Have direct access to the receiving site of the excavated materials; or,
- (2) Have direct access to a road shown on the current Truck Route Plan; or,
- (3) Have direct access to a collector or arterial roadway, as shown on the current Roadway Functional Classification Map in the Hillsborough County Comprehensive Plan, within one mile of a road shown on the current Truck Route Plan as measured from the project driveway; or,
- (4) Have direct access to a collector or arterial roadway, as shown on the current Roadway Functional Classification Map in the Hillsborough County Comprehensive Plan, meeting Current Hillsborough County or FDOT Roadway Technical Manual standards for that portion of the haul route from the project driveway to the first road shown on the current Truck Route Plan; or,
- (5) Are within an approved subdivision or site development project under construction; or
- (6) Are adjacent to a public project such as a new road corridor or storm water utility improvement; or,
- (7) Are zoned A or AM.

Additionally, site specific analysis must be performed to determine if a proposed land excavation meets all other locational, environmental and compatibility requirements.

4. Mitigation of Impacts

a. Conditions pertaining to techniques to mitigate the impacts of offsite hauling on approved haul routes may include, but are not limited to, the following:

- (1) Restrictions on the route(s) utilized for off-site hauling and the days and/or hours hauling is permitted.
- (2) A method approved by Hillsborough County to document and/or monitor existing physical conditions of the approved haul route, including but not limited to, video recording or pavement structure testing which conform with County specifications. Alternatively, the applicant may post a form of financial security as determined by Hillsborough County.
- (3) Contribution by the applicant to Hillsborough County for up to the full cost of road improvements on the haul route where improvements are needed prior to hauling to accommodate the activity, as determined by the County.
- (4) Contribution by the applicant to Hillsborough County for up to the full cost of road repairs on portions of the haul route damaged during excavation operations, as determined by the County.

b. Land excavation operations shall be limited to the hours from 7:00 a.m. to 6:00 p.m. Monday through Saturday, excluding holidays recognized by Hillsborough County. No operations shall be permitted on Sunday. Further restrictions may be imposed on the hours and/or days of operation of any land excavation when necessary to protect the public health, safety and welfare, promote community compatibility or lessen cumulative impacts. Requests to allow operations on days and/or times other than those described above shall be approved only if the applicant can demonstrate the proposed operations schedule is necessary to relieve a unique hardship or practical difficulty, is not for mere

convenience or to gain a competitive advantage, and will not adversely affect any adjoining property or the health, safety and welfare of the general public.

5. Where Prohibited

Land Excavations shall be prohibited within the following locations:

- a. Within 200 feet of abandoned dumpsites or landfills as identified on the Environmental Protection Commission list of closed landfills in Hillsborough County.
- b. Within 1,000 feet of a wellhead of a public supply production well of 100,000 gallons per day or greater.
- c. Within environmentally sensitive areas as defined in Article IV, except as permitted in 4.01.03.D.1.
- d. Within a Wellhead Resource Protection Area, ~~Zone 2~~, as shown on the Hillsborough County Wellhead Resource Protection Area Map.
- e. Within a Surface Water Resource Protection Area as shown on the Hillsborough County Surface Water Resource Protection Area Map. Notwithstanding, land excavations for the purpose of agriculture irrigation that receive authorization, including permits and exemptions, through the Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP) under Environmental Resource Permit or Water Use Permit rules, may be considered subject to the review provisions of this Section or Section 6.11.117. In such cases, however, deliberations by the County Administrator and/or Board of County Commissioners shall not include potential impacts on surface water resources.

6. Where Restricted

Land Excavations shall be restricted within the following locations:

- a. Areas susceptible to groundwater contamination with a drastic index of greater than 179 as shown in the Conservation and Aquifer Recharge Element, Future of Hillsborough Comprehensive Plan or within a quarter of a mile from a Class I or Class II landfill.

When a land excavation is proposed in such an area, a detailed site specific hydrogeologic study shall be submitted by the applicant showing any potential impact of the excavation on groundwater resources. A proposal for the study shall be submitted to the County for approval prior to conducting the actual study. When the excavation is for an agriculture irrigation reservoir, the applicant shall submit an authorization issued through the Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP) under Environmental Resource Permit or Water Use Permit rules, including permits and exemptions, to fulfill this requirement.

- ~~b. Within a Wellhead Resource Protection Area, Zone 1, as shown on the Hillsborough County Wellhead Resource Protection Area Map, excluding areas near public supply production wells as prohibited by Section 6.11.54.5.b above.~~

When a land excavation is proposed in such a restricted area, a detailed site specific hydrogeologic study shall be submitted by the applicant showing any potential impact of the excavation on groundwater resources. A proposal for the study shall be submitted to the County for approval prior to conducting the actual study.

B. Special Use Permit

1. When Required

Land Excavation Special Use and Operating Permits shall be required for all land excavation activities except for the following:

- a. Land excavation activities regulated by the Hillsborough County Phosphate Mining Regulations.
- b. Land excavation activities pursuant to an Order of the Board of County Commissioners which Order shall state the reasons why the Land Excavation Regulations will not apply or pursuant to an Order of the Environmental Protection Commission of Hillsborough County.
- c. Land excavation activities pursuant to a Board Order which may be requested by a governmental agency, an applicant under the Order of another governmental agency, or under the Order of a court having jurisdiction in Hillsborough County. The information required for a Special Use Permit and an Operating Permit shall be submitted and the required public notice requirements shall be met unless one or both are waived by the County Administrator when the applicant shows that such waiver will not adversely impact the public health, safety and welfare. A public hearing shall be held to request a Board Order and to request the Board's permission to proceed with such action. The Board may impose conditions upon the activity in order to effectuate the intent of this division.
- d. Land excavation activities within utility rights-of-way, public rights-of-way or easements necessary to supply electric, gas, water, sanitary or storm sewer, telephone, or cable television service, provided these activities do not adversely impact an environmentally sensitive area. Land excavation activities exempted under this section shall be regulated under the Natural Resources Regulations. This exemption does not include excavation for the construction of detention basins and/or retention basins which otherwise meet the definition of land excavation.
- e. Land excavation activities permitted as a Conditional Use in accordance with Section 6.11.117, Agricultural Reservoirs, of this Code. However, such excavations shall require an Operating Permit.

