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KAREN E. RUSHING
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

AN ORDINANCE OF THE COUNTY OF SARASOTA, FLORIDA, RELATING TO BORROW PITS AND OTHER EXCAVATIONS, STOCKPILES, AND FILLS THROUGHOUT SARASOTA COUNTY; RESTATING AND AMENDING SARASOTA COUNTY ORDINANCE NO. 81-60 AS CODIFIED IN ARTICLE XII OF CHAPTER 54 OF THE SARASOTA COUNTY CODE; PROVIDING FOR CODING OF AMENDMENTS; AMENDING SECTION 54-341 RELATING TO THE PURPOSE AND FINDINGS; AMENDING SECTION 54-342 RELATING TO DEFINITIONS; AMENDING SECTION 54-343, RELATING TO APPLICABILITY AND INTERPRETATION OF ARTICLE; AMENDING SECTION 54-344, RELATING TO EARTHMOVING PERMITS REQUIRED; AMENDING SECTION 54-345, RELATING TO REQUIREMENTS FOR OBTAINING PERMITS AND SUBMITTING ANNUAL REPORTS; AMENDING SECTION 54-346, RELATING TO REVIEW PERIOD; AMENDING SECTION 54-347, RELATING TO REQUIREMENTS FOR EXCAVATIONS; AMENDING SECTION 54-348, RELATING TO REQUIREMENTS FOR FILLS, STOCKPILES, AND BURYING; AMENDING SECTION 54-349, RELATING TO EXEMPTIONS; AMENDING SECTION 54-350, RELATED TO VARIANCES; AMENDING SECTION 54-351, RELATING TO THE RESERVATION OF RIGHTS; AMENDING SECTION 54-352, RELATING TO EXCEPTIONS AND AMENDMENTS; AMENDING SECTION 54-353, RELATING TO ADMINISTRATION; AMENDING SECTION 54-354, RELATING TO ENFORCEMENT AND PENALTIES; AMENDING SECTION 54-355, RELATING TO SEVERABILITY; CREATING SECTION 54-356, RELATING TO A SUNSET DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. This Ordinance amends Sarasota County Ordinance No. 81-60, as amended and as codified in Article XII, Chapter 54 of the Sarasota County Code.

Section 2. Chapter 54, Article XII of the Sarasota County Code is hereby amended to read as follows:

ARTICLE XII. EARTHMOVING

Sec. 54-341. Purpose and findings.

The Board finds and determines that:

- (1.) This article is enacted pursuant to law for the purpose of regulating earthmoving, including, but not limited to, the location and use of pits, lakes, excavations, stockpiles, and fills. It is recognized that commercial earthmoving enterprises

provide a valuable service, and positive economic benefit to the community. Specifically, it is the intent of this article to establish environmental safety regulations involving earthmoving that promote public health, safety, and welfare.

- (2) Earthmoving that is not governed by the County's Land Development Regulations, such as within established residential neighborhoods and borrow pit operations, also should be regulated for purposes provided herein.
- (3) Earthmoving activities may cause adverse impacts to watersheds, drainage patterns, native habitats, air and water quality, land use compatibility, historical resources and roads, and may create erosion and sedimentation problems.
- (4) Certain earthmoving operations may cause adverse visual, noise, vibration, dust, and safety impacts to surrounding areas.
- (5) Unauthorized ~~B~~burying or dumping of debris may cause sanitary and health hazards, subsidence problems, and nuisances from mosquitoes and vermin.
- (6) Unauthorized ~~E~~changes in topography, including filling of drainageways and relocating conveyances, could increase the flood potential and the impact of a destructive storm on human life, private structures, public facilities, and the economic viability of a community.
- (7) This article facilitates the implementation of the goals, policies, and principles of the County's Comprehensive Plan (Apoxsee) protecting the integrity of the natural environment and historical resources of the County, and meeting the social and economic needs of Sarasota County residents.
- (8) Wetlands provide water filtration, natural floodwater storage, critical habitat for numerous plants and animals, and maintenance of water tables.
- (9) The County roadways should be maintained as a safe, convenient, and efficient transportation system.
- (10) The Board of County Commissioners, sitting as the Land Development Regulation Commission, has reviewed the ordinance codified in this article and found it to be consistent with Apoxsee, the Sarasota County Comprehensive Plan.
- (11) On December 8th, 1998, the Board of County Commissioners adopted the Myakka River Protection Ordinance No. 98-025, as amended. This ordinance directed staff to process amendments to Earthmoving Ordinance No. 81-60, as amended, consistent with the provisions of the Act, to minimize potential adverse physical and visual impacts on resource values in the Myakka River Area and to minimize adverse impacts on private landowners' use of the land for residential purposes.

- (12) Earthmoving activities hereby authorized pursuant to Ordinance 81-60, as amended, shall be consistent with the goals and objectives defined within the Myakka River Protection Ordinance No. 98-025, as amended.

Sec. 54-342. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

Abutting Property means any property that is either: immediately adjacent to; or contiguous with; or that is located immediately across any road or right-of-way from property that may be subject to any review or hearing required to be held under this article.

Applicant includes individuals, firms, partnerships, corporations, associations, organizations, trusts, companies, or any other legal entity that has applied for a Permit.

Board means the Board of County Commissioners or its designee.

Burying means placing Type B, C or D Fill, including yard trash, below original grade.

Closure means cleaning up and securing an earthmoving operation, including removing material stockpiles associated with a recycle facility, upon cessation of operation such that there is no threat to public health, safety, or the environment.

Closure Plan means a plan which describes reclamation measures to clean up and close an earthmoving operation authorized under a Level II or Level III Earthmoving Permit and addresses monitoring, maintenance, and bonding requirements.

Comprehensive Plan means the Environment Chapter of Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan as adopted under Ordinance No. 89-18, as amended, to comply with the Local Government Comprehensive Planning and Land Development Regulation Act of 1985.

Conceptual Permit means a permit approved by the Board and issued by the Ordinance Administrator which approves the concept of a Master Plan for Level III Earthmoving.

Construction Plan or Site means any plan or site which has a valid construction authorization (as defined in the Land Development Regulations) from the County's Land Development Services office or has a valid building permit and approved lot grading plan issued by the County showing the full extent of filling, or has a permit in accordance with the provisions of this article.

County means Sarasota County, Florida.

County Administrator means the Sarasota County Administrator or his duly authorized representative.

Earthmoving means excavating lakes, pits, and depressions, and/or mounding, stockpiling, creating berms, installing or transporting Type A, B, C or D Fill.

Environmental Technical Manual means that section of the County's Land Development Regulations containing the technical specifications for mitigation areas, littoral zones, and other environmental systems.

Excavation means the act or process of creating a lake, borrow pit (whether or not materials are removed for commercial purposes), pond, retention area, swale, ditch, or depression.

Fill Removal means the removal by mechanical means of fill from the site of generation.

Filling means the placement, spreading, covering, or burying of Type A, B, or C Fill on a site. Filling does not include stockpiling.

Gardening means filling, excavating, grading, or mounding to prepare a plot for the cultivation of herbs, fruits, flowers, and vegetables. This does not include the creation of an agricultural row crop field or a pasture for commercial purposes.

Haul Route means the route or routes connecting the site of excavation or fill, as described by the permit application, with one or more public roadways under the jurisdiction of Sarasota County, of the functional classification of "collector" or "arterial," as adopted by the County in the thoroughfare plan of the Sarasota County Comprehensive Plan. The "Haul Route" shall include the intersection with the collector and arterial and also include any required turn lanes and traffic control devices.

Historic Resources means prehistoric or historic districts, sites, buildings, objects, or other real or personal property of historic, architectural, or archaeological value.

Land Clearing Debris is uprooted or cleared vegetation resulting from a land clearing operation and does not include yard trash.

Land Development Regulations means Sarasota County Ordinance No. 81-12 or its successor (Chapter 74 of this Code).

Landfill is the spreading, covering, or burying of Type A, B, C or D Fill within a County-operated landfill.

Landscaping means filling, excavating, grading, or mounding with Type A Fill or mulch material for the purposes of planting vegetation (e.g., grass, ground covers, shrubs, hedges, and trees) and installing or [of] supporting structural landscape architectural features (e.g., rock, fountains, waterfalls, sculpture, decorative walls, and tree walls).

Lawful Drainage Systems means stormwater conveyances, including swales and ditches, that existed prior to 1981 or are authorized by the County's Land Development Services office.

Listed Species means any animal categorized by the Florida Game and Fresh Water Fish Commission as endangered, threatened, or of special concern pursuant to F.A.C. 39-27.003, 39-27.004, and 39-27.005; or any plant or animal categorized by the U.S. Fish and Wildlife Service as endangered or threatened pursuant to 50 CFR 17.11-12.

