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ORDINANCE NUMBER 2007 - 054

AN ORDINANCE OF CHARLOTTE COUNTY, FLORIDA, PROVIDING THAT THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BE AMENDED BY AMENDING ARTICLE XXIII, EXCAVATION AND EARTHMOVING; BY PROVIDING FOR REVISION OF DEFINITIONS, CREATING OF A NEW GROUP, SPECIFYING NEW DESIGN STANDARDS, PROCEDURES AND FEES; PROVIDING FOR PROCEDURES FOR VESTED RIGHTS AND APPLICABLE JUDICIAL REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A TERM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 28, 2003, the Board of County Commissioners of Charlotte County, Florida ("Board") adopted Ordinance 2003-003 which provided for a new Article XXIII ("Excavation and Earthmoving Code"); and

WHEREAS, more recently the Board noted at its public workshop on February 6, 2007, that Charlotte County ("County") has experienced a large influx in the number of applications for excavation and/or earthmoving permits; and

WHEREAS, at the direction of the Board, County Staff along with volunteer representatives of the citizenry, agricultural, mining and environmental interests established a fact-finding panel to address issues surrounding excavation and/or earthmoving activities within the County, solicit public and expert comments, and review, consider and propose amendments to the Excavation and Earthmoving Code and to evaluate the extent to which the existing Excavation and Earthmoving Code is effectively implementing the 1997-2010 Charlotte County Comprehensive Plan ("Comprehensive Plan"); and

WHEREAS, the Board of County Commissioners finds that properly designed and operated excavations and haul routes are important to Charlotte County for supplying vital building materials, supporting agricultural operations, controlling stormwater runoff, enhancing wildlife habitat and creating scenic beauty; and

WHEREAS, the Board of County Commissioners finds that improved laws governing excavation and hauling activities are necessary in order to minimize any detrimental effects of excavation and hauling activities upon the citizenry, natural environment, and public roadway infrastructure of Charlotte County; and

FILED WITH THE DEPARTMENT OF STATE July 24, 2007

14762 #14762 (2007-0496)

43

1 WHEREAS, this Ordinance was heard and recommended for approval by
2 the Charlotte County Planning and Zoning Board on June 05, 2007; and

3 WHEREAS, after due notice and hearing, the Board finds that this
4 Ordinance is essential to protect and preserve the public health, welfare and
5 safety of the County and its citizenry, that it is in the County's best interests,
6 and that it is appropriate and consistent with the Comprehensive Plan; and

7
8
9 WHEREAS, specific authority for the Board to adopt this Ordinance
10 includes, but is not limited to, Article VIII, Florida Constitution of 1968, Section
11 125.01(h), Section 125.01(t) and Section 125.01(w), Florida Statutes.

12
13 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County
14 Commissioners of Charlotte County, Florida:

15
16 Section 1. Article XXIII of the Code of Laws and Ordinances of Charlotte
17 County, Florida ("Code") is hereby amended by adding the underlined language
18 and by deleting the stricken language to provide as follows:

19
20 **"ARTICLE XXIII EXCAVATION AND EARTHMOVING**

21
22 **Sec. 3-5-470. Short Title.**

23
24 This article shall be known as the "Charlotte County Excavation and
25 Earthmoving Code."

26
27 **Sec. 3-5-471. Declaration of Intent and Purposes.**

28
29 It is the intent and purpose of this article to regulate existing and future
30 excavation and earthmoving activities in such a manner as to minimize any
31 direct, indirect and cumulative detrimental effects to groundwater, surface
32 water, wildlife and its habitat, the public health, safety, and welfare, public
33 roadway infrastructure, current and surrounding land use and property values
34 as a result of such activities within the County.

35
36 **Sec. 3-5-472. Definitions.**

37
38 Unless specifically defined below or within the latest edition of The
39 Latest Illustrated Book of Development Definitions published by the Center for
40 Urban Policy Research, words and phrases used in this article shall be ascribed
41 a meaning which they have in common usage and which gives this article its
42 most reasonable application.

43
44 AASHTO means the American Association of State Highway and
45 Transportation Officials.

1 Applicant means a person (as defined hereinafter) who submits an application pursuant to this article.

2

3

4 Application means a form prepared by the Charlotte County Department of Community Development for use in connection with this article.

5

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7 BCC means the Board of County Commissioners of Charlotte County, Florida.

8

9 Confining Layer means the impermeable stratum confining an aquifer.

10

11 County means Charlotte County, a political subdivision of the State of Florida.

12

13 County Code means the Code of Laws and Ordinances, Charlotte County, Florida.

14

15

16 County Engineer means the County's Engineer or duly authorized representative.

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19 Cumulative or Cumulative Impact means the total impact on public infrastructure, safety and environmental resources in the surrounding region that results from a proposed excavation, when added to the impacts of other past, present, and reasonably foreseeable commercial or residential development activity.

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25 Department of Community Development means the County's Department that processes Applications under this article.

26

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28 Depth means the vertical distance between natural grade and the bottom of an excavation.

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31 Detention means the collection and storage of surface water above the water table for subsequent controlled discharge.

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33

34 Development Review Committee (DRC) means a committee appointed by the County Administrator from Zoning, Planning, Engineering, Fire Prevention, Utilities and any other County departments.

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38 Discharge or Discharge Point means the point of outflow of water from an excavation site.

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41 Ditch means a linear trench not exceeding seven (7) feet in depth as measured from natural grade and twenty (20) feet in width.

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44 Earthmoving means any and all activities resulting in the repositioning of terrain including the excavation of lakes, pits, and depressions; mounding, stockpiling, the creation of berms; and the transporting and installing of fill.