2. Procedure

An application for a Land Excavation Special Use Permit shall be reviewed pursuant to the Personal Appearance procedures at 10.06.00.

3. Factors to be Considered

In addition to all standards found in this section, the following factors shall be considered in the review of a Land Excavation Special Use Permit application:

- a. The compatibility of the proposed land excavation with existing and planned land uses as stipulated in the Future of Hillsborough Comprehensive Plan. In making a determination of compatibility, the following shall be considered:
 - (1) The nature of existing and planned land uses.
 - (2) The size of the proposed land excavation.
 - (3) The effect of increased truck traffic generation on existing and planned land uses.
 - (4) The proximity to residences, schools, hospitals, or churches.
 - (5) The proximity to recreational uses such as parks and playgrounds.
- b. Impact on the roads and bridges located along the proposed haul route.

- c. Adequacy and compatibility of the reclamation plan relative to environmental resources as well as existing and planned uses.
 - d. Cumulative impact of all permitted land excavations within one mile of the proposed land excavation, whether such permits are active, inactive, expired or released. The consideration of cumulative impact shall include, but is not limited to, the total duration of the excavations, total number of truck trips associated with the excavations, concentration of truck trips on roadways and adverse affect on community character.
 - e. Whether the haul routes for the removal of land excavation material pass schools, hospitals or houses of worship and whether the increased truck traffic incidental to the land excavation activity will adversely effect the conduct of the institution's activities. In evaluating the effect of the truck traffic, the following shall be considered: the capacity and existing service level of the road(s) designated as the haul route within 500 feet of the boundaries of the institution's property, the hours of operation of the land excavation and of the institution; the estimated volume of truck traffic; and the location of access to the school, hospital or house of worship.
 - f. A study evaluating the site specific sinkhole potential and groundwater contamination assessment of the proposed land excavation shall be submitted by the applicant for all proposed Land Excavations. The proposal for the study shall be submitted to the County for approval prior to conducting the actual study. When the excavation is for an agriculture irrigation reservoir, the applicant shall submit an authorization issued through the Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP) under Environmental Resource Permit or Water Use Permit rules, including permits and exemptions, to fulfill this requirement.
4. Imposition of Reasonable Conditions
- Reasonable conditions upon the land excavation operation designed to mitigate the impact of the excavation upon those items listed in Subsection B.3 above may be imposed.
5. Duration of Permit
- The land excavation Special Use Permit shall be issued for a period based upon the estimated length of excavation but shall not exceed 10 years from the time of Operating Permit approval.
6. Buffering and Screening Determinations
- a. A condition may be imposed on the Permit whereby a buffer area and/or screening shall be provided in those situations where the proposed land excavation is to be located on property contiguous to a boundary of property developed with or zoned for residential uses, or proposed for rezoning for residential use. For purposes of this subsection, "contiguous" shall include parcels that are separated from the excavation site by a road, street, or right-of-way.
- If required, the buffer area and/or screening shall be provided in the area lying between the edge of the land excavation facing the described property and the boundary line of the described property. As a prerequisite to imposing such an additional condition, a finding must be made that buffer area and/or screening is required to ensure the compatibility of the land excavation operation with a contiguous property. No activities associated with the land excavation operation shall be allowed in the buffer area unless specifically approved in the Special Use Permit.
- b. The following factors shall be considered in determining the need for a buffer area and/or screening:

- (1) Buffering and screening requirements for the existing, permitted or proposed residential development of the contiguous property.
- (2) Density of the existing, permitted or proposed residential uses of the contiguous property.
- (3) Size of the proposed land excavation and land excavation site in total.
- (4) Location of the proposed land excavation on the property relative to the existing, permitted or proposed residential development of the contiguous property.
- (5) Natural and man-made areas such as trees, lakes, ponds, streams, wells, drainageways, wetland areas, roads and other rights-of-way located between the proposed excavation and the existing, permitted or proposed residential development of the contiguous property.

7. Fencing

- a. Unless otherwise authorized by the Board of County Commissioners, all land excavations shall be secured with a fence and gate to prevent unauthorized access to the land excavation. All points of access shall be secured when no activity is occurring in the land excavation. In determining whether a fence is required for a land excavation and the type of fence to be required, the Board of County Commissioners shall consider the following factors.

- (1) The location, size, depth and side slope of the land excavation.
- (2) The nature of the surrounding uses and the Future of Hillsborough Comprehensive Plan for the area.
- (3) The depth of water, if any, in the land excavation during the period of excavation activity.
- (4) Natural or man-made features existing on the site.

- b. The fence and gate shall be maintained throughout the duration of land excavation activities and may be removed after reclamation is completed.

8. Other Excavation, Land Alteration Prohibited

Upon approval of the Special Use Permit, no other permits for excavation or land alteration activities shall be approved for the site until the release of financial security for the Operating Permit.

9. Expiration of Special Use Permit

If an Operating Permit has not been issued for any portion of a land excavation within two years of Special Use Permit approval, the Special Use Permit shall expire.

C. Waivers

1. Generally

The requirements of this Part may be waived where literal or strict enforcement of the terms or provisions of this Part would (1) impose upon the applicant an unreasonable, unnecessary or exceptional burden due to irregular shaped parcel of property, unusual topography, or other pertinent conditions, or (2) where the applicant can show that literal or strict enforcement would impose upon the applicant an unusual or practical difficulty and granting the request will not

serve as a mere convenience to the applicant, or (3) where the applicant provides affidavits of no objection from adjacent property owners peculiarly affected by a proposed waiver, such as reduced separation between an excavation and neighboring residential properties. However, in no case shall waivers be granted which seriously or adversely affects any adjoining property or the health, safety and welfare of the general public.

2. Decision by Board of County Commissioners

The Board of County Commissioners, in their review of the Special Use Permit shall make a decision on any waiver request which pertains to the locational criteria or any other requirement of this Section.

3. Factors to be Considered

The following factors shall be considered, as applicable to the particular waiver request:

- a. The location of the land excavation
- b. The size of the land excavation
- c. The depth of the land excavation
- d. The cubic yards of material to be excavated and removed
- e. The side slope requested, if applicable
- f. The nature of the land excavation material to be removed
- g. The nature of existing or developing uses in the surrounding area
- h. The projected depth of water, if any, in the land excavation at the time of completion of the land excavation activity
- i. Proximity of the land excavation to environmentally sensitive areas
- j. The existing location, configuration, setbacks and slopes of a previously permitted land excavation.