Littoral Zone is that portion of any lake, borrow pit, or pond measured from seasonal high-water elevation in water bodies where water elevation is not controlled by structures, or from the overflow elevation in water bodies where water elevation is controlled by structures, to a depth of three feet. Littoral zones typically support rooted aquatic vegetation. Littoral zones also include those areas in salt or brackish water (gulf, bay, estuary) from the mean high-water elevation to a depth of three feet.

Master Plan is a plan which includes the boundaries and a description of the general design and operation of a commercial borrow pit, a development, or a recycle facility.

Minor Topographical Changes means recontouring which has a net result in less than a one-foot change above or below existing grade.

Myakka River (or River) Area means the corridor of land beneath and surrounding the Myakka River from river mile 7.5 to river mile 41.5, together with a corridor of land including the maximum upland extent of wetlands vegetation as determined by the Department of Environmental Protection pursuant to Chapter 403, Florida Statutes and Chapters 62-340, Florida Administrative Code.

Myakka River (or River) Protection Zone or Area means the same as the "wild and scenic protection zone".

Off-Site means adjacent or neighboring properties, public or private rights-of-way or easements, conservation areas, preservation areas, or common areas.

Ordinance Administrator means the Sarasota County Administrator, or an administrative official of Sarasota County Government designated by the County Administrator to administer and enforce the provisions of this Ordinance.

Particulate Matter means, with respect to emissions, all finely divided solid or liquid material, other than uncombined water, emitted to the atmosphere.

Permit is the legal authorization to remove fill from a site or to conduct or engage in filling, stockpiling, creating berms, or excavating unless exempted by the provisions of this article.

- (1) *General Permit* is the legal authorization to conduct or engage in filling, stockpiling, creating berms, or excavating more than 100 cubic yards and up to 2,000 cubic yards of Type A Fill unless exempted under the provisions of Section 54-349(a) or (b).
- (2) *Level I Permit* is the legal authorization to conduct or engage in filling, stockpiling, or excavating more than 2,000 and up to 10,000 cubic yards of Type A Fill in accordance with the provisions of this article.
- (3) *Level II Permit* is the legal authorization to conduct or engage in filling, stockpiling, or excavating more than 10,000 and up to 100,000 cubic yards of Type A Fill or up to 50,000 cubic yards of Type B or C Fill in accordance with the provisions of this article.
- (4) *Level III Permit* is the legal authorization to conduct or engage in filling, hauling, stockpiling, or excavating more than 100,000 cubic yards of Type A Fill or more than 50,000 cubic yards of Type B or C Fill in accordance with the provisions of this article.
- (5) *After-the-Fact Permit* is the legal authorization to continue an activity regulated by this article that commenced prior to applying for or receiving a General, Level I, II, or III Permit in accordance with the provisions of this article.
- (6) *Conceptual Permit* means a permit approved by the Board and issued by the Ordinance Administrator which approves the concept of a Master Plan for earthmoving activities involving more than 100,000 cubic yards of Type A Fill or more than 50,000 cubic yards of Type B or C Fill.

Permittee includes individuals, firms, partnerships, corporations, associations, organizations, trusts, companies, or any other legal entities that have received a permit.

Person includes individuals, firms, partnerships, corporations, associations, organizations, trusts, companies, or any other legal entities.

Protected Native Habitat means those habitats qualifying for preservation or conservation under the principles of the Apoxsee Environment chapter (section entitled "Principles for Evaluating Development Proposals in Native Habitats").

Reclamation means measures to clean up and close an earthmoving operation, including reshaping, grading, seeding, site stabilizing, revegetating, and creating mitigation areas and littoral zones.

Recyclable Construction and Demolition Debris is a component of Type D Fill and means construction and demolition debris from commercial users which is capable of being recycled, including wood pallets, wood construction materials, scrap metal, and brick which can be effectively processed for recycling.

Recycle Facility means any facility which recycles solid waste.

Recycling means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, processed, and reused or returned to use in the form of raw materials or products.

Routine Maintenance means earthmoving activities to an existing water body or infrastructure intended to restore the original dimensions or elevations. Evidence of original dimensions may include previous County authorizations, permits, or other acceptable documentation, or a demonstration by the applicant that the proposed earthmoving activities (including any minor topographical changes) would not adversely impact the drainage and wetland hydroperiod.

Site means the boundaries of a property, or portion thereof, upon which earthmoving has occurred, is proposed, or has been permitted. Any portion of a property which has a separate, valid construction plan approval, building permit, or earthmoving permit shall constitute a separate site.

Stipulation is a statement or condition issued with a permit with which compliance is necessary for continued validity of the permit.

Stockpile means the temporary collection, accumulation, or storage of Type A, B, C, or D Fill upon a parcel of land for a minimum period of 24 hours.

Subdivision Technical Manual means that section of the Land Development Regulations containing the technical specifications for a floodplain compensation plan.

Swale means a manmade stormwater conveyance with gradual side slopes and vegetation for soil stabilization, stormwater treatment, and uptake.

Type A Fill means earthen material essentially free of roots and other vegetative debris.

Type B Fill consists of concrete, rocks, broken asphalt, and other similar type inorganic and nonmetallic materials.

Type C Fill consists of vegetative land-clearing debris with associated earthen material.

Type D Fill consists of all other refuse not defined as Type A, B, or C Fill, including but not limited to construction and/or demolition debris and garbage.

Type A Fills consist of compacted Type A Fill.

Type B and C Fills consist of Type B or C Fill with a minimum cover of one foot of Type A Fill.

Type D Landfills consist in whole or in part of all materials not defined above as Type A, B, or C Fill.

Unconfined Emissions means emissions which escape and become airborne from unenclosed operations or which are emitted into the atmosphere without being conducted through a stack.

Wetland Hydroperiod Maintenance Plan means a method of maintaining the frequency of water flow and water levels of a wetland prior to and following permitted earthmoving activities.

Wetland or Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, sloughs, marshes, wet prairies, bayheads, bogs, cypress domes and strands, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps, and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Wild and Scenic Protection Zone means an upland buffer that extends 220 feet on each side of the Myakka River wild and scenic designated river area (from river mile 7.5 to river mile 41.5) measured from the landward edge of the river area.

Yard Trash means vegetative matter resulting from landscaping maintenance including such materials as tree and shrub trimmings, grass clippings, and palm fronds.

Sec. 54-343. Applicability and interpretation of article.

- (a) The provisions of this article shall apply within the unincorporated areas of Sarasota County.
- (b) Where any provision of this article refers to another provision, ordinance, statute, regulation, or other authority, it refers to the most current version, incorporating any amendments thereto or redesignation thereof. Where any provision of this article refers to a local ordinance, board, or official, it shall refer to the appropriate County ordinance, board, or official, and not to any municipal one, except pursuant to the provisions of an interlocal agreement.
- (c) The Board may provide for the enforcement of this Ordinance within any municipality through an interlocal agreement.

Sec. 54-344. Permits or other authorizations required.

Unless exempted or authorized under the provisions of Section 54-349(a), (b) or (c), no person shall create or alter any excavation, nor apply fill to a site, whether it alters the existing contours or not, nor remove fill from any site, without first obtaining a permit or other authorization in accordance with the provisions of this article and the Comprehensive Plan. Exceptions to this requirement shall be made for activities exempted under the provisions of Sections 54-349(a) and 54-349(b) of this Code, however, said activities shall be consistent with the Comprehensive Plan and Section 54-344(4) of this Code. Issues of Zoning relative to stockpiling, excavation, filling, or hauling within ~~annexed~~ municipal lands shall be deferred to the municipality.

- (1) Stockpiling. No person shall stockpile or cause to be stockpiled Type A, B, C Fill, or recyclable construction and demolition debris (a component of Type D Fill) upon a parcel of land which was not the site of origination without first obtaining a permit in accordance with the provisions of this article. Stockpiling of Type B, C, or recyclable Type D fill generated from off-site sources shall be in compliance with the County's Zoning Code (Appendix A) of the Sarasota County Code regarding on-site recycle facilities. Stockpiling of Type B, C, or D Fill may occur at the site of origination provided that such activities do not conflict with other Federal, State, or local regulations or ordinances and provided that such stockpiling ceases within six months after it commences, unless otherwise authorized by a permit or other authorization in accordance with the provisions of this article. Transporting and stockpiling of yard trash is governed under Chapter 6, Article III of the Sarasota County Code.
- (2) Burying. No person shall bury Type D Fill, including yard trash. No person shall bury Type B or C Fill without first obtaining a permit in accordance with the provisions of this article. This section does not include County-operated landfills.
- (3) Wetlands impacts.
 - a. Except as otherwise authorized herein, or by other ordinance of Sarasota County, wetlands shall not be altered, filled, drained, dredged, scraped, or converted to lakes or borrow pits.
 - b. In cases where the Ordinance Administrator determines that a wetland is no longer capable of performing desired environmental functions or providing environmental values (as defined in Sarasota County's Comprehensive Plan), or in cases where it is determined by the Ordinance Administrator that no reasonable alternative exists other than disrupting a wetland, certain alterations may be allowed.
 - c. All alterations in wetlands must be mitigated in accordance with either Level I or Level II ratios and performance standards specified in the Environmental Technical Manual of the County's Land Development Regulations and in the "Principles for Evaluating Development Proposals in Native Habitats" found in

the Environment Chapter of the Comprehensive Plan. Mitigation ratios shall be as follows:

1. One-to-one for herbaceous wetlands and two-to-one for wooded wetlands in accordance with Level I performance standards; or
 2. Two-to-one for herbaceous wetlands and four-to-one for wooded wetlands in accordance with Level II performance standards.
- d. In cases where mitigation is required, mitigation and monitoring plans must be submitted to and approved by the Ordinance Administrator before a permit will be issued.
 - e. Flow of water within and through preserved wetlands shall not be impeded.
 - f. Appropriate sediment control devices (hay bales, silt screens, or other devices approved by the Ordinance Administrator) shall be employed to prevent sedimentation within the wetland. Any building site adjacent to a wetland and elevated by filling must employ the same erosion control devices. Fill must be stabilized to the satisfaction of the Ordinance Administrator.