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1	<i>Engineer</i> means a professional engineer registered and certified to practice in the State of Florida who is retained by the Permittee, or an agent of the Permittee.	3
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5	<i>Environmental Impact Statement ("EIS")</i> means a narrative report acceptable to the Excavation Administrator accompanied by graphic illustrations which discuss and depicts the impact of a proposed excavation upon vegetation, wildlife, wildlife habitat, endangered or threatened species, air quality, surface and groundwater quality, projected contaminants, tailings or other by products and other issues concerning the public's health, safety and welfare. The EIS shall include a Florida Land Use Cover and Forms Classification System (FLUCCS) map.	7
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13	<i>Erosion</i> means the weathering away of soil by the action of wind and/or water.	15
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16	<i>Excavation</i> means the removing of material below the seasonal high groundwater table, unless such removal is expressly excepted herein.	18
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19	<i>Group I Excavation</i> means the excavation for noncommercial purposes (i.e., there is neither sale nor transport of the excavated material off-site with the exception that up to 10,000 cubic yards may be transported or sold off-site provided that no MSBU or MSTU maintained roadway is used for hauling).	21
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24	<i>Group II Excavation</i> means the excavation and offsite off-site transport for commercial purposes in furtherance of a DRC final approved development activity development activity (i.e., a subdivision, DRC approved site plan, creation of detention or retention basins, golf courses, lakes).	26
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29	<i>Group III Excavation</i> means the excavation and offsite off-site transport for commercial purposes, consisting of extracting material and transporting it offsite. Group III excavations may only be sited on land zoned for agriculture.	31
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33	<i>Group IV Excavation</i> means the excavation and off-site transport of material for agricultural purposes in accordance with a Qualified Agricultural Assistance Program. Group IV excavations may only be sited on land zoned for agriculture.	35
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37	<i>Excavation Area</i> means the area in which an excavation does or is proposed to occur.	39
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40	<i>Excavation Administrator</i> means the Director of Community Development or his/her designee.	42
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44	<i>Excavation Site</i> means the parcel or parcels on which excavation activity does or is proposed to occur.	46

1	<i>Fee Resolution</i> – Resolutions passed by the BCC from time to time pursuant to this article that set forth fees, bond amounts, Performance Assurance requirements and other amounts payable by an Applicant and Permittee.
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5	<i>Fill</i> means the installation or deposition of man-made deposits of earth to increase the vertical or horizontal extent of land or to build embankments.
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8	<i>FDEP</i> means the Florida Department of Environmental Protection or its successor agency.
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11	<u><i>FDOT</i> means the Florida Department of Transportation.</u>
12	
13	<i>Final Application Process</i> means the final evaluation of an Application for a Group II Excavation or a Group III Excavation by the County and the Excavation Administrator to determine if the Applicant has complied with the requirements of this article that were not addressed during the Preliminary Application Process and other applicable laws necessary for the issuance of a Group II Permit or a Group III Permit.
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20	<i>Final Hearing</i> means a hearing held subsequent to the Final Application Process during which an Application for a Group II Excavation or a Group III Excavation is adjudicated by the Hearing Examiner for compliance with the Final Application Process.
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25	<i>FLUCFCS OR FLUCCS</i> means the Florida Land Use Cover and Forms Classification System as developed by the Florida Department of Transportation.
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29	<i>Geologist</i> means a professional geologist registered and certified to practice in the State of Florida who is retained by the Permittee or an agent of the Permittee.
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33	<i>Groundwater</i> means water beneath the surface of the ground.
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35	<i>Haul Route</i> means paved or unpaved roads within and outside the excavation site which the Permit specifies can be utilized to transport excavated materials to an onsite on-site or offsite off-site destination. In cases where material will be hauled to multiple locations, the terminus of the haul route shall be the nearest Road and Bridge road or State maintained road.
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41	<i>Health Department</i> means the County's Health Unit and the Florida HRS Department, as applicable.
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1	<i>Hearing Examiner</i> means an individual selected pursuant to Section 3-5-485 to
2	adjudicate Preliminary Applications at Preliminary Hearings and Final
3	Applications at Final Hearings.
4	
5	<i>Lake</i> means a body of standing water occupying a natural basin or manmade
6	depression in the earth's surface. The term "lake" does not include a body of
7	water as defined by the word "detention".
8	
9	<i>Landowner(s)</i> means a Person or Person, other than the Applicant, who owns
10	the land that is the subject of the proposed excavation activity.
11	
12	<i>Littoral Zone</i> means that portion of a water body which contains rooted
13	emergent aquatic plants.
14	
15	<i>Maintenance Dredging</i> means the excavation of sediments or other materials
16	from presently existing and functional channels, ditches, canals, lakes,
17	impoundments or other waterways of artificial construction to original design
18	elevations.
19	
20	<i>Master Report</i> means a report compiled by the Excavation Administrator from
21	Application reviews by the various County departments.
22	
23	<i>NGVD</i> means the National Geodetic Vertical Datum.
24	
25	<i>Performance Assurance</i> means a surety bond, irrevocable letter of credit or
26	other collateral acceptable to the County Attorney provided by the Permittee as
27	security for the Permittee's performance of its obligations in the Permit and the
28	Development Agreement.
29	
30	<i>Permit</i> means a written authority issued pursuant to this article that authorizes
31	excavation and/or earthmoving.
32	
33	<i>Permit Amendment</i> means the written authority issued pursuant to this article
34	that authorizes a change in the terms or conditions of a permit. A Permit
35	Amendment may be either Non-Administrative or Administrative.
36	
37	<i>Non-Administrative Permit Amendment</i> means a permit amendment that
38	changes a Specific Permit Condition(s).
39	
40	<i>Administrative Permit Amendment</i> means a permit amendment that does
41	not change a Specific Permit Condition(s).
42	
43	<i>Permittee</i> means the Person to whom the Permit is issued by the County.
44	
45	<i>Person</i> means individuals, firms, partnerships, corporations, associations,
46	organizations, trusts, companies, governmental agencies or any other entity.