(Ord. No. 02-13, § 2, 8-1-02; Ord. No. 08-29, § 2, eff. 2-1-09; Ord. No. 11-19, § 2(Item V-B)(11-0604), 11-3-11, eff. 2-1-12; Ord. No. 21-18, § 2(Exh. A), 5-20-21, eff. 5-27-21)

LDC 25-1126 TEXT AMENDMENT
LAND DEVELOPMENT CODE
PART 8.02.00 PHOSPHATE MINING STANDARDS

Sec. 8.02.08. Operating Standards

A. Environmental and Operational Standards

1. The Board or the Environmental Protection Commission may establish, upon notice and public hearing thereon, such regulations as they deem necessary and proper pertaining to noise, dust and other forms of air pollution; water pollution; drainage; quality and method of discharge of wastewaters not to be retained on the permittee's lands; treatment and disposal of solid wastes; construction and maintenance of settling ponds and dams; and construction and use of both temporary and permanent on and off site transportation facilities.
2. Mining unit boundaries shall conform, wherever possible, with watershed boundaries and shall conform to Department of Environmental Protection reclamation program boundaries. A mining unit shall not exceed 2,500 acres in size and shall be a contiguous area, wherever possible.
3. All mining activities within Hillsborough County shall conform to the following setback requirements. Such setback requirements shall apply only to those uses set forth below which were in existence at the time of application for the Operating Permit or Development Order, whichever occurred earlier, and in existence at the time of application for approval of the proposed activity. Reductions to these setback limitations may be requested by the Permittee under 4 below.
 - a. No excavation including removal of overburden, (with the exception of construction of perimeter ditches, isolator berms and recharge ditches), shall be performed within:
 - (1) 500 feet from the property line of a public park boundary or cemetery.
 - (2) 500 feet from the boundary or survey line of an officially designated historical site which is not located within the mine boundary.
 - (3) 1000 feet from the closest portion of a dwelling unit, or 200 feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever provides the greater setback distance.
 - (4) 500 feet from the property line of a church or school.
 - (5) 200 feet from any existing public right-of-way, or public easement for drainage, utility or public road purposes.
 - (6) 200 feet from the property line in areas not controlled by paragraphs (1) through (5) above, including agricultural land use. The applicant may request approval by the Administrator for waivers of up to 50 feet from the property line of such properties. Such approval will be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that the lesser setback will not adversely affect the adjacent property. Any further reduction of setbacks pursuant to this Section or denial by the Administrator may be reviewed by the Phosphate Mining Hearing Master pursuant to the procedures in this Part and 8.02.08 A 4.
 - b. No settling or thickening pond shall be constructed within:
 - (1) 500 feet from the property line of a public park boundary, cemetery or officially designated historical site as defined in 8.02.08 A 3 a (2).
 - (2) 1000 feet from the closest portion of a dwelling unit, or 200 feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever provides the greater setback distance.
 - (3) 500 feet from the property line of a church or school.

- (4) 200 feet from any existing public right-of-way or public easement for drainage, utility or public road purposes.
 - (5) 200 feet from permittee's property line in areas not controlled by paragraphs (1), (2), (3), and (4) above, including agricultural land use.
- c. No excavated material (ore) or stockpile (excluding overburden, upon Administrator approval as provided in 8.02.08 A 3 c (6)) shall be placed longer than 60 days within:
 - (1) 500 feet from the property line of a public park boundary, cemetery or officially designated historical site as defined in 8.02.08 A 3 a (2).
 - (2) 1000 feet from the closest portion of a dwelling unit, or 200 feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever provides the greater setback distance.
 - (3) 500 feet from the property line of a church or school.
 - (4) 200 feet from an existing public road right-of-way or public easement for drainage, utility or road purposes. The applicant may request approval by the Administrator for waivers to within 100 feet of the existing public road right-of-way or public easement for placement of overburden. Such approval will be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that the lesser setback will not adversely affect the existing public road right-of-way or public easement based on slope of overburden stockpile, height of overburden stockpile, and duration of placement of overburden stockpile. Any further reduction of setbacks pursuant to this Section or denial by the Administrator may be reviewed by the Phosphate Mining Hearing Master pursuant to the procedures in this Part and 8.02.08 A 4.
 - (5) 200 feet from the property line in areas not controlled by paragraphs (1) through (4) above, including agricultural land use. The applicant may request approval by the Administrator for waivers of up to 50 feet from the property line of such properties. Such approval will be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that the lesser setback will not adversely affect the adjacent property. Any further reduction of setbacks pursuant to this Section or denial by the Administrator may be reviewed by the Phosphate Mining Hearing Master pursuant to the procedures in this Part and 8.02.08 A 4.
 - (6) Overburden is excluded from the requirements of this section, except in the case of adjacent public park, cemetery, designated historical site, dwelling unit, church, or school, as defined by this subsection. Overburden may be stockpiled in setback areas for a period of up to one year upon Administrator approval. Such approval will be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that placement of the overburden in the setback areas will not adversely affect the adjacent property based on slope of overburden stockpile, height of overburden stockpile, duration of placement of overburden stockpile, distance of overburden stockpile from property line of adjacent property, and adjacent land use. A denial by the Administrator may be reviewed by the Phosphate Mining Hearing Master pursuant to the procedures in this Part and 8.02.08 A 4.
- d. No excavated material (ore), sand tailings or stockpile shall be higher than a slope-line of 35' vertical to 500' horizontal projected from the nearest point on the permittee's property line, except as approved by the Board at a duly noticed public hearing. Overburden is excluded from

the requirements of this section. Overburden may be stockpiled in setback areas upon approval of the Administrator. Such approval will be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that the placement of overburden in setback areas will not adversely affect the adjacent property based on slope of overburden stockpile, height of overburden stockpile, duration of placement of overburden stockpile, distance of overburden stockpile from property line of adjacent property, and adjacent land use. A denial by the Administrator may be reviewed by the Phosphate Mining Hearing Master pursuant to the procedures in this Part and 8.02.08 A 4.