(4) The Myakka River Area and Myakka River Protection Zone.

- a. All earthmoving activities within the Myakka River Area or Protection Zone shall be consistent with the goals and objectives of the Myakka River Protection Ordinance No. 98-025, as amended.
- b. Earthmoving shall be prohibited within the Myakka River Protection Zone for all purposes except earthmoving meeting exemption criteria pursuant to any of Sections 54-349(b)(1), 54-349(b)(2), 54-349(b)(3), 54-349(b)(4), 54-349(b)(5), 54-349(b)(6), 54-349(b)(7), 54-349(b)(9), 54-349(b)(10), 54-349(b)(11), 54-349(b)(12), 54-349(b)(14), 54-349(b)(15), 54-349(b)(16), 54-349(b)(17), 54-349(b)(19), and filling around the perimeter of a structure of a maximum 30 feet width to establish the entirety or a portion of a fire protection clear zone as defined in the County's Land Development Regulations. The Ordinance Administrator may request information from the applicant, including evidence of prior approval by the appropriate agency(ies), for any of the above-referenced exemption sections to confirm that the earthmoving meets the exemption criteria.
- c. All earthmoving allowed under Section 54-344(4)(b), within the Myakka River Protection Zone, shall be consistent with the Vegetative Removal Standard contained within the County's Land Development Regulations.

- d. Earthmoving authorized under a valid earthmoving permit, agricultural exemption, written non-agricultural exemption, issued by the County prior to the effective date of these Code revisions, or the continuation of uninterrupted agricultural earthmoving operations and maintenance in existence prior to October 13, 1981, may continue to completion of the earthmoving project, until expiration of said authorization, or until cessation of the agricultural operation, provided no expansion or intensification of such authorized earthmoving occurs.
- e. Upland buffers of native vegetation, of a minimum 30 feet width, shall be provided around preserved wetland areas. Where the upland vegetation surrounding any wetland contains mesic hammock habitat, the minimum buffer width shall be 50 feet.

Sec. 54-345. Requirements for obtaining permits and submitting annual reports.

- (a) Persons applying for earthmoving permits (including General, Level I, Level II, Level III, or After-the-Fact Permits) shall submit the following to the office of the Ordinance Administrator. The appropriate type of permit is based on cumulative volumes over the life of the project in accordance with subsections (e) and (f) of this section.
 - (1) The original and four copies of a complete application, signed by the owner of the property or accompanied by a notarized written consent to do the work from the property owner if the application is made by any person or firm other than the owner of the property involved. This owner consent signature obligates the property owner(s) and successors to comply with all permit stipulations and all provisions of this article. The application shall include the following information and materials. With all applications include:
 - a. Legal description and property identification number (PIN) of the site to be permitted;
 - b. Street address of the site, if any, and a vicinity map showing location of the site in relation to nearby roadways;
 - c. Three legible full section aerial photographs of the site (scale: one inch equals 200 feet or less) with the parcel boundaries clearly identified. Aerial photographs are available from the County's Surveying and Mapping Section and the County Property Appraiser's office, and must be the most recent available copies;
 - d. Authorization for entry upon any portion of the site by County agents or employees for purposes of inspection for compliance with, and enforcement of, the provisions of this article;

- e. Area of proposed excavation, stockpile, and/or fill in acres or square feet;
 - f. Volume of excavation, stockpile, and/or fill in cubic yards;
 - g. Proposed source and type of material for fill;
 - h. Reason for excavating, stockpiling, and/or filling;
 - i. For excavation projects greater than one acre in size, a littoral zone plan, showing the proposed location(s) of the littoral zone(s) and a typical cross section, as well as demonstrating compliance with the applicable provisions of Section 54-347(7) and (8);
 - j. A wetland mitigation, monitoring, and maintenance plan, if wetland impacts are proposed, in accordance with the provisions of the Environmental Technical Manual of the County's Land Development Regulations;
 - k. A hydroperiod maintenance plan, if Wetlands are on-site, in accordance with the provisions of the Environmental Technical Manual of the County's Land Development Regulations;
 - l. Bonds in accordance with subsection (d) of this section, in a form acceptable and payable to the County, shall be required to ensure compliance with all the terms and stipulations of the permit and that all site stabilization and other actions required by this article are performed during and upon completion of the permitted activities; and
 - m. A nonrefundable fee to offset administrative, review and monitoring costs. The amount of said fee(s) shall be established by resolution by the Board and shall accompany all applications and reapplications.
- (2) The original and three copies of a site plan clearly showing the boundaries of the property, map scale and north arrow, and the following information:
- a. A site boundary and topographical survey clearly showing existing and proposed elevations, existing site features, easements and rights-of-way;
 - b. Proposed location(s) for excavation and/or disposition of material;

- c. Proposed slopes, setbacks, method of dewatering and on-site retention for excavation projects;
 - d. Location of wetlands, if any, and other native habitats;
 - e. Septic tanks and drainfields within 100 feet of the edge of any excavation;
 - f. Proposed method(s) to control erosion, including stabilization of excavated side slopes, filled and stockpiled areas;
 - g. On-site and adjacent off-site stormwater flow patterns for existing and proposed conditions;
 - h. For proposed fills or stockpiles within 100-year floodplains only, a compensation plan to demonstrate no net encroachment into the floodplain, in accordance with the Subdivision Technical Manual;
 - i. For projects that occur in areas with known historic resources or in areas with a moderate to high probability for the presence of historic resources based upon review of the County's historical resources database or other information available, a site assessment survey may be required by Sarasota County Historical Resources, in accordance with Chapter 66, Article III of the Sarasota County Code; and
 - j. For projects that occur upon properties which contain any portion of the Myakka River Area or the Myakka River Protection Zone, the plans must accurately depict the River Area, the protection zone, the jurisdictional limits of wetlands as verified by the appropriate State agency, County-required minimum upland buffers; and
 - j-k. Any other information requested by the Board or Ordinance Administrator to assist in their review of the project.
- (3) With all Level II and Level III applications, the following additional information shall be submitted:
- a. The site plan (scale: one inch equals 200 feet or less) shall be prepared, signed, and scaled by a Florida registered engineer. For Level III Permits, an 8½ - by 11-inch reproducible copy (~~not to scale~~) shall be submitted for inclusion into the Board packets;
 - b. Identification of a designated haul route, if applicable;

- c. Evidence of existing road conditions along a designated haul route, if applicable, including photographs or videotape;
 - d. Destination(s) of material to be transported for all fill removal (haul) applications;
 - e. Test borings (to a minimum depth of 20 feet) showing the seasonal high-water table and type of materials to the depth of any proposed excavation;
 - f. All water wells within 500 feet of the edge of any proposed excavation;
 - g. Area of groundwater drawdown (for excavations where dewatering may occur within 200 feet of a wetland for a period greater than 30 days);
 - h. A preliminary Closure Plan and Reclamation cost breakdown certified by a Florida registered engineer; and
 - i. A demonstration of compliance with any Master Plan approved as part of a Conceptual Permit approval (Level III applications only).
- (4) A Person may, as an option, apply for a Conceptual Permit for excavations involving more than 100,000 cubic yards of Type A Fill, or more than 50,000 cubic yards of Type B or C Fill. Persons applying for Conceptual Permits must submit the original and four copies of a complete application including:
- a. A Master Plan;
 - b. Legal description and property identification number (PIN) of the site to be permitted;
 - c. Vicinity map showing the location of the site in relation to nearby roadways;
 - d. Three legible full section aerial photographs of the site (scale: one inch equals 200 feet or less) with the parcel boundaries clearly identified. Aerial photographs are available from the County's Surveying and Mapping Section and the County Property Appraiser's office, and must be the most recent available copies;
 - e. Authorization for entry upon any portion of the site by County agents or employees for purposes of inspection;

- f. Area of proposed excavation, stockpile, and/or fill in acres or square feet;
- g. Volume of excavation, stockpile, and/or fill in cubic yards;
- h. Proposed disposition of material and reason for excavating, stockpiling, and/or filling;
- i. Location of wetlands, if any, and other native habitats;
- j. Evidence of existing road conditions along a designated haul route, if applicable;
- k. Any other information requested by the Board or Ordinance Administrator to assist in their review of the project; and
- l. A nonrefundable fee to offset administrative, review and monitoring costs. The amount of said fee(s) shall be established by resolution by the Board and shall accompany all applications and reapplications.