1 Preliminary Application Process means the initial evaluation of an Application
2 for a Group II, III or IV Excavation or a Group III Excavation by the County and
3 the Excavation Administrator to determine if the proposed excavation meets the
4 requirements of this article in respect to location, setbacks, quantity of fill,
5 proposed haul route(s), hours of operation, blasting requirements, rock crushing
6 and necessary variances.

7
8 Preliminary Hearing means a hearing held subsequent to the Preliminary
9 Application Process during which an Application for a Group II, III or IV
10 Excavation or a Group III Excavation is adjudicated by the Hearing Examiner for
11 compliance with the Preliminary Application Process.

12
13 Qualified Agricultural Assistance Program means a National, State, or local
14 government program that provides assistance to agricultural operators to
15 reduce point and nonpoint source pollution, such as nutrients, sediment,
16 pesticides, or excess salinity in impaired watersheds consistent with Total Daily
17 Maximum Loads (TMDLs), where available; reduce Floridian aquifer
18 withdrawals; and/or conserve, restore or augment the area's water resources
19 and ecology by promoting surface water and groundwater resource
20 sustainability.

21
22 Qualified Environmental Professional means an individual, acceptable to the
23 Florida Fish and Wildlife Conservation Commission, United States Fish and
24 Wildlife Service or to the County who can show demonstrated expertise in
25 conducting local, state or federally protected/listed species surveys.

26
27 Reclamation Plan means the plan submitted to the Excavation Administrator
28 which describes the manner in which the excavation site will be restructured,
29 reshaped, re-vegetated and otherwise restored.

30
31 Retention means the collection and storage of surface water at or above the
32 water table without subsequent surface discharge.

33
34 Roadway Service Life Reduction (RSLR) means the reduction in the interval(s)
35 of time within which haul route(s) or portions thereof require rehabilitation due to
36 intensive, accelerated wear and tear on their pavement structure as a result of
37 earthmoving authorized under an excavation Permit.

38
39 Roadway Service Life Reduction Fee (RSLR fee) means a fee collected for
40 mitigating Roadway Service Life Reduction and rehabilitating haul routes or
41 portions thereof.

42
43 Settling Pond means any structure or area that is designed to hold runoff water
44 or pump discharge until suspended sediments have settled.

1 *Site* means any tract, lot, or parcel of land, or combination of tracts, lots, or
 2 parcels of land or combination of tracts, lots or parcels of land which are
 3 included in a proposal for an excavation operation.
 4
 5 *Specific Permit Conditions* means the provisions of a permit that govern the
 6 following matters:
 7

- 8 (1) Operating days and times.
- 9 (2) Permit duration.
- 10 (3) Quantity of material to be excavated.
- 11 (4) Maximum depth of excavation.
- 12 (5) Blasting and rock crushing restrictions.
- 13 (6) Any additional conditions or stipulations imposed by the Excavation
 14 Administrator or the Hearing Examiner.

15
 16 *Unauthorized Communication* means any direct or indirect communication, in
 17 any form, whether written, verbal or graphic, concerning a substantive issue by
 18 any person with a the Hearing Examiner or a Hearing Examiner's employee or
 19 staff member, by any person outside of a public hearing and not on the record.

20
 21 *Water Management District* means the South Florida Water Management
 22 District or the Southwest Florida Water Management District, as applicable.

23
 24 *Water Table* means the top of the saturated zone of the surficial aquifer.

25
 26 **Sec. 3-5-473. Applicability.**

27
 28 (a) This article shall apply within the unincorporated areas of Charlotte
 29 County to any Person, not already in possession of a permit, proposing to
 30 to initiate an excavation or those previously permitted but seeking to
 31 expand or otherwise modify an existing excavation.

32
 33 (b) The provisions of Chapter 3-5, Article XXI, where applicable, and
 34 Article XXIII (Ord. No. 2003-003), shall continue to apply to any Person
 35 presently conducting an excavation and/or earthmoving activity, as
 36 defined in this article, on the effective date of this article and to Persons
 37 who have submitted Applications received written preliminary approval
 38 prior to the effective date of this article, provided that excavations
 39 ongoing on the effective date of this article shall be subject to the fees
 40 provided for in this article and the Fee Resolution.

41
 42 (c) Compliance with the requirements of this article shall not relieve
 43 any party from complying with the requirements of any other applicable
 44 local, state, or federal law.

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Sec. 3-5-474. Nonconforming Facilities.

An excavation approved by the County, which is in operation on the effective date of this article and is made nonconforming by this article, may continue to operate in accordance with its Permit. However, the excavation may not be expanded, extended or otherwise modified unless the excavation operation complies with the provisions of this article.

Sec. 3-5-475. Exemptions.

The following activities are exempt from the requirements of this article, and shall not be considered excavations, provided that all applicable federal, state and other local Permits and/or authorizations have been obtained:

(a) The installation of utilities;

(b) The construction of foundations for any building or structure provided that a building permit has been issued;

(c) Excavations relating to the accessory use of land and designed to be filled upon completion (e.g., graves, septic tanks, etc.);

(d) Swimming pools;

(e) Maintenance dredging of lakes or canals; or

(f) Insignificant excavations directly related to agricultural uses (e.g., ditches, livestock water holes, fish and alligator ponds, etc.); provided that:

(1) The land is zoned agricultural, agricultural estates or residential estates;

(2) The design meets the standards required for Group I Excavations;

(3) For all excavations other than ditches, but inclusive of all previous excavations on the site, the surface area of the excavation does not exceed twenty percent (20%) of the property or five (5) acres, whichever is less, and the depth does not exceed twelve (12) feet. Excavations which are larger than five acres and/or deeper than twelve (12) feet shall require permitting as a Group I, II or III, III or IV excavation; and,

(4) All excavated material remains on site.