- e. No beneficiation plant shall be constructed within 1,000 feet of the permittee's property line.
 - f. No utility lines, pipelines or utility roads (except inspection roads) shall be constructed within 100 feet of the permittee's property line.
 - g. The applicant shall provide a stability analysis by a professional engineer licensed in the State of Florida, to establish specific setback requirements for mining adjacent to active settling ponds, or construction of settling ponds adjacent to active mining areas.
4. Reduction of setbacks may be granted by the Board in the following cases:
- a. With consent of owners of properties within the setbacks specified in 3 above.

The above setback requirements shall not apply where all owners of the land protected by said restrictions have expressly consented to a reduction thereof by written instrument executed with the formality of a deed and recorded in the Public Records of Hillsborough County, Florida. Such consent and recordation must occur prior to any mining activities within the setback areas within the mining unit. Certified copies of the recorded instrument shall be furnished to the Administrator. If the Board determines that the applicant has provided competent and substantial evidence that the requested setback will not adversely affect offsite wetlands, drainage and floodplains, then a waiver may be granted by the Board.
 - b. Without consent of owners of properties within the setbacks listed in 3 above.

If the Board determines that the applicant has demonstrated that the applicable setback requirements are unreasonable, and has provided competent and substantial evidence that a lesser requirement would not adversely affect the public health, safety and welfare, then a waiver may be granted by the Board. The applicant shall provide competent and substantial evidence that:

 - (1) A lesser setback would not adversely affect the public health, safety and welfare, and
 - (2) The waiver, if granted, would not affect adjacent properties with respect to impacts on water quality, water quantity, air quality, vibration, noise, esthetics, environmental impacts to wetlands, offsite drainage, and floodplains.
 - c. Procedure for Waiver Requests:

The request for waiver shall be made in written form to the Administrator and shall include a list of all persons required to receive notice pursuant to 8.02.07 F shall be submitted. The request shall be transmitted to those agencies listed in the Development Review Manual for review and comment. The Administrator shall request all agencies to complete review and submit comments to it within 20 working days. Within 45 days of receipt of final comments from the reviewing agencies, the Administrator shall submit the permittee's request to the Phosphate Mining Hearing Master for review.

5. All mining operations shall be performed in a manner which will prevent vibrations of the soil from reaching a magnitude sufficient to cause damage of any kind to persons or property outside of permittee's exterior property lines.
6. No blasting or other use of explosives for mining purposes shall be performed without the written permission of the Administrator, who may issue appropriate conditions for the public safety and control of nuisance. Blasting or other use of dynamite and other explosives shall be directed and supervised by a person licensed in blasting operations.
7. Ambient noises resulting from mining operations, as measured at the receptor site shall not generate noise in excess of that allowed by regulation of any local, state, or federal agency.
8. The permittee shall monitor ambient air quality around the periphery of the property when deemed necessary by the Environmental Protection Commission staff. The specific monitoring program shall be subject to approval by the Environmental Protection Commission. The permittee shall take reasonable precautions to prevent and minimize fugitive dust emissions. All open burning shall be conducted in accordance with Chapter 1-4 of the Rules of the Environmental Protection Commission of Hillsborough County.
9. The permittee shall monitor rainfall on his property on a daily basis. Historical data shall be made available to the County upon request, and shall be provided in the annual report.
10. Groundwater withdrawals shall be in a quantity and manner as permitted by the appropriate water management agency in accordance with Florida Statutes. Any monitoring of such withdrawals shall also be in accordance with the laws governing and the rules and regulations of such water management agency. The effects of groundwater withdrawals and diversions shall be monitored during mining operations, including premining monitoring as prescribed by the Board. Specific requirements of the monitoring program shall be developed by the permittee and approved by the Administrator. The Board may order the permittee to construct appropriate monitoring and observation wells or devices at the permittee's expense. The permittee shall submit reports of monitored information such as water table and potentiometric levels, water production data, and the results of chemical monitoring at intervals specified by Administrator. Water withdrawals and disposals shall be subject to the following provisions:
 - a. Unreasonable changes of the natural hydraulic connections between the surficial water-bearing materials and the Floridan aquifer or the introduction of deleterious chemical or physical constituents into the local ground waters or surface waters shall not be permitted.
 - b. If significant and continuing deterioration of water quality occurs in the vicinity of the project as a result of operations, the Board may suspend the permit, in accordance with 8.02.02 D or request that the Southwest Florida Water Management District direct a decrease in pumping rates, while a thorough investigation is made.
 - c. In the event that water quality degrades or that water levels cause conditions detrimental to the environment or conditions not in the best interest of the citizens of Hillsborough County, resulting from the use of water by one permittee or by a combination of two or more permittees, the Board may request the water management agency to order reduction or cessation of water withdrawals. When deemed necessary, the Board may suspend any permit in accordance with 8.02.02 D or take any other action deemed appropriate or necessary for the public interest.
11. No water will be diverted from premining natural stream channels or lakes, unless specifically approved by the Board. Diversions shall be permitted only after a thorough analysis of stream flow

conditions, and shall be limited to quantities that are not detrimental to upstream or downstream property owners or the environment.

12. No mining or construction of permanent buildings or other structures will be permitted below the 25-year floodplain elevation. Flood elevations will be those established by the County, the Southwest Florida Water Management District or the U.S. Geological Survey. When deemed necessary, the County Engineer will make a determination following a review of the best available information, including a proposal and calculations submitted by the permittee's engineer to the Administrator.
13. If the calculated 25-year floodplain is located within 225 feet of the channel of a perennial stream, a vegetated buffer strip extending upgradient from the landward edge of the stream-associated wetlands will be established using the Vegetated Buffer Strip Width Table. The minimum width of such buffer strips will be 50 feet, but buffer widths in excess of 50 feet will not be required to extend past a point 225 feet from the stream channel. If the soil structure of the lands which comprise the buffer strip are in a disturbed condition, these lands will be graded to slope and revegetated.

Successful planting of trees to achieve a tree density approved by the Administrator on a site-by-site basis in the buffer strip will allow use of the forest category for the computation of buffer widths specified in the Vegetated Buffer Strip Width Table.