A Conceptual Permit allows the Permittee to apply for a Level III Permit(s) which may be issued by the Ordinance Administrator without an additional public hearing in accordance with the ordinance provisions in effect at the time of Conceptual Permit approval.

- (5) Prior to submitting a permit application (including for a Conceptual Permit), applicants proposing to excavate or haul more than 100,000 cubic yards of Type A Fill or more than 50,000 cubic yards of Type B or C Fill shall schedule and attend a pre-application conference with the County's Traffic Operations staff to ~~Staff will~~ determine whether a traffic analysis must be provided by the applicant and the level of detail needed. In addition, staff will determine whether a traffic analysis must be provided by the applicant if a Level III Permit application is submitted after a Conceptual Permit is issued. A permit ~~will~~ shall not be issued until said analysis, if required, is approved by Traffic Operations staff.
- (6) If trees are to be removed as part of the ~~applicant's~~ proposed earthmoving activity, a tree removal and protection permit ~~may~~ shall be required by the County. The applicant has the option of combining this tree permit with the earthmoving permit. In this event, a combined permit fee shall be submitted by the applicant (as established in the fee resolution adopted for this article), and all provisions of Chapter 54, Article XVIII of the Sarasota County Code shall apply.

(b) Persons preparing annual reports for Level III Earthmoving Permits shall submit the following to the office of the Ordinance Administrator:

(1) The original and three copies of a complete application shall include the following information and materials:

- a. Three legible full section aerial photographs of the site with the parcel boundaries clearly identified, only if a more recent version has become available since the last submittal on file with Resource Protection Services. Aerial photographs are available from the County's Surveying and Mapping Section and the County Property Appraiser's office, and must be the most recent available copies;
- b. The current limits of the permitted earthmoving activities and the proposed limits for the coming permit year shown on the County-approved Master Plan, including the distances between required preserved native habitats and current and proposed excavation limits;
- c. Estimates of in place earthmoving volumes during each of the previous permit years and an estimate for the coming permit year;
- d. A report with sufficient detail to demonstrate that the applicant has complied with all applicable ordinance regulations and permit conditions;
- e. Any other information requested by the Board or Ordinance Administrator to assist in their review of specific compliance concerns; and
- f. A nonrefundable fee to offset administrative, review and monitoring costs. The amount of said fee(s) shall be established by resolution by the Board and shall accompany all annual report applications.

(c) Whenever a public hearing is required (see subsections (f) and (j) of this section, Section 54-350 and Section 54-352(b)), the applicant shall provide:

- (1) A list of names and mailing addresses of all property owners within 300 feet of the boundary line of the property and less than one-half mile from the boundaries of the Earthmoving activity (excavation or fill) for which an earthmoving permit or annual report review is requested. If any dwelling unit within the required notification area is within a property owners' association, the property owners' association also shall be notified. In addition, a list of names and mailing addresses of all property owners abutting the haul route (outside any public right-of-way) used to gain

access to a collector or higher classification road shall be provided. Property owners abutting the quadrants of any intersection of a haul route accessing onto a roadway under Federal or State jurisdiction also shall be notified. If the earthmoving site is located on a collector or higher classification road under the County's jurisdiction, then a list shall be provided of names and mailing addresses of all property owners abutting the haul route for a distance of not less than one-half mile in both directions from the site along the collector or higher classification road. The County may extend the area in which names and mailing addresses of property owners must be provided to one-half mile from the perimeter of the site. In addition, the required list shall include the owner of the subject property if not the same as the permittee. The required list shall be based on the most recent data available at the County Property Appraiser's office.

- (2) A nonrefundable mailing fee equal to the current Postal Service rate for first class mail multiplied by the number of persons listed in subsection (c)(1) of this section.
 - (3) A nonrefundable fee to cover the cost of advertising for a public hearing. The County shall provide the applicant with an invoice showing the actual cost of publication. The fee shall be remitted prior to the date of public hearing. No permit or variance that requires a public hearing shall be considered by the Board until such time as notice of a public hearing on the permit or variance has been given by publication of a notice of the hearing in a newspaper of general circulation in the County, at least ten days in advance of the public hearing.
- (d) Performance and Reclamation bonds shall be provided by the owner or designated assignee of property upon which earthmoving is proposed. Said bonds, in a form acceptable and payable to the County, shall be required as hereinafter described, to ensure compliance with all the terms and stipulations of the permit and that all site stabilization and other actions required by this article and within any approved Closure Plan meeting the requirements of subsection (j)(10) of this section are performed during and upon completion of the permitted activities.
- (1) For a General Permit, no performance bond is required.
 - (2) For a Level I Permit, a minimum performance bond of \$500.00 shall be required. Alternatively, a contractor may post a \$2,000.00 bond to cover up to six active and concurrent Level I Earthmoving projects.
 - (3) For a Level II or III Permit, a Reclamation bond shall be required.
 - a. Said bond shall total 120 percent of the amount necessary to complete each component of reclamation specified within an

approved Closure Plan meeting the requirements of Sections 54-344(3)c, 54-344(3)d, 54-345(j)(10), 54-347(3), 54-347(6), 54-347(7), 54-347(8), 54-347(9), 54-348(a)(4), 54-348(a)(5), and 54-352(a) as certified by an engineer registered in the State of Florida. The total bond shall be itemized according to the respective reclamation measure, including any earthmoving associated with up-front mitigation.

- b. The County will accept a bond held by another governmental entity if said bond covers activities referenced in this section. Said bond shall grant to the County the authority to recover the bond in accordance with Section 54-351, and [shall provide] that prior agreement from the County is required for reimbursement to the permittee.
- (4) For a Level III Permit, a roadway performance bond shall be required whenever more than 100,000 cubic yards of Type A Fill is removed from the site, or hauling more than 50,000 cubic yards of Type B or C Fill using a designated haul route. Said assurance shall be provided to mitigate impacts pursuant to subsection (d)(6) of this section. One of the following two alternatives shall be selected by the applicant:
- a. Fifty thousand dollars per mile along the haul route. This amount may be applied as determined necessary by the County to effect repair of any damage to the haul route arising, in the sole determination of the County, from hauling activities performed under the permit; or
 - b. Contribution of a specified amount per cubic yard of material to be hauled from the site, for establishment of a roadway fund, from which monies may be drawn at the sole discretion of the County to mitigate the impacts on the designated haul route; provided, however, that the permit shall establish a maximum limit for said fund, which shall not exceed an amount reasonably necessary to mitigate such impacts, and no further contributions shall be due, unless and until monies are withdrawn from the fund by the County, leaving the fund balance less than the specified maximum limit. Said fund shall accrue interest at a rate comparable to other escrow accounts maintained by the County. Upon expiration of the permit, and fulfillment of the permittee's responsibilities thereunder, any remaining fund balance shall be refunded to the permittee.
- (5) Bonds, or portions thereof, shall remain in effect until the project or closure of an earthmoving operation is successfully completed in accordance with the requirements herein.

- a. Partial release or reduction of a Reclamation bond can be requested upon County acceptance of completed reclamation measure(s). The portion of the bond held for any mitigation or littoral zone project shall be returned to the permittee if deemed successful by the Ordinance Administrator based on criteria provided in the Environmental Technical Manual. The portion of the bond set aside to guarantee success of any mitigation area or littoral zone shall extend beyond permit expiration, until such time as the area is deemed successful by the Ordinance Administrator.
- b. All bonds shall be required prior to issuance of the permit, unless the permittee demonstrates that timing for permitted impacts (e.g., wetland removal) or other stipulated improvements (e.g., roadway improvements) will be delayed as accepted by the County. The permittee shall provide a written request to the Ordinance Administrator to postpone bonding these activities. If postponement is authorized by the Ordinance Administrator, the permittee shall provide an adequate bond amount as certified by an engineer registered in the State of Florida, prior to or concurrent with commencement of the bonded activity.
- c. Additional bonds or bond amounts may be required upon a determination by the Board that road and/or other damage, the cost to repair of which is estimated to exceed the specified bonding requirement, may be reasonably expected by the County to occur.

(6) Roadway impacts and mitigation.