(g) Stormwater retention/detention ponds otherwise approved by the County not exceeding twenty percent (20%) of the site area or three (3) one (4) acres, and for which the depth does not exceed twelve (12) feet, slopes are graded at 4:1 6:1 or flatter to a depth of no less than five (5) feet below the mean water table, and all excavated material remains onsite on-site.

(h) Pursuant to a Reclamation Plan submitted with an Application, areas constituting the littoral zone, beginning at the littoral shelf, detailed by applicable Water Management District permit(s), and ending at the top bank, shall not be taken into account for purposes of determining an excavation perimeter, provided no commercial excavations occur within said areas.

Sec. 3-5-476. General Location and Operation Standards.

The following location criteria shall be employed in order to protect the health, safety and welfare of the public from the possible adverse impacts of land excavation (e.g., noise, dust, water table drawdown, etc.):

(a) Excavation operations shall not have an adverse impact on the quality or quantity of groundwater or surface water of surrounding properties. Applicants must ensure the proposed operations meet all standards of the Health Department and the applicable Water Management District.

(b) The Excavation Administrator may require that the de-watering proposed in the Application be analyzed by conducting an in-place field permeability test (horizontal) at one or more locations representative of the entire section of the aquifer to be de-watered. Necessary permeability tests may include but are not limited to: Field Hydraulic Conductivity Test-Auger Hole Method (USDA Soil Conservation Service), Horizontal Permeability Test (Bureau of Land Reclamation and Earth Manual), and Slug Test Method (Groundwater Hydraulics, United States Geological Survey). Alternate test methods may be used subject to prior approval by the Excavation Administrator. Results of testing and impact analysis using the data generated must be certified by an Engineer or Geologist registered by the State of Florida. Results shall be submitted with the Application. In no case shall the excavation be allowed deeper than two (2) feet above the confining layer as determined and certified by an Engineer or Geologist.

(c) There shall be no disposal of any liquid or solid wastes into the excavated area either during or subsequent to excavation operations without prior review and approval by all reviewing and permitting agencies. Stormwater may be discharged into the excavated area if it is

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1 included in a stormwater plan submitted by the Applicant and approved
2 by the Excavation Administrator, and all appropriate federal, state, and
3 local permits have been obtained.

4
5 (d) The standard slope, for all Groups except Group IV, for the side of
6 an excavation shall be no steeper than one (1) foot vertical drop for each
7 four (4) six (6) feet of horizontal distance measured from the edge of the
8 excavation at existing grade seasonal high water table to a depth of no
9 less than five (5) feet below the mean water table. The slope for Group
10 IV shall be no steeper than one (1) foot vertical drop for every four (4)
11 feet of horizontal span. Below a depth of five (5) feet from the SHWT
12 mean water table, the grade may not exceed a drop of two (2) feet
13 horizontal to one (1) foot vertical for all Groups. If the Applicant desires a
14 slope greater than the standard described above, then the Applicant
15 shall specify this in the Application along with a justification for the
16 deviation from the standard, according to the variance procedures set
17 out in this article. ~~The Excavation Administrator will obtain an~~
18 ~~engineering evaluation to be made for said deviation request, and render~~
19 ~~a response to the Applicant, which response shall be final, unless~~
20 ~~otherwise determined by the Hearing Examiner.~~

21
22 (e) The excavation shall be operated in such a manner that dust
23 emissions are minimized. Unpaved roads shall require regular watering
24 or other treatments required by the County to minimize dust emissions.
25 The Excavation Administrator may halt the excavation operation if, in the
26 determination of the Excavation Administrator, dust emissions constitute
27 a public nuisance.

28
29 (f) Burning or incineration associated with an excavation will require
30 permits in accordance with Charlotte County law and applicable federal
31 and state law.

32
33 (g) Asphalt aprons are required for all excavations from which material
34 is excavated and transported onto any public road. Asphalt aprons shall
35 be built according to the specifications for a Type II Turnout as set forth
36 by Florida Department of Transportation (FDOT) Standard Sheet #516,
37 as amended, or as otherwise approved by the County Engineer.

38
39 (h) Excavation activity shall be conducted between the hours of 7:00 am
40 and 6:00 pm on Monday through Friday and between the hours of 7:00
41 am and 12:00 pm on Saturday, unless otherwise approved by the
42 Hearing Examiner.

43
44 (i) No excavation, except for ditches permitted by the applicable Water
45 Management District, is permitted within twenty-five (25) feet of the

1 boundary line of a drainage or utility easement. A waiver may be
2 granted with the consent of the easement holder.

3
4 (j) It shall be unlawful to place any litter (as defined in Section 1-12-4
5 of this code), solid materials, organic materials, or solid or hazardous
6 waste (as defined in Section 17-701.200 (73), Florida Administrative
7 Code [F.A.C.]) within any excavation that has not been previously
8 permitted as a solid waste disposal site by the State of Florida and
9 Charlotte County. Clean gravel, sand, rock, clay and clean debris (as
10 defined in Section 17-701.200 (11), F.A.C.) may be placed within an
11 excavation site pursuant to a valid and current reclamation plan
12 approved by Charlotte County, provided a quarterly report is provided to
13 the Charlotte County Department of Environmental Services listing the
14 type, tonnage and origin of the fill. Any Person with any property interest
15 in the excavation location shall be responsible for any violation of this
16 subparagraph. Any Person doing the actual depositing of the materials
17 within the excavation shall also be responsible for any violation of these
18 provisions.

19
20 (k) The Permittee shall comply with all applicable requirements of
21 Article I, Chapter 3-3, of this Code.

