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FILED WITH THE DEPARTMENT OF STATE December 19, 2007

ORDINANCE  
NUMBER 2007 - 090

AN ORDINANCE OF CHARLOTTE COUNTY, FLORIDA, PROVIDING THAT THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BE AMENDED BY CREATING A NEW SECTION 3-9-55, ESTABLISHING THE EXCAVATION AND MINING ZONING DISTRICT; PROVIDING FOR INTENT; PROVIDING FOR PERMITTED AND PROHIBITED USES AND STRUCTURES; PROVIDING FOR DEVELOPMENT STANDARDS; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on October 23, 2007, the Board of County Commissioners of Charlotte County, Florida ("Board"), in response to concerns expressed by Charlotte County citizens regarding the compatibility of large-scale excavations with adjacent land uses, including those uses also permitted in Agricultural or Agricultural Estates zoning districts, directed staff to devise a process by which the appropriateness of large-scale excavations is determined; and

**WHEREAS**, in response to the Board's direction the County's planning staff has proposed the creation of a new zoning district, Excavation and Mining, to be utilized in locating future large-scale excavations known as Group III excavations under Article XXIII of the Code of Laws and Ordinances of Charlotte County, Florida and currently permitted only in Agricultural or Agricultural Estates zoning districts; and

**WHEREAS**, the Board finds that such large-scale excavations are of such intensity that they are no longer consistent with other uses presently permitted in Agricultural (AG) or Agricultural Estates (AE) zoning districts; and

**WHEREAS**, the Board finds that the adoption of the Excavation and Mining (EM) zoning district is necessary in order to minimize any detrimental effects of such excavations upon the citizenry, natural environment, and public roadway infrastructure of Charlotte County; and

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

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

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY  
OR BOOK 3244, PGS 1989-1993 5 pg(s)  
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IMAGED  
1-2-08  
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1           **NOW, THEREFORE, BE IT ORDAINED** by the Board of County  
2 Commissioners of Charlotte County, Florida:  
3

4           Section 1. The Code of Laws and Ordinances of Charlotte County,  
5 Florida ("Code") is hereby amended to create a new Subsection 3-9-55 which  
6 shall provide as follows:  
7

8           **Section 3-9-55. Excavation and Mining (EM).**  
9

10 (a) *Intent.* The Excavation and Mining district provides for Group III excavation  
11 activities and associated uses, as described in Chapter 3-5, Article XXIII, of the  
12 Code of Laws and Ordinances of Charlotte County ("Charlotte County Excavation  
13 and Earthmoving Code"), and previously permitted only in agricultural zoning  
14 districts (AE and AG). This district is used to implement the Comprehensive Plan  
15 within areas designated as Agricultural or Resource Conservation on the Future  
16 Land Use Map. It should not be applied outside the Agricultural areas. In areas  
17 of special environmental significance, including, but not limited to, the  
18 watersheds of the Peace River, the Myakka River, Shell Creek, Prairie Creek and  
19 Alligator Creek, Group III excavation activities should not negatively impact any  
20 special environmental resources.  
21

22 Excavation operations are a necessary and vital part of the economy of the state,  
23 and provide a strong basis for economic opportunity and development within  
24 Charlotte County. However, such operations also are frequently associated with  
25 noise, dust, a high volume of heavy truck traffic, and other activities generally  
26 incompatible with urban-style living. Therefore, it is the purpose of the  
27 Excavation and Mining zoning district to provide areas for the establishment of  
28 excavation activities in selected areas where residential uses are permitted only  
29 at very low densities, and where both the direct and generally negative impacts  
30 of these excavations are absorbed by the smallest possible percentage of the  
31 county's population.  
32

33 (b) *Permitted uses and structures.* The following uses and structures are  
34 permitted in this district:  
35

36           (1) Construction of all structures, equipment, and facilities required for the  
37 extraction, processing, and transportation of earth, sand, gravel, peat,  
38 or mineral ore, including construction of access roads, pipelines,  
39 recirculating water systems, beneficiation facilities, power lines, and  
40 draglines, and site preparation such as clearing of vegetation and  
41 grading, all as part of an approved site plan.  
42

43           (2) The washing, sizing, flotation, storage, drying and grinding of gravel,  
44 rock, and mineral ore, and all activities reasonably related thereto  
45 except chemical processing, refining, or manufacturing of materials  
46 from the gravel, rock, and ore.