- a. It shall be the responsibility of the permittee to mitigate those impacts on the haul route arising from activities authorized under the permit. Required mitigation measures shall be determined by the County on a case-by-case basis, and may include any or all of the following:
 - 1. Cleanup of materials overspills;
 - 2. Shoulder grading;
 - 3. Pavement patching;
 - 4. Pavement reconstruction;
 - 5. Pavement maintenance, including resurfacing;

6. Traffic safety improvements such as signing, striping, barrier rails, turn and/or acceleration lanes with tapers, all meeting AASHTO standards; and
 7. Watering and other dust control measures.
- b. Hauling operations shall comply with all applicable limits and restrictions, including those pertaining to vehicle registration, safety, and wheel and axle loads. Operations authorized by a permit issued hereunder may be suspended or prohibited by the Ordinance Administrator, upon a determination that any such operations are not in compliance with the provisions of the permit and/or any other applicable regulations.
 - c. Hauling operations shall not generate dust at levels that create, in the sole determination of the County, a nuisance to adjacent property owners along unpaved roads. Permits for new excavations shall not be issued to haul 10,000 cubic yards or more of material on unpaved roads adjacent to residentially developed areas.
- (e) The Ordinance Administrator shall issue General, Level I, Level II, or After-the-Fact General, Levels I and II Permits (whichever is applicable) for excavations, stockpiles, and fills of up to 100,000 cubic yards of Type A Fill and up to 50,000 cubic yards of Type B or C Fill without the approval of the Board if the applicant meets all applicable requirements set forth in this article.
 - (f) After approval by the Board, the Ordinance Administrator shall issue Level III Permits (or Conceptual Permits, as applicable) for all fills, hauls, stockpiles, and/or excavations involving more than 100,000 cubic yards of Type A Fill or more than 50,000 cubic yards of Type B or C Fill. Said approval may be granted, following a duly advertised public hearing and written notice to all property owners described in subsection (c)(1) of this section, at least ten days prior to the hearing date, provided that the applicant has met all applicable requirements set forth by this article. Notwithstanding any other provision herein contained, failure to provide written notice to all property owners described in subsection (c)(1) of this section shall not constitute a jurisdictional defect provided legal notice has been published.
 - (g) Permits shall be issued if the Board or Ordinance Administrator determines that:
 - (1) The proposed activity will not interfere with the proper functioning of any sanitary, stormwater or other drainage system or natural flowage way, whether public or private, so as to create flooding or health hazards;

- (2) The proposed activity does not adversely affect the implementation of any regional stormwater basin plan approved by the Board;
 - (3) The applicant has fully complied with all transportation and engineering requirements of this article, and requirements of Air and Water Quality Protection, pursuant to Chapter 54, Articles VI and VII of the Sarasota County Code, Resource Protection Services pursuant to Chapter 54, Article XVIII of the Sarasota County Code, regarding tree protection, and the Sarasota County Comprehensive Plan, Environment chapter, Ordinance No. 89-18 (including policies and principles regarding native habitats, the State wild and scenic designation of the Myakka River, and consultation with regulatory agencies regarding listed species), and pursuant to Chapter 54, Article XX of the Sarasota County Code, regarding coastal dredge and fill; the County's Zoning Division pursuant to the Zoning Code (Appendix A of the Sarasota County Code); Sarasota County's ~~Historical Resources~~ Center pursuant to the Sarasota County Comprehensive Plan, Historic Preservation Chapter, Ordinance No. 89-18, and Chapter 66, Article III of the Sarasota County Code regarding historic resources; the County's Land Development Services pursuant to stormwater regulations contained within Chapter 74 of the Sarasota County Code, and any other applicable ordinances, codes, regulations, and administrative guidelines that may be adopted;
 - (4) The earthmoving operation will not adversely affect groundwater levels or cause adverse environmental impacts;
 - (5) The proposed activity will not generate dust, noise, vibration or traffic at levels that create, in the sole determination of the County, nuisances to adjacent property owners; and
 - (6) The applicant has met all applicable requirements set forth by this article.
- (h) All General Permits involving up to 2,000 cubic yards of Type A Fill and Level I Permits involving up to 10,000 cubic yards of Type A Fill issued under the terms of this article shall be valid for a period not to exceed one year from the date of issuance. A new permit must be issued prior to the commencement of operations beyond the expiration date of the permit, unless a temporary extension is granted by the Ordinance Administrator. Any request for a temporary extension shall be submitted to the Ordinance Administrator at least 30 days in advance of the permit expiration date. Said permit shall not be issued until all information and fees are submitted and the application has been reviewed and approved in accordance with the provisions contained in this article.
- (i) All Level II Permits involving up to 100,000 cubic yards of Type A Fill and up to 50,000 cubic yards of Type B or C Fill issued under the terms of this article shall be valid for a period not to exceed two years from the date of issuance. A new

permit must be issued prior to the commencement of operations beyond the expiration date of the permit, unless a temporary extension is granted by the Ordinance Administrator. Any request for a temporary extension shall be submitted to the Ordinance Administrator at least 30 days in advance of the permit expiration date. Said permit shall not be issued until all information and fees are submitted and the application has been reviewed and approved in accordance with the provisions contained in this article.

- (j) All Level III and Conceptual Permits shall be subject to the following:
- (1) Permits issued under the terms of this article shall be valid for a period not to exceed ten years from the date of issuance, unless otherwise approved by the Board.
 - (2) The Board may grant an extension provided that it is consistent with the other provisions of the permit and this article. All requests for extensions shall be submitted to the Ordinance Administrator at least 45 days in advance of the permit expiration date. The Ordinance Administrator has the authority to allow the earthmoving activity to continue uninterrupted if a delay in processing an extension request is caused by the County. Final action by the Board shall supersede any extension granted by the Ordinance Administrator.
 - (3) Each year, a minimum of 60 days prior to the anniversary date of permit issuance, the permittee shall submit to the County an annual report describing all activities conducted during the previous year and those proposed during the upcoming year, including any cleanup and closure activities. The report shall include sufficient detail to demonstrate that the permittee has complied with all applicable ordinance regulations and permit conditions, written commitments provided by the permittee, and County-approved plans. An annual report review fee, established by resolution by the Board, shall be submitted with each annual report. The Ordinance Administrator shall determine whether all applicable conditions have been met. If all applicable conditions have been met, the Ordinance Administrator shall accept the annual report, unless a written petition is filed and acted upon as described in subsections (j)(4), (j)(5) and (j)(6) of this section within 30 days prior to the anniversary date of the permit.
 - (4) Petitioners shall provide a form or a letter to the Ordinance Administrator containing the following information:
 - a. The name, address, and telephone number of the petitioner;
 - b. A statement of how the petitioner's substantial interests are affected by the permittee's facility and/or operation; and

c. A statement of the relief/remedy sought by the petitioner.

- (5) If the petitioner is not satisfied with any reasonable resolution efforts on the part of the Ordinance Administrator or the permittee, and the petition is not voluntarily withdrawn by the petitioner, the Board will determine whether a public hearing shall be held.
- (6) If the Board decides not to hold a public hearing, the annual report shall be accepted. If the Board decides to hold a public hearing, notice shall occur in accordance with subsection (c) of this section.
- (7) The Ordinance Administrator may approve adjustments in phased excavation limits presented in a previously accepted annual report during a given permitted year should the permittee experience changes in market demands, environmental constraints, or a delay in the processing of an annual report caused by the County. The permittee shall make such requests in writing to the Ordinance Administrator. The request shall not exceed 25 percent of the volume or acreage projected for excavation given in the previous annual report.
- (8) The Ordinance Administrator may allow a delay in the submittal of an annual report in accordance with subsection (j)(3) of this section if the permittee provides written evidence that the earthmoving operation has been inactive for the entire past permit year.
- (9) At any time, the Ordinance Administrator or the Board may initiate proper and timely code enforcement action for any compliance issue in accordance with Sections 54-351, 54-353, and 54-354, regardless of the timing of annual report submittal.
- (10) The Permittee shall indicate in an annual report submitted at least 11 months before the permit expiration date whether the earthmoving operation will be closed prior to expiration of the permit or a new earthmoving permit will be requested to allow continuation of the earthmoving operation. If the permittee opts to apply for a new permit, a new earthmoving permit application shall be submitted to the Ordinance Administrator at least 90 days prior to the expiration date of the existing earthmoving Permit. The Ordinance Administrator has the authority to allow the earthmoving activity to continue uninterrupted if a delay in processing a new permit application is caused by the County. Final action by the Board shall supersede any temporary extension granted by the Ordinance Administrator. If the permittee instead chooses the former option, a Closure Plan meeting the requirements of subsection (j)(11) of this section shall be submitted with the appropriate annual report. The Closure Plan shall be subject to review and approval by the Ordinance Administrator and may be reviewed and processed concurrently with an

annual report. A permittee may appeal any determination of the Ordinance Administrator to the Board of County Commissioners. This requirement applies to all permits issued after April 4, 1990.