An upland buffer strip of 50 feet will be maintained for all stream-associated wetlands that are to be preserved. Such buffer strips will extend upgradient from the landward edge of stream associated wetlands. The widths of buffer strips can be averaged over distances up to 100 yards to meet the 50 feet requirement. Significant wildlife habitat within 275 feet of the channels of perennial streams will be preserved as wildlife habitat and corridors.

If the Board determines that certain stream associated wetlands have been degraded such that the purpose and intent of the stream associated wetlands protection provisions are best met by mining and restoration of these systems, then the Board may permit mining of such lands above the 25 year floodplain which otherwise would be protected under 8.02.08 A 13 on a case-by-case basis at the time of mining unit approval.

Stream-associated wetlands shall be those areas where the occurrence of wetland vegetation or hydric soil conditions are related to periodic inundation by waters from a stream or other flowing water course.

The edge of a stream channel shall be defined as the edge of emergent or upland vegetation. Where emergent vegetation is continuous across the channel of a perennial stream, a point mid-way between the perpendicular boundaries of the 25 year floodplain shall be considered as the edge of the stream channel for purposes of buffer zone determination.

Perennial streams are those streams which normally flow one cfs or more or contain waters a minimum of nine months a year. In the absence of sufficient hydrologic data, perennial streams shall be those streams which have natural open-water channels with average widths of two feet or greater, as measured between the riparian edges of emergent or upland vegetation. Channel reaches not meeting the two-foot criterion may be considered perennial if there are open-water channels upstream meeting the two-foot criterion. Agricultural drainage ditches that connect to stream systems are excluded from the requirements of 8.02.08 A 13.

Vegetated Buffer Strip Width Table

COVER TYPE	SLOPE (%)	PHOSPHATE MINING setback (feet)
HERBACEOUS	1	70

	2	120
	3	180
	4	230
	5	270
	6	300
	7	350
	8	415
	9	450
	10	515
	>10	*
	*Add 4 feet for every additional 1% slope over 10%	
SCRUB-SHRUB	2	60
	3	70
	4	85
	5	110
	6	120
	7	150
	8	155
	9	180
	10	190
	>10	*
	*Add 4 feet for every additional 1% slope over 10%	
FOREST	4	55
	5	55
	6	55
	7	55
	8	60
	9	60
	10	60
	>10	*
	*Add 4 feet for every additional 1% slope over 10%	

14. All dams containing settling and thickening ponds will be located, designed, constructed, and maintained in compliance with the rules and regulations of the Department of Environmental Protection of the State of Florida, and in accordance with sound engineering practice. Outlet structures from settling ponds will be designed and constructed according to accepted, sound engineering practice. Settling ponds will be designed with the capability of either storing or releasing 12 inches of rainfall over the watershed directly affecting the settling pond involved, in a period 24 hours (but not less than six inches in three hours) without encroaching on the minimum five feet of freeboard required by the Department of Environmental Protection.
15. Phosphatic clays or other materials with high contents of clay will be disposed of only within settling ponds, except as otherwise specifically permitted (i.e., sandclay reclamation) upon consideration of the spirit and intent of this Land Development Code. Any lands, upon which such materials have been deposited and where such materials pose a hidden hazard to public safety, shall be posted and enclosed within such fence or fences as required by the Board.

16. Clearing of land, mining, placement of fill, or construction of permanent buildings or other facilities will not be permitted in wetlands except in accordance with the provisions of the Environmental Protection Commission Rules and those of any state regulatory agency.
17. Settling ponds shall be designed and constructed in an irregularly shaped fashion such that post-reclamation topography of the area will resemble natural land forms.
18. Upland significant and essential wildlife habitat shall be protected from mining and mining-related activities in accordance with the standards and guidelines of 4.01.00 except:
 - a. If application of the habitat protection provisions in 4.01.00 prevents access to mineable lands, said provisions shall be adjusted the minimum amount necessary to allow access corridors to the mineable lands.
 - b. If the Board determines that the purpose and intent of the Natural Resources Regulations can be met by a plan, submitted by the permittee and approved by the Board, regarding the preservation and restoration of natural habitat areas and corridors within the mine boundaries, the Board shall permit mining of lands which otherwise would be protected under 4.01.00. To ensure compliance with said plan, the Board shall specify through conditions in the DRI Development Order and/or the Mine Operating Permit, as applicable, which lands may be mined; the nature, extent, and location of the restoration required; and the method of in perpetuity preservation of previously undisturbed habitat and restored habitat. At a minimum, the amount of habitat to be protected in perpetuity shall be equal to the amount which would otherwise be protected under the onsite habitat protection provisions of 4.01.08 J, 4.01.09 B 3, and C 3, pertaining to significant and essential wildlife habitat.
 - c. When mining or mining-related activities are permitted in significant or essential wildlife habitat in accordance with 4.01.08 or 2 above, onsite restoration shall be required.
 - a. Restoration shall be acre-for-acre re-creation of the habitat. Restoration shall also be in-kind re-creation of the habitat, unless creation of a different type of habitat is determined by the Board to be in the public's best interest and is agreed to by the permittee.
 - b. Prior to undertaking mining or mining-related activities within significant or essential wildlife habitat, the permittee shall demonstrate its ability to restore the habitat by showing successful creation elsewhere of the same type of habitat. Such demonstration may be on lands within or outside of Hillsborough County.
 - c. Restoration may be undertaken before or after the permitted mining or mining-related activities.
 - d. Restoration shall be in a manner that will over time return the type, nature and function of the habitat to the condition in existence prior to the mining or mining-related activities.
 - e. Restoration of significant or essential wildlife habitat shall be considered successful when the specific criteria established by the County for the habitat type to be re-created have been met with respect to species diversity, density, cover, and soil character. The criteria for successful restoration shall be based on the nature of the habitat and soil type to be disturbed, unless creation of a different type of habitat is determined by the Board to be in the public's best interest and is agreed to by the permittee.
 - f. In cases where mining or mining-related activities are undertaken prior to restoration, the Board may require "interim preservation" to assure the continuous availability of the type of habitat to be disturbed. For the purpose of this provision, interim preservation is defined as the preservation of habitat of the type proposed for mining or mining-related activity on an acre-for-acre basis on lands exempt, per 4.01.03 of this Code, from the standards and guidelines of

4.01.04 of this Code, until restoration is successful. The land to be utilized for interim preservation may be either previously undisturbed habitat or restored habitat, but must meet the definition of "significant wildlife habitat" or "essential wildlife habitat" as contained in the Land Development Code.