22
23 (l) Generators and pumps shall be well muffled, isolated by sound
24 deadening materials and located such that noise does not exceed the
25 limits set forth in this code or by state statute.

26
27 (m) The Excavation Administrator may require the Applicant to utilize
28 aesthetic features to enhance the site such as fences, landscaped
29 screening buffers or earthen berms.

30
31 (n) For the Permit duration, the Excavation Administrator where
32 appropriate and in the interest of public safety may require the Applicant
33 to secure the excavation. The excavation may be secured with a fence
34 around the excavated area, by ensuring all access points to the
35 excavation site be secured when no activity is occurring to prevent
36 unauthorized access, or by such other means as agreed to by the
37 Excavation Administrator and the Applicant.

38
39 (o) Applicants engaged in off-site transport of excavated material shall
40 provide for an inspection area proximate to the excavation site egress
41 point and provide access to FDOT and other law enforcement personnel
42 granting on-site inspection authority during, and up to one-half hour
43 before and after, operating hours.

Sec. 3-5-477. Group I Location and Operation Standards.	1
In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group I Excavations:	2
(a) Group I Excavations are permissible in any zoning district.	3
(b) The term of a Group I Permit shall not exceed two (2) years.	4
(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	5
(1) Fifty (50) feet of any public or private right-of-way.	6
(2) Fifty (50) feet of any side or rear property line of abutting property located in areas zoned other than residential.	7
(3) One hundred (100) feet One hundred fifty (150) feet of residential, church or school residential or institutional structures.	8
(4) Twenty-Five Twenty-five (25) feet of any side or rear property line of abutting property located in areas zoned residential.	9
(d) In no case shall a Group I excavation exceed a depth of twenty (20) feet.	10
Sec. 3-5-478. Group II Location and Operation Standards.	11
In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group II Excavations:	12
(a) Group II Excavations are permissible in any zoning district.	13
(b) The term of a Group II Permit shall not exceed three (3) years.	14
(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	15
(1) Fifty (50) feet of any side or rear property line of abutting property located in areas zoned other than residential.	16
(2) Twenty-Five Twenty-five (25) feet of any side or rear property line of abutting property located in areas zoned residential.	17
(d) In no case shall a Group I excavation exceed a depth of twenty (20) feet.	18
Sec. 3-5-478. Group II Location and Operation Standards.	19
In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group II Excavations:	20
(a) Group II Excavations are permissible in any zoning district.	21
(b) The term of a Group II Permit shall not exceed three (3) years.	22
(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	23
(1) Fifty (50) feet of any side or rear property line of abutting property located in areas zoned other than residential.	24
(2) Twenty-Five Twenty-five (25) feet of any side or rear property line of abutting property located in areas zoned residential.	25
(d) In no case shall a Group I excavation exceed a depth of twenty (20) feet.	26
Sec. 3-5-478. Group II Location and Operation Standards.	27
In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group II Excavations:	28
(a) Group II Excavations are permissible in any zoning district.	29
(b) The term of a Group II Permit shall not exceed three (3) years.	30
(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	31
(1) Fifty (50) feet of any side or rear property line of abutting property located in areas zoned other than residential.	32
(2) Twenty-Five Twenty-five (25) feet of any side or rear property line of abutting property located in areas zoned other than residential.	33
(d) In no case shall a Group I excavation exceed a depth of twenty (20) feet.	34
Sec. 3-5-478. Group II Location and Operation Standards.	35
In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group II Excavations:	36
(a) Group II Excavations are permissible in any zoning district.	37
(b) The term of a Group II Permit shall not exceed three (3) years.	38
(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	39
(1) Fifty (50) feet of any side or rear property line of abutting property located in areas zoned other than residential.	40
(2) Twenty-Five Twenty-five (25) feet of any side or rear property line of abutting property located in areas zoned other than residential.	41
(d) In no case shall a Group I excavation exceed a depth of twenty (20) feet.	42
Sec. 3-5-478. Group II Location and Operation Standards.	43
In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group II Excavations:	44
(a) Group II Excavations are permissible in any zoning district.	45
(b) The term of a Group II Permit shall not exceed three (3) years.	46
(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	47
(1) Fifty (50) feet of any side or rear property line of abutting property located in areas zoned other than residential.	48
(2) Twenty-Five Twenty-five (25) feet of any side or rear property line of abutting property located in areas zoned other than residential.	49
(d) In no case shall a Group I excavation exceed a depth of twenty (20) feet.	50

1	(3) One hundred fifty (150) feet of residential, church or school residential or institutional structures.	2
2		3
3		4
4	(4) Twenty-five (25) Seventy-five (75) feet of any side or rear property line of abutting property located in areas zoned residential.	5
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7		8
8	(5) For the Permit duration, all Group II excavations with an exposed slope exceeding 4:1 shall be secured with a fence around the excavated area to prevent unauthorized access to the excavation. All points of access shall be secured when no activity is occurring at the excavation site.	9
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14	(d) The footprint of a Group II excavation shall not exceed twenty-five (25) percent of the area of the site. A waiver from the footprint limitation may be approved by the Hearing Examiner only upon a showing that:	15
15		16
16		17
17		18
18	(1) Adherence would conflict with applicable state or federal laws or regulations; or	19
19		20
20		21
21	(2) upon the recording of a final plat for the excavation site in accordance with Article II of Chapter 3-7 of this code; or	22
22		23
23		24
24	(3) the project has obtained final DRC approval for an activity other than one capable of receiving a final plat and the Hearing Examiner finds sufficient assurances that the excavation is in furtherance of a legitimate development activity other than commercial excavation and places appropriate conditions on the excavation approval to insure the underlying development will be completed.	25
25		26
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30		31
31	Sec. 3-5-479. Group III Location and Operation Standards.	32
32		33
33	In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group III Excavations:	34
34		35
35		36
36	(a) Group III Excavations are permissible only in agriculture zoning districts (AE and AG) as defined in Chapter 3-9 of this code.	37
37		38
38		39
39	(b) The term of a Group III Permit shall not exceed ten (10) years.	40
40		41
41		42
42	(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:	43
43		44
44		45
45	(1) One hundred (100) feet of any public or private right-of-way.	