- (11) All Permittees shall execute a closure procedure in accordance with a County-approved Closure Plan as specified under subsection (j)(10) of this section. The Closure Plan shall demonstrate compliance with the requirements of this article, including the specifications identified in Sections 54-345(d)(3), 54-347(3), 54-347(6), 54-347(7), 54-347(8), 54-347(9), 54-348(a)(4), 54-348(5) and 54-352(a). A schedule shall be included with each proposed Closure Plan that addresses completion of all closure activities and any monitoring required beyond the permit expiration date in accordance with Sections 54-344(3)d, 54-347(7) and 54-347(8). Other than required monitoring and maintenance activities, no closure activities shall extend more than two years beyond permit expiration.
- (k) The Board or the Ordinance Administrator may impose such conditions, stipulations, and safeguards upon any permit issued pursuant to this article which are reasonable and which will serve to ensure that the standards of this article will be complied with. Such conditions, stipulations and safeguards may include, but are not limited to, those necessary to protect adjacent or nearby landowners from any deleterious effects of the permitted activity, those necessary to prevent or mitigate adverse environmental impacts, and those necessary to prevent or mitigate adverse transportation impacts. An applicant may appeal the imposition of any condition, stipulation, or safeguard imposed by the Ordinance Administrator to the Board, which may approve, strike, or modify any condition, stipulation, or safeguard.
- (l) In cases where the project may impact listed species, the applicant shall consult with the appropriate State and Federal agencies regarding protection measures. Said consultation shall occur prior to issuance of the permit, in accordance with the provisions of this article.
- (m) All earthmoving performed under a permit issued pursuant to this article shall be in accordance with the requirements set forth in this article and shall conform with all plans, specifications, permit stipulations, and other documents submitted by the applicant.
- (n) All permits issued pursuant to this article shall be subject to the requirements of all applicable Federal, State and local laws and ordinances.
- (o) Any person applying for an After-the-Fact Permit shall be assessed a fee as established by resolution by the Board.

Sec. 54-346. Review period.

A determination by County reviewing agencies that the application is complete or incomplete will be provided to the Ordinance Administrator within approximately 15 working days following receipt of the application. County reviewing agencies include Resource Protection Services, Zoning, ~~Historical Resources Center~~, Land Development Services (or a duly authorized representative of those divisions), and any other agency as requested by the Ordinance Administrator. If additional information is required by any reviewing agency, the applicant shall provide it within 30 working days, or within 15 working days for an annual report review or a new Level III Earthmoving Permit application to replace an expiring permit or an After-the-Fact Earthmoving Permit application. Reapplication will be required if these deadlines are not met, unless waived by the Ordinance Administrator. All revised plans must include a cover letter describing changes made to the original plan. Upon receipt of additional information, the reviewing agencies shall submit revised comments regarding completeness within approximately ten working days. Once deemed complete by all reviewing agencies, applications will undergo a formal review, except a formal review will be included within a ten-day completeness review for General Permits. Recommendations to approve, deny or approve with conditions will be made to the Ordinance Administrator within approximately 15 working days after commencement of a formal review. In addition, the reviewing agencies will notify the applicant of any other County permit(s) required for the proposed project. Permit decisions made by the Ordinance Administrator may be appealed by the applicant to the Board within 20 days of such decision. After a review of the record, the Board may affirm, reverse, or modify the decision of the Ordinance Administrator.

Sec. 54-347. Requirements for Excavations.

The following requirements apply to all excavations for which a permit is required pursuant to the provisions of this article:

- (1) Borrow pits, artificial lakes and other excavations designed to be left open upon completion shall be sufficiently graded to avoid flooding or erosion on any off-site property or public roads, and shall not be excavated within the following minimum setback areas (measured at top of bank of excavation):
 - a. Within 50 feet of abutting property lines for excavations less than 10,000 cubic yards. The setback requirements may be reduced with the approval of the Ordinance Administrator, where it is determined that sufficient buffering is otherwise provided between incompatible uses, and if the affected abutting property owner(s) signs an affidavit of no objection;
 - b. Within 100 feet of abutting property lines for excavations in excess of 10,000 cubic yards but less than 100,000 cubic yards in volume;

- c. Within 200 feet of abutting property lines for excavations in excess of 100,000 cubic yards of volume; or
 - d. Within 200 feet of a wetland where dewatering of an excavation in excess of 10,000 cubic yards will occur for a period greater than 30 days, unless otherwise authorized by the Ordinance Administrator or the Board. An applicant requesting a setback reduction is required to provide a groundwater drawdown analysis based on a methodology that is verifiable, reproducible and provides for monitoring to assess any hydroperiod impacts to the wetland due to dewatering activities.
- (2) Structural and vegetative buffers may be required as necessary to prevent adverse visual, noise, vibration, dust, and safety impacts between potentially incompatible land uses.
- a. Existing vegetation (excluding nuisance or exotic plant species) must remain in required setback areas, to the extent possible.
 - b. If existing vegetation is not sufficient to provide an adequate visual buffer, supplemental planting, berms, or berms with supplemental planting may be required.
- (3) All excavated areas shall have side slopes no steeper than one foot vertical drop for each four feet of horizontal distance to a minimum depth of two feet below normal water level (NWL). Below this depth, the side slopes shall be no steeper than one foot vertical drop for each two feet of horizontal distance. All excavated ditches and swales along roadways shall have side slopes no steeper than one foot vertical drop for each four feet of horizontal distance. The back slopes of these ditches and swales shall be no steeper than one foot vertical drop for each three feet of horizontal distance. These standards are intended to be minimal sloping requirements, providing for maximum permissible steepness of the side slopes. The applicant may opt to create more gradual side slopes for safety purposes. See subsections (7) and (8) of this section for additional sloping requirements.
- (4) The depth of an excavation shall not exceed 20 feet and shall not penetrate any rock strata or other aquiclude. However, at a public hearing, the Board may grant permission for excavation in excess of 20 feet in depth if the applicant demonstrates that the development and operation of the excavation will not adversely affect existing or created groundwater levels, water quality, or the property of others. In this case, the permit must contain a provision authorizing a specific depth to which excavation may occur below 20 feet.

- (5) All excavations shall be maintained so as to prevent the creation of sanitary or health nuisances or hazards including mosquitoes, vermin and the dumping of garbage, trash, hazardous waste, or other refuse.
- (6) Upon completion of the excavation or prior to expiration of the permit, the excavation shall be left in a free-form configuration. Square or rectangular designs are not permissible. The banks shall be grassed to prevent erosion and to ensure that the completed excavation will blend, so far as possible, with the surrounding landscape. Spoil piles or stockpiles of material shall be removed from or spread upon the site pursuant to permit stipulations. All site cleanup and stabilization activities shall be completed prior to the expiration of the permit.
- (7) Fifteen percent of the surface area of all new commercial borrow pit lakes not part of a Master Plan that was approved prior to April 4, 1990, and that will not qualify as exempt utilities after closure in accordance with Section 54-349(b)(1), shall contain littoral zones. The area of littoral zone required shall be based on the surface area of each borrow pit lake, including the area of littoral zone, measured at normal water level elevation. Littoral zone designs will be considered on a case-by-case basis, but shall be vegetated, maintained and monitored in accordance with the provisions of Sections A.2 through A.13 of the Environmental Technical Manual contained in the County's Land Development Regulations. They may be created along all or a portion of the shoreline, concentrated in one or more sections of each borrow pit lake, included in islands or peninsulas, or any combination of the above. Littoral zones may also be concentrated near the outfall of individual borrow pits or at the outfall of the most downstream pit in cases where borrow pits are hydrologically connected. The area of littoral zone required shall be based on the total surface area of all interconnected pits.

The Ordinance Administrator shall have the authority on a case-by-case basis to modify the littoral zone planting and percentage requirements for an excavation for which there will be a proven and consistent wide fluctuation in water levels in the borrow pit lake (greater than three feet fluctuation measured from normal water level), or if the areas surrounding the lake contain significant protected native habitat that will be impacted if the entire littoral zone is created as required. In these cases, the Ordinance Administrator may approve an equivalent or greater area of upland habitat conservation, wetland enhancement and/or restoration to satisfy the remaining littoral zone percentage requirement, provided that documentation is submitted assuring these areas will be preserved or conserved and managed in perpetuity in accordance with an approved resource management plan. In any event, no less than five percent littoral zone shall be provided.

- (8) Fifteen percent of the surface area of all other lakes shall contain littoral zones, except those created for stormwater management purposes. In cases where

existing borrow pits are connected to or otherwise made part of a stormwater management system, littoral zones may be installed downstream of the existing pit(s) between the pit's outfall and the point of off-site discharge. Stormwater detention lakes shall be regulated in accordance with the Environmental Technical Manual of the County's Land Development Regulations. Littoral zones in lakes greater than one acre shall be vegetated, maintained, and monitored as described in subsection (7) of this section. Littoral zones in lakes less than one acre need not be vegetated; however, vegetation that establishes naturally shall be maintained in the required littoral zones.