19. Control of mosquitos in settling ponds, ditches, or any other man-made water bodies containing cattails, water lettuce or water hyacinth within three miles of a residential area shall be the responsibility of the permittee.
 20. No mining of wetlands shall be permitted unless approved by EPC and a signed mitigation agreement is in place in accordance with the Rules of EPC.
 21. All lighting shall be directional and shall not shine directly onto adjacent property.
- B. Criteria for Approval of Phosphate Ore Extraction Activities in Wellhead Resource Protection Area ~~Zone 2~~ (WRPA-~~Zone 2~~) and/or Surface Water Resource Protection Area (SWRPA)
1. Conditions and Safeguards - The applicant must provide reasonable assurance through the submittal of competent and substantial evidence that adequate technology exists to isolate the facility or activity from the potable water supply. In approving Mining Units, the BOCC, pursuant to LDC Section 8.02.07.E, may prescribe appropriate conditions and safeguards which are necessary to protect the existing well(s), future identified well(s), or potable surface water supply resources. Conditions can include but are not limited to:
 - a. Submittal of existing monitoring reports to the County.
 - b. Required actions to prevent an illegal discharge.
 - c. A requirement for monitoring of groundwater or surface water quality.
 - d. Actions which are conditions of approval of the Mining Unit which must be maintained in compliance for the Mining Unit approval to be in effect.
 - e. Surety, bond, escrow, letter of credit.
 2. Hydrogeologic data and analysis - Site-specific hydrogeologic data and analysis that establish that the activity or facility will comply with the requirements set forth in Chapters 62-520, 62-522, and 62-550, F.A.C. (i.e., applicable Florida groundwater quality standards).
 3. Best Available Technology which will isolate the activity or facility from contaminating the existing or future potable water supply resources.
 4. Best Management Practices.
 5. Regulated Substances - Written Statement/Technical Report (a detailed description of the operation of the facility under review related to Regulated Substances).
 - a. A List of all Regulated Substances ("RS") which are to be stored, handled, used, disposed of, or produced, including their quantities.
 - b. A detailed description and the locations of the activities that involve the storage, handling, use, disposal, or production of the Regulated Substances indicating the unit quantities in which substances are contained or manipulated.
 - c. A description of the containment, the emergency collection devices and containers, and copy of the emergency plan that will be employed.

- d. A description of the daily monitoring activities that has been or will be instituted to comply with the restrictions for the WRPA or SWRPA.
 - e. Descriptions and locations of any proposed monitoring systems or devices to be installed to observe the effect of the proposed operations on environmental phenomena, to include for each station: The type of device or procedure to be installed or followed, the schedule to be followed, and a proposal for the compilation of data and the submission of reports.
 - f. A description of groundwater monitoring wells, including the latitude and longitude, location map, construction design, geology log and water quality analysis that have been or will be tested and the arrangements made or which will be made for certified quarterly analyses for specified Regulated Substances.
 - g. A description of the maintenance that will be provided for the containment facility, monitoring system, and emergency equipment.
 - h. A sampling and analysis of the groundwater or surface water on the site shall be performed to determine if any Regulated Substances are already present which constitute a threat to the water supply.
 - i. An analysis of potable supply wells whose protection zone lies within the Mining Unit boundary showing whether or not such well(s) is/are already contaminated by any Regulated Substances and the extent of such contamination.
 - j. Isolation components to be used including individual functions and systems tying the components together; discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole (if the system has not been field tested, a discussion and laboratory test documentation to substantiate the proposed performance and reliability of the system); and details of the specific plans to install the system at the site.
 - k. A description of proposed potable water supply/wastewater disposal.
 - l. A schedule for proposed construction and operation.
 - m. Description of nature, quantity and disposition of wastes resulting from plant operation.
- 6. Impact Analysis - Impacts on public potable water supply wells and public potable water supply systems or surface waters.
 - 7. Inventory of Existing 2-Inch Wells or Greater, on Adjacent Property — within 1,000 feet of the applicant's property line, as determined by SWFWMD records.
 - 8. Compliance with Stormwater Management Technical Manual, as amended. General plans for stormwater management that are to be accomplished during and following the conclusion of operations, including sufficient topographic maps to ensure adequate definition of all stormwater characteristics of the applicant's lands and their effects upon neighboring lands, the seasonal high groundwater elevation, stormwater runoff calculations, a description of all points of discharge from the applicant's property, and estimate of the rate of such discharge during normal operations as well as mean annual, 25- and 100-year floods to be included in Mining Unit application.
 - 9. Aerial Photographs depicting limits of the 100-year floodplain.
 - 10. Signature and seal by a registered Professional Engineer or licensed Professional Geologist.
 - 11. Inspection Report.

12. Copies of all applications to and permits or authorizations from all applicable federal, state and local agencies.
13. Financial Responsibility provided in the form of surety, bond, escrow, letter of credit, or other common form of financial assurance.
14. An agreement to indemnify and hold the County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the Mining Unit approval.
15. Duration: The Mining Unit approval shall remain valid for a multi-year period provided the applicant is in compliance with the terms and conditions of the Mining Unit approval and there is no change in the activity or use of the property.