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(2) ~~Seventy-five (75)~~ Twenty-five (25) feet of the side or rear property line of abutting property located in areas zoned other than residential.

(3) One thousand (1000) feet of residential, church or school residential or institutional structures.

(A) A waiver from this setback may be permitted by the Hearing Examiner upon a showing that the occupants of the affected structures consent to a reduced setback.

(4) ~~Twenty-Five (25)~~ Seventy-five (75) feet of any side or rear property line of abutting property located in areas zoned residential.

(d) All loads of material leaving the excavation site must be weighed on-site by FDOT approved scales and each driver given a weight ticket for the correct weight of the load.

(e) For the Permit duration, all Group II excavations with an exposed slope exceeding 4:1 shall be secured with a fence around the excavated area to prevent unauthorized access to the excavation. All points of access shall be secured when no activity is occurring at the excavation site.

Sec. 3-5-480. Group IV Location and Operation Standards.

In addition to the General Location and Operation Standards set forth in this article, the following Location and Operation Standards shall apply to Group IV Excavations:

(a) Group IV Excavations are permissible only in agriculture zoning districts (AE and AG) as defined in Chapter 3-9 of this code.

(b) The term of a Group IV Permit shall not exceed five (5) years. Prior to expiration, the permit holder may request a one-time two-year (2) extension from the Excavation Administrator upon a showing of good cause and continued participation in a Qualified Agricultural Program without having to comply with the procedures of Section 3-5-454 of this code.

(c) No excavation, except for ditches permitted by the applicable Water Management District, is permitted within:

(1) One hundred (100) feet of any public or private right-of-way.

(2) Twenty-five (25) feet of the side or rear property line of abutting property located in areas zoned other than residential.	1
(3) One hundred fifty (150) feet of residential or institutional structures.	2
(4) Seventy-five (75) feet of any side or rear property line of abutting property located in areas zoned residential.	3
(d) The maximum excavation area shall be the lesser of 10% of the irrigated acreage or 100 acres.	4
Life Reduction.	
(a) The Excavation Administrator shall review the proposed haul route(s), according to the following criteria and considerations:	5
(1) To the greatest extent possible, the haul route(s) shall abut or lie within the excavation site.	6
(2) The haul route(s) shall not have undue impact on persons and properties along or in proximity to the haul route(s).	7
(3) It shall be the responsibility of the Permittee to mitigate those impacts on the haul route(s) arising from activities authorized under the Permit. Required mitigation measures shall be determined by the Excavation Administrator on a case-by-case basis, in recognition of the varying circumstances found in each Application and may include any or all of the following:	8
(A) watering and other dust control measures	9
(B) cleanup of materials overfills	10
(C) maintenance grading of unsurfaced roads; shoulder grading and restoration	11
(D) pavement patching	12
(E) pavement maintenance, including resurfacing	13
(F) pavement reconstruction	14
(G) traffic safety improvements such as signing, striping, barrier rails, turn and/or acceleration lanes with tapers, all meeting American Association of State Highway and Transportation Officials' standards.	15
(b) The Excavation Administrator shall obtain the assistance of the County Engineer relative to traffic safety, pavement conditions, and other	16

Sec. 3-5-480 3-5-481. Haul Route; Mitigation for Roadway Service

1	technical aspects of the review of the proposed haul route(s).	2
2	Subsequent to the review, the Excavation Administrator shall	3
3	recommend that the haul route(s) be approved or disapproved.	4
4		5
5	(c) Applicants proposing to haul 10,000 or more cubic yards of material	6
6	on any road under County jurisdiction shall meet with the County	7
7	Engineer to discuss the proposed haul route(s) and associated traffic	8
8	and pavement impacts. The County Engineer shall determine whether	9
9	the Applicant must provide a traffic analysis and/or pavement analysis;	10
10	and specify the scope(s) thereof. The County Engineer shall determine	11
11	the sufficiency and specify the necessary scope(s) thereof. A Permit	12
12	shall not be issued until said analysis(es) is approved by the County	13
13	Engineer, and the provisions of the Permit include explicit measures for	14
14	mitigation of said impacts.	15
15		16
16	(1) A traffic impact analysis shall address the trip generation of the	17
17	proposed facility; ingress, egress, and access control to the site;	18
18	and will address the impact(s) direct, indirect and cumulative of the	19
19	proposed facility, including anticipated increases in road	20
20	maintenance requirements, and impacts to the levels of service of	21
21	<u>affected roadways.</u>	22
22		23
23	(d) No Permit may be issued for an excavation which proposes to	24
24	utilize, as part of a haul route(s), roads which are not publicly maintained,	25
25	unless approval is obtained from each party responsible for maintenance	26
26	of such roads. Any haul route(s), which contains unpaved segments,	27
27	shall be maintained by the Permittee in a condition satisfactory to the	28
28	County, including controlling dust generated by the trucks engaged in	29
29	earthmoving within five hundred (500) feet of any residential structure.	30
30	Traffic control signs shall be provided where necessary, including but not	31
31	limited to, stop, traffic, and entrances, which shall comply with the	32
32	Manual of Uniform Traffic Control Devices.	33
33		34
34	(e) Roadway service life reduction due to earthmoving shall be	35
35	mitigated on certain roads along the haul route(s), regardless of whether	36
36	the origin of the material being hauled is within or without Charlotte	37
37	County.	38
38		39
39	(f) Mitigation is required for all any damage caused by the Permittee on	40
40	<u>County-maintained roads along the haul route(s) with the exception of</u>	41
41	<u>those designated as road & bridge facilities. A RSLR Fee shall be</u>	42
42	calculated pursuant to the Fee Resolution.	43
43		44
44		45

Sec. 3-5-481 3-5-482. Permit Application Contents.