- (9) During and upon completion of excavation and prior to expiration of the permit, sediment shall be stabilized and erosion controlled. Sediment shall not be allowed to encroach into wetlands, watercourses, or adjacent properties.
- (10) Receiving waters shall not exceed a turbidity level of 29 nephelometric turbidity units (NTU's) above natural background.
- (11) If evidence of the existence of historic resources is discovered during earthmoving activities (e.g., shell middens, aboriginal or historic pottery), all work shall cease in the area of effect and the permittee or designee shall contact Sarasota County Historical Resources Center within two working days in accordance with Chapter 66, Article III of the Sarasota County Code. If any human skeletal remains or associated burial artifacts are discovered, all work in the area shall cease and the Permittee or designee shall contact the nearest law enforcement office and Sarasota County Historical Resources Center.
- (12) There shall be no unconfined emissions of particulate matter arising from earthmoving activities, beyond the boundary lines of the property for which an earthmoving permit has been issued, including any designated haul route, in accordance with F.A.C. 62-296.

Sec. 54-348. Requirements for fills, stockpiles and burying.

- (a)
 - (1) Type A Fills and Stockpiles shall be allowed in any zoning district without a separate earthmoving permit provided that a permit for construction has been issued.
 - (2) Type B and C Fills and Stockpiles shall be consistent with the County's Zoning Code and the provisions of this article. Burying Type B or C Fill requires a permit in accordance with the provisions of this article. No Type C Fill shall be placed at or below the groundwater elevation. All Type B or C Fill shall have a minimum cover of one foot of Type A Fill upon closure.

- (3) Type D material shall only be deposited in a landfill permitted to receive such material pursuant to F.S. Ch. 403, except that recyclable debris shall be deposited into a permitted recycle facility.
 - (4) Stockpiles of Types A, B or C Fill shall be stabilized and secured.
 - (5) During and upon completion of all filling and prior to expiration of the permit, sediment shall be stabilized and erosion controlled. Sediment shall not be allowed to encroach into wetlands, watercourses or adjacent properties.
 - (6) Receiving waters shall not exceed a turbidity level of 29 nephelometric turbidity units (NTU's) above natural background.
 - (7) If evidence of the existence of historic resources is discovered during earthmoving activities (e.g., shell middens, aboriginal or historic pottery), all work shall cease in the area of effect and the permittee or designee shall contact Sarasota County ~~Historical Resources~~ Historical Resources Center within two working days in accordance with Chapter 66, Article III of the Sarasota County Code. If any human skeletal remains or associated burial artifacts are discovered, all work in the area shall cease and the permittee or designee shall contact the nearest law enforcement office and Sarasota County ~~Historical Resources~~ Center.
 - (8) There shall be no unconfined emissions of particulate matter arising from earthmoving activities, beyond the boundary lines of the property for which an earthmoving permit has been issued, including any designated haul route, in accordance with F.A.C. 62-296.
- (b) Requirements for fill removal (haul) permits. A permit shall be required for the removal of more than 100,000 cubic yards of fill from construction sites. Construction Plan approval for the generating site and Construction Plan approval, building permit, Earthmoving Permit, or approved exemption pursuant to Section 54-349(a) and (b) for the receiving sites shall be a prerequisite for such a permit, in addition to the other applicable requirements of this article.

Sec. 54-349. [Exemptions]

- (a) Agricultural exemptions and reviews. Agricultural exemptions and reviews shall be subject to the following provisions:
- (1) For the purpose of this article, earthmoving incidental to agricultural operations shall meet the following criteria in order to qualify for an agricultural exemption in accordance with the provisions under subsection (a)(2) of this section or agricultural review in accordance with subsection (a)(3) of this section:

- a. The excavation or fill is proposed on a parcel of land containing five or more contiguous acres under unified ownership and which is classified by the Sarasota County Property Appraiser as bona fide agricultural land under the agricultural assessment provisions of F.S. § 193.461;
 - b. Type A Fill material is not sold; and
 - c. The applicant adheres to conditions of the Natural Resources Conservation Service's policy for protection of wetlands for agricultural uses.
- (2) The following are exempt from the requirements of this article provided that all applicable Federal, State and local permits and/or authorizations have been obtained:
- a. Earthmoving authorized under an existing valid surface water management permit or environmental resource permit from the Southwest Florida Water Management District (SWFWMD), or written documentation from SWFWMD that the project is exempt.
 - b. Filling, stockpiling, or excavating less than 100 cubic yards of Type A Fill, provided no filling or excavating occurs within easements or rights-of-way and other lawful drainage and utility facilities, and [it] does not impact off-site drainage.
 - c. Lawful drainage ditches and canals, including routine maintenance and culvert installations, provided that excess fill is stockpiled or removed from the site in accordance with the provisions of this article.
 - d. Temporary excavations relating to the accessory use of land and designed to be filled upon completion, e.g., graves.
 - e. Earthmoving consistent with the routine maintenance (e.g., sediment removal, side slope repairs) to existing permitted or authorized ponds, ditches, and canals, provided that any excess fill is removed from the site or authorized to remain on-site in accordance with the provisions of this article.
 - f. Restoration of property to original grade with Type A Fill following removal of buried debris.
 - g. Landscaping and gardening projects with Type A Fill, including soil amendments, mulching, and fencing, provided that the on-site

drainage patterns are not altered, and further provided no filling occurs within easements or rights-of-way and private drainage and utility facilities.

- (3) Unless exempted under the provisions of subsection (a)(2) of this section, persons proposing earthmoving activities incidental to agricultural operations shall not be required to obtain a permit in accordance with the provisions of this article, provided that the Agricultural Development Review Committee (which shall consist of the County's Land Development Services; the Sarasota County District Conservationist, United States Department of Agriculture Natural Resources Conservation Service; the Sarasota County Extension Director, Institute of Food and Agricultural Science, University of Florida; the Ordinance Administrator; and the Director of Sarasota County Historical Resources Center) reviews the plans as follows:
- a. The applicant shall submit to Development Services Business Center six copies of plans showing topographical modifications and the locations of proposed excavating, filling and stockpiling on a legible aerial photograph (scale: one inch equals 200 feet or less). One copy shall be forwarded by Development Services Business Center to the Southwest Florida Water Management District for notification purposes only. The Agricultural Development Review Committee shall review said plans within approximately ten working days.
 - b. Agricultural reviews granted for specific plan approvals shall remain valid indefinitely, unless otherwise provided herein.
 - c. The validity of an agricultural review shall terminate upon noncompliance with any of the provisions contained under subsections (a)(1)a through c of this section or if there is evidence that the land is being prepared for anticipation of development. Such evidence includes submittal of an application for a building permit for a non-agricultural use, a special exception, a rezone, a site and development plan, or a preliminary plan within six months following the date of an agricultural review approval from Sarasota County. Earthmoving activities that invalidate a previous agricultural review approval would require an Earthmoving Permit, an After-the-Fact Earthmoving Permit, or Construction Plan approval.
- (b) Non-agricultural exemptions from excavation, fill, stockpile, or removal (haul) requirements. The following are exempt from the requirements of this article provided that all applicable Federal, State, and local permits and/or authorizations have been obtained. For exemptions specified under subsections (b)(3), (12),

(13), (14), (15), and (18) of this section, the Ordinance Administrator may request information from the applicant, including evidence of prior approval by the appropriate agency(ies), to confirm that no impact(s) will occur to off-site drainage, protected native habitats, historic resources, the 100-year floodplain, or listed species. Any noncompliance with the following criteria would require the earthmoving activity to be authorized under an Earthmoving Permit, an After-the-Fact Earthmoving Permit, or Construction Plan approval:

- (1) The installation and maintenance of public and private utilities, specifically potable and nonpotable water distribution and storage, sanitary sewer and wastewater reuse storage and transmission facilities, gas, telephone, cable television, electrical systems, and associated appurtenances, provided any excess fill is removed from the site or authorized to remain on-site in accordance with the provisions of this article;
- (2) Filling and lot grading for the purpose of constructing foundations to support any building or structure, provided that a building permit has been issued by the County and that the extent of lot grading is consistent with the County's requirements. On-site excavations for the purposes of creating foundations or lot grading are not exempt, unless approved as part of a Construction Plan approval
- (3) Lawful Drainage Systems, including routine maintenance and culvert installations, provided that excess fill is removed from the site or authorized to remain on-site in accordance with the provisions of this article;
- (4) Temporary excavations relating to the accessory use of land and designed to be filled upon completion, e.g., graves, or septic tanks;
- (5) Excavation of swimming pools and lined landscape ponds, provided any excess fill is removed from the site or authorized to remain on-site in accordance with the provisions of this article;
- (6) Excavating, stockpiling, and filling (as applied to road and drainage construction) and earthmoving in conjunction with the development of land, including the platting of a subdivision, when excavated materials are not removed from the boundaries of the development and land clearing debris is not buried or mounded on-site, and the site has received Construction Plan approval or a plan for revised topography that has been approved by the Board or the Ordinance Administrator as applicable;
- (7) Governmental agencies in performance of their normal official duties, provided that advance written notification, including a copy of the plans, is given to the Ordinance Administrator for those projects that are not governed by the County's Land Development Regulations. The purpose of

this review is to ensure that government projects are consistent with the policies and principles of Apoxsee;