C. Reclamation Standards

1. The permittee shall reclaim or restore all lands disturbed as a result of phosphate mining or processing activities. The primary purpose of reclamation is to reestablish or establish an optional mix of land forms, land uses, and natural vegetation associations using the criteria defined in the Phosphate Mining Reclamation Manual, or for those properties permitted by Hillsborough County for phosphate mining prior to the adoption of the Phosphate Mining Reclamation Manual, using the best available technology. The process of reclamation is a general process, which also includes the special process of restoration of specific areas, such as wetlands. The goals of reclamation are as follows:
 - a. Utilize soils in a manner best suited to their capabilities.
 - b. Minimize permanent destruction of soil resources.
 - c. Reduce erosion and sedimentation.
 - d. Maintain and enhance the existing quality and quantity characteristics of biotic resources which shall include native vegetation.
 - e. Maximize safe recharge of surficial and artesian aquifers and optimize water levels of lakes and surface water courses.
 - f. Minimize risks of flooding.
 - g. Restore or replace impacted wetlands.
2. It is recognized that the methodologies traditionally used by the phosphate industry may require different methods and standards for reclamation of mined-out lands not covered by settling ponds or recirculating water streams, whether constructed on mined-out land or natural ground. Disturbed land will be reclaimed in accordance with the Rules and Regulations of the Department of Environmental Protection (Florida Administrative Code, Chapter 62C-16) unless more strict standards are established by Hillsborough County.
3. Reclamation of wetlands shall be in accordance with the requirements of the Environmental Protection Commission and rules of any other applicable State and Federal regulatory agency.
4. The following radiation standards shall be met for post reclamation land use.
 - a. The gamma radiation at the surface of land reclaimed from mining shall be surveyed after reclamation, and shall not exceed 20 micro-Roentgens per hour (20 uR/h) above background at any of the points surveyed; and
 - b. The total radon (222Rn) emissions from the surface of the land reclaimed from mining shall be measured after reclamation, and shall not exceed a flux of 20 picocuries per square meter per second (20 pCi/m²/s) at any of the points measured.

- c. Compliance with the gamma radiation standards of a above shall be demonstrated by gamma-ray surveys over a uniform survey grid spaced to provide approximately one measurement for every three acres over the entire reclaimed area. The survey shall be conducted with a calibrated radiation survey instrument having suitable precision at the six through 12 uR/h level. The gamma ray measurements shall be made at heights of 1 m above the land surface. The gamma radiation background for Hillsborough County shall be defined as six uR/h for compliance with standards of this section.
 - d. Compliance with the radon flux standards of b above shall be demonstrated by radon flux measurements made over a uniform survey grid spaced to provide at least one measurement for every three acres over the entire reclaimed land area. The radon flux measurements shall utilize EPA method 115 or an alternative method that is or has been demonstrated to give equivalent results.
 - e. All measurements and analyses shall utilize suitably-calibrated equipment and procedures with quality control measurements of blanks, duplicates and standards (each approximately ten percent of the total number of measurements). Standards shall include NIST-traceable or EPA-accepted reference materials. A report shall be submitted to the Administrator describing the name and location of the facility, the sampling procedure and dates, any compositing that was done, the measurement procedure, the results of each measurement, and the results of the quality control analyses. Each report shall be certified for truthfulness, accuracy, and completeness by a corporate officer or public official in charge of the facility, who has examined the report and inquired of those responsible for obtaining the information.
 - f. Radiation levels of all surface waters in areas reclaimed as lakes or wetlands shall not exceed applicable standards in Rule 62-302.500, Florida Administrative Code regardless of whether such waters constitute "waters of the state" as defined therein. The Florida Department of Environmental Protection is authorized under the F.A.C. to regulate surface and ground water quality.
5. Time Schedule for Reclamation Operations
- a. Beginning date: Backfilling and rough grading shall commence under an approved plan within six months after mining was completed in a mining unit, except for areas for settling ponds, sand tailings piles or recirculating water systems. When the area includes settling ponds, reclamation of such ponds shall commence within two years after the approved operating life of the pond. When the area includes sand tailings piles, or recirculating water systems, reclamation of such systems shall commence within two years after they are no longer used.
 - b. Completion date: Hillsborough County wishes to encourage rapid completion of reclamation but recognizes that it is impractical to require all reclamation to be completed within an identical time frame. Hillsborough County also recognizes the need of the permittee to coordinate reclamation activities on the basis of some maximum period, during which all reclamation must be completed. Accordingly, maximum completion dates are as follows:
 - (1) Areas not including settling ponds, sand tailings piles or recirculating water systems shall be reclaimed within four years from the date mining was completed. All backfilling and reshaping must be completed within one year. All soil treatment, soil enrichment and grassing (or temporary vegetation) must be completed within two years. All permanent vegetation (trees and shrubs) must be completed within three years. The fourth year shall include at least one growing season for the permanent vegetative cover.

- (2) Settling ponds shall be reclaimed within four years after being taken out of use as settling ponds, using the same requirements as paragraph 1 above.
- (3) Recirculating water systems and sand tailing piles shall be reclaimed within two years after commencement of reclamation. All backfilling, reshaping, enrichment and treatment of soil, and all revegetation must be completed within one year. The second year shall include the one-year growing season for permanent revegetation.
- (4) The Board may require a more expeditious reclamation schedule in order to minimize impacts to neighbors, wetlands, offsite drainage or flood plains. Also, the Board may grant a more lengthy reclamation schedule if there are circumstances outside the applicant's control that delay the reclamation process.

6. Certification of Reclamation Release.

- a. When the permittee has met the standards set forth in this section for reclamation of an area, the permittee may apply to the County for a written certification of completed reclamation. Certification shall be given only for completion of contiguous reclamation area based on reclamation type (e.g. upland, herbaceous wetland, forested wetland) and after the permittee has demonstrated that viable native and/or agricultural vegetative cover has been attained at the approved densities.
- b. A permittee shall be limited to applying for Certifications of Reclamation Release no more than twice per year. The permittee shall provide a synopsis of approved reclamation releases in the Annual Report.
- c. Certification of Reclamation Release Processing.
 - (1) Within thirty days after receipt of an Application for Certification of Reclamation Release (Application) the County shall review the Application for completeness and may request submittal of any required information which was not submitted with the Application. The permittee shall have ninety days after the County provides a timely request for additional information to submit that information to the County. If the additional information is not provided within ninety days, the Applicant will be deemed to have been withdrawn by the permittee.
 - (2) Within 30 days after receipt of such additional information, the County shall review it and thereafter may request only such further information as is needed to clarify the newly provided additional information or to answer new questions raised by or directly related to such additional information.
 - (3) Within 45 days after the County has deemed the application complete, the County shall provide written certification to the permittee that the Application has been approved, approved in part or denied.

7. Permittees shall use "Best Management Practices for Hillsborough County" as established by the Hillsborough Soil and Water Conservation Board for developing reclamation programs.