1 The Excavation Administrator shall establish such criteria, standards and
2 procedures, to be approved by a resolution of the BCC, and in accordance with
3 the requirements set forth herein to ensure the efficient enforcement of this
4 article as well as provide for its uniform and consistent application.

5 (a) All Permit applications shall include:

6 (1) A completed application form and application fee;

7 (2) A copy of the Soil Boring Report for excavations greater
8 than twelve (12) feet deep. If the depth of the excavation is twelve
9 feet or less, then no soil borings are required. There shall be
10 a minimum of two (2) borings per excavation or one (1) boring per
11 ten (10) acres of the excavation area, whichever is greater. All
12 borings are to be performed through a soil-testing laboratory.
13 Copies of results, signed and sealed by an engineer or geologist,
14 must be provided;

15 (3) Five (5) copies, signed and sealed by an engineer, of the
16 proposed Reclamation Plan, when required. The proposed
17 Reclamation Plan shall be prepared in accordance with this
18 article. If sheet sizes are larger than 11" x 17", Applicant shall
19 furnish County with one (1) complete copy that has been reduced
20 to 11" x 17";

21 (4) Five (5) copies of the site plan, signed and sealed by an
22 engineer, showing the plan view and cross-section of the
23 excavation project, along with the following supplemental
24 information:

25 (A) The ownership and boundary lines of the property,
26 including bearings and distances;

27 (B) A topographic survey clearly showing existing and
28 proposed grades, all of which shall be related to the
29 National Geodetic Vertical Datum (NGVD);

30 (C) Existing natural and man-made features including but
31 not limited to, watercourses, wetlands, vegetation
32 communities identified to FLUCCS Level 4, a listed species
33 survey, streets, utility lines, wells, septic tanks, drainfields,
34 chemical/fuel storage tanks (surface and subsurface)
35 existing buildings and other physical features within one
36 hundred fifty (150) feet of the perimeter of the proposed
37 excavation area. If blasting is proposed, this information

shall be provided for an area within one half mile of the	1
perimeter of the proposed excavation;	2
(D) The location of soil borings shown in the soil boring	3
report;	4
(E) Size, shape, depth, and location of the proposed	5
excavation including recharge trenches and settling ponds;	6
(F) Right-of-way lines and easement lines;	7
(G) Distance of the proposed excavation from right-of-way	8
lines, easement lines and property lines;	9
(H) Points of access to the proposed excavation;	10
(I) North arrow, date and scale;	11
(J) Scale of reasonable size depending upon the size of	12
the site as specified by the Excavation Administrator;	13
(K) Proposed slopes. A cross-sectional drawing referring	14
to NGVD showing the proposed depth of the excavation	15
area and the slope of the side and depth of the water;	16
(L) Proposed method of de-watering and use of settling	17
ponds. Settling ponds must store 24 hours of continuous	18
pump discharge;	19
(M) All potable water wells or lakes within a radius of five	20
hundred (500) feet of the proposed excavation;	21
(N) Proposed haul route(s), including alternative routes,	22
and location of asphalt aprons. Information relating to the	23
proposed haul route(s) must include the condition of the	24
road, i.e. paved, width, etc.; a description of the trucks to	25
be used, i.e. weight of trucks, number of axles; and a	26
description of any adverse impacts the haul route(s) could	27
have, e.g., noise or dust levels;	28
(O) Clear line of sight distances at all intersections;	29
(P) A description of all activity that will be conducted on-	30
site;	31
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(Q) Phasing of the excavation, and other on-site operations and reclamation, including a time schedule for clearing, excavating, reclamation and proposed hours and days of operation;	1
(R) A time schedule for phasing of the reclamation;	2
(S) Dust control and suppression methods;	3
(T) Detailed erosion control methods such as turbidity screens and/or hay bales, seeding and mulching, and sodding;	4
(U) An Environmental Impact Statement as described in this article except that the Excavation Administrator may grant a variance for certain requirements set forth in this article for excavations not exceeding five (5) acres in surface area;	5
(V) The location and preservation plan for all approximate wetland areas to be preserved;	6
(W) The technique(s), which will be used to vegetate littoral zone, if littoral zones are to be included in the excavation;	7
(X) A discussion of quality of life issues, in particular, the affect of the proposed excavation upon the health, safety and welfare of residents within ½ mile (2,640 feet) of the site;	8
(Y) A statement as to the extent blasting is planned and the expected impact on the area, i.e., dust, wind, noise, vibrations, etc.	9
(Z) A statement as to the extent rock crushing is planned and expected impact on the area, i.e., dust, noise, vibrations, etc.	10
(AA) Aerial photos of the excavation site;	11
(BB) Copies of all information, documents, and reports for state permit acquisition and monitoring;	12
(CC) A Reclamation Plan as provided in this article;	13