- (8) The removal of up to 100,000 cubic yards of Type A Fill, or up to 50,000 cubic yards of Type B or C Fill, from a construction site, hauled to another construction site(s), provided that the generating and receiving sites have received Construction Plan approval or an Earthmoving Permit, and provided further that advance notification is given in writing to the Ordinance Administrator;
- (9) Earthmoving consistent with the routine maintenance (e.g., sediment removal, side slope repairs) to existing permitted or authorized ponds, ditches, and canals, provided that any excess fill is removed from the site or authorized to remain on-site in accordance with the provisions of this article;
- (10) Earthmoving associated with emergency repair or restoration in order to protect an existing structure or private infrastructure from further damage (e.g., erosion control or temporary swales), provided original elevations are restored following passage of the emergency or a permit is obtained to retain the fill or excavation;
- (11) Restoration of property to original elevations with Type A Fill following removal of buried debris;
- (12) Landscaping and gardening projects with Type A Fill, including soil amendments, mulching, and fencing, provided that no filling occurs within State or County easements or rights-of-way, or private drainage and utility facilities;
- (13) Routine maintenance of golf courses, including minor changes in topography, provided that written documentation is provided to the Ordinance Administrator that the County-approved drainage and Wetland Hydroperiod Maintenance Plans will not be impacted;
- (14) The construction of driveways, including minor changes in topography;
- (15) Routine maintenance of driveways, private roadways, sidewalks, bikeways and pathways, including minor changes in topography;
- (16) Construction or routine maintenance of shoreline stabilization features provided that any other required permit has been obtained, including a permit from the Water and Navigation Control Authority (WNCA) (Chapter 54, Article XX of the Sarasota County);

- (17) Hauling spoils from a permitted dredging project to a County landfill or a County-approved construction site provided that advance notification is given to the County's Traffic Operations office and the Ordinance Administrator;
- (18) Filling with, stockpiling with, or excavating less than 100 cubic yards of Type A Fill on a property less than five acres and up to 500 cubic yards of Type A Fill on a property five acres or larger, provided no filling, stockpiling or excavating occurs within public easements or rights-of-way, and other lawful drainage systems and utility facilities. For parcels five acres or larger, written documentation shall be provided to the Ordinance Administrator demonstrating consistency with the above-referenced criteria and this subsection (b) and showing that no excavating would occur within 50 feet of property boundaries. The setback may be reduced if the affected abutting property owner(s) signs an affidavit of no objection;
- (19) Hauling of excess fill from governmental construction projects, including roadway and stormwater improvement projects, provided that any stockpiling or filling of privately owned lands occurs in accordance with the provisions of this article.

Sec. 54-350. Variances.

A public hearing is required for all variances, as provided in Section 54-345(c). The Board, upon staff investigation and recommendation, may grant variances from the provisions of this article which will not be contrary to the public interest where, owing to special conditions, it finds a literal enforcement of such provisions would result in unnecessary hardship on the land. The Board may establish additional safeguards and stipulations as the individual situation requires. An applicant for a variance must provide a nonrefundable fee to offset administrative, review and monitoring costs. The amount of said fee(s) shall be established by resolution by the Board and shall accompany all applications and reapplications.

Sec. 54-351. Reservation of rights.

The Board may enact additional rules and regulations to implement and carry out the provisions of this article or revoke a permit for cause after a duly advertised public hearing. The permittee shall be financially responsible for all legal fees and associated costs incurred by Sarasota County in recovering bonds. Additionally, in the event of evidence of excessive damage, the permittee may:

- (1) Be required to post an additional bond for the estimated damages;
- (2) Be required to correct the damage immediately;

- (3) Have the permit suspended until satisfactory restitution is made; and
- (4) Be required to forfeit to the County existing performance and reclamation bonds in the event any component of reclamation or roadway mitigation is not satisfactorily completed in accordance with the approved Closure Plan and requirements herein.

Sec. 54-352. Exceptions and amendments.

- (a) **Exceptions.** The provisions of this article shall not be applicable to any excavations or fills now permitted except that some permittees shall be subject to the annual report and Closure Plan requirements provided in Section 54-345(j). Nothing in this article shall affect the boundaries and design (including littoral zone and mitigation plans) of excavations approved as part of a Master Plan for projects involving more than 10,000 cubic yards of material.
- (b) **Amendments to Level III and Conceptual Permits.** The Board retains the authority to amend previously issued and active Level III and Conceptual Earthmoving Permits, including Master Plans, conditions, or stipulations, at the request of the permittee, and subject to the limitations identified in this section, if the proposed changes do not exceed the total area and volume as shown on the approved Master Plan. The Board may amend the permit without requiring compliance with any standards incorporated into this article after the date the permit was issued. Master Plan changes involving multiple earthmoving permits held by one permittee on contiguous lands utilizing a common haul route may also be reviewed as a single permit amendment if the proposed changes do not exceed the total area and volume shown on the approved Master Plans. The Board may incorporate into any such multiple permit amendment the most restrictive conditions or stipulations of the affected earthmoving permits. In addition, any change in property ownership or permittee for an earthmoving operation requires a permit amendment or a new permit application and consent from the property owner in accordance with Section 54-345(a)(1). The Board may grant such an amendment(s) after holding a public hearing following public notice in accordance with Section 54-345(c) and (f). All proposed changes, including expansion or reduction of excavation or fill limits, shall be shown on a revised Master Plan. All amendments shall be consistent with the current standards of all other applicable ordinances.
- (c) **Amendments to other permits.** The Ordinance Administrator retains the authority to amend all other previously issued and active permits, including site plans, conditions, or stipulations, at the request of the permittee, if the proposed changes do not exceed the maximum volume allowed for the existing permit level. Permit amendment requests shall be provided to the Ordinance Administrator prior to the amended work being initiated, and at least 45 days prior to the date of permit expiration.

Sec. 54-353. Administration.

The Ordinance Administrator or his designee is vested with the authority to administer and enforce the provisions of this article and is authorized and directed to take any legal action to ensure compliance with, or prevent violation of, the provisions of this article, including issuing administrative stop orders and establishing provisions for inspections. The Board is authorized to adopt administrative rules and regulations to carry out the purpose and intent of this article. The Board may permanently or temporarily revoke a permit, in whole or in part, at any time after notice and hearing if it determines that the permitted operation has become a danger to public health or safety or if the operation is in violation of any County ordinance or the conditions of the permit.

Cross reference(s)--Administration, Ch. 2.

Sec. 54-354. Enforcement and penalties.

Violation of any provision of this article shall be punishable pursuant to F.S. § 125.69. The provisions of this article may also be enforced pursuant to provisions of F.S. ch. 162, and any ordinances adopted thereunder. In addition, the provisions of this article may be enforced through code enforcement proceedings under the provisions of Chapter 2, Article VIII of the Sarasota County Code. Penalties collected as part of enforcement of this article shall be placed in the Sarasota County pollution recovery trust fund, as established in Resolution No. 91-360. Notwithstanding any other provisions of this article for enforcement or penalties, the Board may also enforce this article by actions at law or in equity for damages and injunctive relief, and, in the event the Board prevails in any such action, the Board shall be entitled to an award of its costs and reasonable attorneys' fees.

Sec. 54-355. Severability.

In the event that any portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this article.

Section. 54-356. Sunset Provision.

This article shall be automatically repealed on June 30, 2009~~11~~, unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida.

Sec. 54-380. Reserved.

Section 3. Effective Date: This Ordinance shall take effect immediately upon receipt by the Office of the Secretary of State of Florida.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Sarasota
County, Florida, this 3rd day of, 2003.
December

ATTEST:

COMMISSIONERS

BOARD OF COUNTY

OF SARASOTA COUNTY, FLORIDA

By [Signature]
Chairman

KAREN E. RUSHING, Clerk of Circuit Court
and Ex-Officio Clerk of the
Board of County Commissioners of
Sarasota County, Florida

By: [Signature]
Deputy Clerk

STATE OF FLORIDA
COUNTY OF SARASOTA
I HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL FILES
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL
SEAL THIS DATE 12/27/05
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT
EX-OFFICIO CLERK TO THE BOARD OF COUNTY
COMMISSIONERS, SARASOTA COUNTY, FLORIDA
BY [Signature]
DEPUTY CLERK