(Ord. No. 05-10, § 2, 6-16-05, eff. 10-1-05; Ord. No. 07-18, § 2, 7-19-07, eff. 10-1-07; Ord. No. 19-23, § 2(Exh. A), Item A.1(19-1043), 12-19-19, eff. 12-20-19)

PROPOSED TEXT AMENDMENT LDC 25-1126
LAND DEVELOPMENT CODE
PART 9.02.00 – HEARING OFFICERS AND MASTERS

Sec. 9.02.04. Wellhead Hearing Master

A. Generally.

1. The Board of County Commissioners shall appoint one or more Hearing Masters, all of whom shall be attorneys, preferably with experience in engineering or related technical fields. Phosphate Mining Hearing Masters may serve as Wellhead Hearing Masters. The Administrator shall submit recommended appointees to the Board of County Commissioners for consideration and appointments. Each Wellhead Hearing Master is to be appointed for a term not more than three (3) years, provided that the terms of the original appointees may be staggered so that all terms do not expire simultaneously. A Wellhead Hearing Master may be removed for cause by the Board of County Commissioners. Wellhead Hearing Masters shall be compensated from the general revenue funds of the County, at a rate to be determined by the Board of County Commissioners.
2. No person who is or may become a party of record before a Wellhead Hearing Master, nor anyone appearing on behalf of a party of record before a Wellhead Hearing Master, shall communicate ex parte with any Wellhead Hearing Master about a pending application.

B. Hearings.

1. Hearings before the Wellhead Hearing Master shall be held not less than monthly. All hearings shall be opened to the public. The Clerk to the Board of County Commissioners shall tape record the proceedings before the Wellhead Hearing Master. A verbatim transcript of the proceedings shall be filed with the Clerk to the Board of County Commissioners.
2. The participants before the Wellhead Hearing Officer shall be the applicant, County agencies, proponents, and opponents, inclusive of the public and witnesses with relevant testimony. The proponent shall be defined as a participant in favor of the application, exclusive of the applicant; whereas the opponent shall be defined as a participant against the application. Both definitions are inclusive of the public and any other parties of record.
3. The order of presentation shall be as follows:
 - a. Applicant and witnesses; proposal: Fifteen (15) minutes, plus an additional fifteen (15) minutes if requested by the applicant.
 - b. Administrator; summary of the application, County staff and department findings: Five (5) minutes.
 - c. Proponents; arguments for the application: Fifteen (15) minutes.
 - d. Opponents; argument against the application: Fifteen (15) minutes.
 - e. Staff; amended recommendations, if any: Five (5) minutes.
 - f. Applicant; rebuttal and summation: Five (5) minutes.

For good cause shown, the Wellhead Hearing Master may grant additional time.


4. To the maximum extent practicable, the hearings shall be informal. Reasonable cross-examination of witnesses shall be permitted, but questioning shall be confined as closely as possible to the scope of direct testimony. The Wellhead Hearing Master may call and question witnesses as he deems necessary and appropriate. The Wellhead Hearing Master shall decide all questions of procedure.
5. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Any part of the evidence may be received in written form and all testimony shall be under oath.

C. Powers.

1. The Wellhead Hearing Master shall conduct public hearings with regard to applications for prohibited uses or expansion of existing prohibited uses in a Wellhead Resource Protection Area or a Surface Water Resource Protection Area, and shall issue a recommendation to the Board of County Commissioners as to whether a Prohibited Use Operating Permit should be approved or denied based on the criteria set forth in 3.05.067. The Wellhead Hearing Master shall make a recommendation to the Board of County Commissioners regarding the impact of the activity on public potable water supply wells, the public potable water supply system or surface waters.
 2. The Wellhead Hearing Master shall have the power to issue notices of hearings, to administer oaths, and to take testimony and evidence as necessary.
 3. It shall be the duty of the Wellhead Hearing Master to inquire fully into the facts of each case. In addition to the powers described above, the Wellhead Hearing Master shall have the following powers and duties with respect to such cases:
 - a. To receive stipulations of fact agreed to in writing by the participants, which shall be regarded and used as evidence at the public hearing. A Wellhead Hearing Master may, nevertheless, require such additional evidence as he may deem necessary.
 - b. To accept true copies of such documentary evidence as may be offered in lieu of originals.
 - c. To request written briefs to be filed on behalf of any of the participants in such hearings. Such briefs shall be filed with the Wellhead Hearing Master within such timeframes as the Wellhead Hearing Master may prescribe, with a copy served on the Director of Planning and Development Management and such other participants as the Wellhead Hearing Master may designate.
 - d. To request the submittal of additional evidence from the applicant, staff or other reviewing agencies, and may continue the hearing on the application until the next regularly scheduled meeting of the Wellhead Hearing Master in order to receive the requested information.
 - e. To visit the property which is the subject of the application.
 4. The Wellhead Hearing Master shall have all powers necessary to conduct the hearings for appeals of administrative permits issued under Section 3.05.078. The applicability, notice requirements, referral requirements, conduct of hearing, decision of hearing officer, authority of hearing officer and finality of decision will follow the procedures set forth in 10.05.00 of this Code.
- D. Conflict of interest.
1. The Wellhead Hearing Master shall disqualify himself from a particular case when it reasonably appears that he has a conflict of interest. When the Wellhead Hearing Master disqualifies himself, the case shall be randomly assigned to another Wellhead Hearing Master, if available. The Board of County Commissioners may request the County Attorney to provide an attorney otherwise qualified to site as a Wellhead Hearing Master for an individual case when all such Wellhead Hearing Masters disqualify themselves.
 2. Whoever shall accept an appointment as a Wellhead Hearing Master and any firm with which he is or may be associated, is for a period of one (1) year from the date of termination as holder of such office, hereby expressly prohibited from acting as agent or attorney in any proceeding, application or matter before any commission, board, agency or other office of county government, involving property which is subject of an application during the time such person was in office.
- E. Custody of books and papers.
- The Clerk of the Board of County Commissioners shall maintain a file of all papers submitted to him and shall have the official custody of the application, the Wellhead Hearing Master's findings and recommendations, and the record of all proceedings regarding the application. All such files shall be opened to inspection by any

person at reasonable times, under reasonable conditions, and under the supervision of the custodian of such files or his designee. Any cost of reproduction shall be paid by the persons requesting copies of said documents.

(Ord. No. 04-27, § 2, 6-10-04)

Staff Recommendation:	Approval
Division Director Sign off:	 Environmental Services Division Section Manager
ATTACHMENTS:	