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(DD) A detailed description of any required on-site FDOT inspection areas, delineating both their location and access route(s):	1
(EE) Indicate and detail the location of all proposed spoil piles and stockpiles of excavated material on site:	2
(FF) Provide an excavation site location map with the location of all known well fields and well field protection zones within a five mile radius superimposed:	3
(GG) The location of all monitoring and test wells required on the site:	4
(HH) The location of all staff gauges required on site:	5
(BB) (II) Any other specific information requested by the Excavation Administrator to better define, clarify, or assist the Excavation Administrator in evaluating whether or not the application is consistent with the intent and purposes of this article, in light of the uniqueness or complexity of the proposed excavation project.	6
(b) If sheet sizes of any application materials are larger than 11" x 17", Applicant shall furnish County with one (1) complete copy that has been reduced to 11" x 17".	7
Sec. 3-5-482 3-4-483. Reclamation Plan.	8
(a) A Reclamation Plan shall be submitted with an Application and shall:	9
(1) Provide for reclamation on a periodic basis. The Excavation Administrator shall determine the stages or intervals at which the various stages of reclamation must be commenced and completed.	10
(2) Describe the manner in which restructuring, reshaping and/or revegetation will be accomplished, and show final grades of the site.	11
(3) Be drawn to a reasonable scale depending upon the size of the project as specified by the Excavation Administrator and contain a North arrow.	12
(4) Show existing natural and man-made features, including watercourses, water bodies, wetlands, general vegetative communities and concentrations, streets, utility lines, wells, septic	13

tanks, drain fields, chemical/fuel storage tanks (surface and subsurface), easements and similar physical characteristics of the site.	1
(5) Show all areas to be reclaimed by depicting and/or describing what man-made and natural features will exist when the Reclamation Plan is completed. This requirement includes the depiction of mitigation or preservation areas established for wildlife species.	2
(6) Depict at least two (2) typical cross sections with elevations, generally oriented north to south and east to west, showing areas to be filled, back-filled, reconstructed and/or reshaped. Water elevations shall also be shown.	3
(7) Depict any area to become a lake.	4
(8) Depict any required fences, walls, or vegetative buffers, including at least one cross-section.	5
(9) Document the type and location of vegetation to be preserved or planted including, but not limited to, grass(es), tree(s) and shrubs, and document the methods necessary to control erosion.	6
(10) Indicate that all spoil piles and stockpiles of material shall be removed from the site or incorporated into the Reclamation Plan when the excavation is complete.	7
(b) In the event that partial reclamation shall not be substantially completed or significant progress not be made within the required time periods, the County may draw upon the reclamation Performance Assurance and conduct the partial reclamation.	8
Sec. 3-5-483 3-5-484. Environmental Impact Statement.	9

(a) An Environmental Impact Statement or "EIS" shall be submitted with each Application.	1
(b) An EIS shall be prepared by an individual or firm whom the Excavation Administrator deems qualified in the various disciplines involved in an EIS.	2-6
(c) The contents of the EIS shall be consistent with the EIS definition set forth in this article. At a minimum, the EIS shall address the direct, indirect and cumulative impacts that the proposed excavation will have on the following:	7-11
(1) Surface water resources, including stacking of water (including sheet flow) up gradient of the subject property, with particular attention paid to the effects of berms or other water control structures; loss of sheet flow or other surface flows down gradient of the subject property; any reductions in flows to creeks, streams, rivers, or other natural surface waters; and the quality of any off-site surface water discharges which may occur under any conditions up to and including a 100 year storm event.	12-20
(2) Ground water resources, including the dimensions of land areas that will experience lowering of groundwater levels due to dewatering or other aspects of the excavation; an analysis of any impacts to the base flow of surface waters within the subject surface water drainage basin; an analysis of any impacts to ground water resulting from increased evaporation from lakes and other post-mining landforms resulting from the excavation.	21-28
(3) Vegetation and wildlife, including a map of all land covers and forms on the subject property depicted according to FLUCCS category Level 4 at scale of 1 inch equals 200 feet (unless a different scale is approved in writing and in advance by the Excavation Administrator as appropriate to the specific site); a narrative description of the direct, indirect and cumulative impacts to on-site natural communities which will be affected during mining and reclamation; a listed species survey conducted by a Qualified Environmental Professional; and a discussion of impacts to, and mitigation proposed for, wildlife species which reside on or utilize the excavation site, particularly those listed by the U.S. Fish and Wildlife Service or Florida Fish and Wildlife Conservation Commission as endangered, threatened, or of special concern.	29-45
(4) Air quality, including dust from any excavation, blasting, stockpiling, sorting, vehicular circulation, or other activity; any	46-49

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exhaust or other emissions from equipment associated with the excavation.

(5) Hazardous materials and other potential contaminants, including any naturally occurring elements which could become potentially harmful to the public if concentrated by any process associated with the proposed excavation, including but not limited to dewatering, settling, stockpiling, sorting, and other activities, with particular attention to radiation.

(6) Qualifications and calculations, including all calculations, assumptions, survey methodologies, and other technical components of the statement; the qualifications of every person involved in preparing the statement, and which portion(s) they were involved in.

(7) Any other information required by the Excavation Administrator due to unique circumstances.

Sec. 3-5-484 3-5-485. Group I Permitting Process.

(a) Applicants shall submit a completed Group I Application form to the Department of Community Development together with all supporting documentation.

(b) The Excavation Administrator shall have five (5) working days to review the Application for completeness and to notify the Applicant, in writing, of any deficiencies. If the Excavation Administrator deems the Application to be incomplete or otherwise deficient, all review of the Application shall cease until such time as the Application is supplemented by the Applicant and deemed complete by the Excavation Administrator.

(c) Within five (5) working days of the determination that the Application is complete, the Excavation Administrator shall forward one (1) copy of the Application to the applicable County departments for their review in regard to compliance with this article, other applicable laws and sound engineering and planning practices.

(d) Within fifteen (15) working days of receipt of the complete Application, said Departments/Divisions shall conduct their reviews and provide the Excavation Administrator with reports containing their comments and recommendations concerning the contents of the Application, whether it should be approved or not approved as submitted and specific permit conditions deemed necessary to comply with the provisions of this article and other applicable law.