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(3) The restructuring, reshaping, and re-vegetation of disturbed lands to a form in which the lands may be beneficially used in the future, and includes the process of restoration, all as part of an approved reclamation plan.

(4) Structures used for storing, routing and treating of excavated materials and/or process waters, including but not limited to, reservoirs, clay settling areas, canals, ditches and their associated dams and dikes, all as part of an approved site plan.

(5) All uses permitted in the AG and AE districts.

(c) *Permitted accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures are permitted in this district.

(d) *Prohibited uses and structures.* Any use or structure not specifically, or by reasonable implication, permitted herein shall be unlawful in this district.

(e) *Special Exceptions.* All special exceptions sought in this district must be approved prior to, and shall expire upon the termination of, an excavation permit granted under Chapter 3-5, Article XXIII, of the Code of Laws and Ordinances of Charlotte County. The following are the special exceptions permitted in this district (for procedure see Section 3-9-7 "Special Exceptions"):

(1) Excavation or mining operations that involve blasting.\*

(\*nothing in this section shall be deemed to affect the authority of the State Fire Marshall to regulate the use of explosives in relation to construction materials mining activities pursuant to Chapter 552, Florida Statutes)

(2) Chemical processing, refining, or manufacturing of materials from the gravel, rock, and ore including asphalt and/or concrete batch plants as accessory uses to an active excavation or mining operation.

(f) *Development Standards.* The following development standards shall apply in this district:

Minimum Lot requirements:

Area, Acres .....	50
Width, feet .....	250

1 Minimum Yard Requirements:

2  
3 Front yard, feet ..... 100

4  
5 Side yard, feet ..... 25\* / 75\*\*/ 1000\*\*\*  
6 (\* when abutting property zoned other than residential)  
7 (\*\* when abutting vacant property zoned residential)  
8 (\*\*\*) from existing residential or institutional structures)

9  
10 Rear yard, feet ..... 25\* / 75\*\*/ 1000\*\*\*  
11 (\* when abutting property zoned other than residential)  
12 (\*\* when abutting vacant property zoned residential)  
13 (\*\*\*) from existing residential or institutional structures)

14  
15 Maximum lot coverage by all buildings (percent) ..... 10  
16 Maximum heights of structures (feet) ..... 60  
17

18 The Excavation and Mining (EM) zoning district may not be established  
19 anywhere on barrier islands, or within one statute mile of the waters of the Gulf of  
20 Mexico, any intercoastal waterways, or the waters of Charlotte Harbor and the  
21 Peace River located west of the I-75 Interstate Highway bridge over the Peace  
22 River. The Excavation and Mining (EM) zoning district is intended to be applied  
23 only to those properties accommodating excavations that meet Group III criteria  
24 contained in the Charlotte County Excavation and Earthmoving Code.  
25

26 (g) *Signs.* Signage shall be in accordance with Section 3-9-95, as well as  
27 Chapter 3-5, Article XXIII.  
28

29 (h) *Off-street parking.* Off-street parking shall be in accordance with Section 3-9-  
30 90.  
31

32 Section 3. Conflict With Other Ordinances. The provisions of this article  
33 shall supersede any provisions of existing ordinances in conflict herewith to the  
34 extent of said conflict.  
35

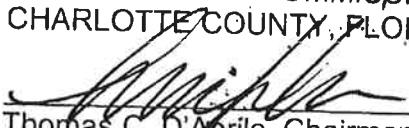
36 Section 4. Severability. In the event that any portion of this article is for  
37 any reason held invalid or unconstitutional by any court of competent jurisdiction,  
38 such portion shall be deemed a separate, distinct and independent provision, and  
39 such holding shall not affect the validity of the remaining portions of this article.  
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41 Section 5. Effective Date. This Ordinance shall take effect upon its filing  
42 with the Office of the Secretary of State, State of Florida.  
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PASSED AND DULY ADOPTED this 11<sup>th</sup> day of DECEMBER, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By:   
Thomas C. D'Aprile, Chairman

ATTEST:  
Barbara T. Scott, Clerk of  
Circuit Court and Ex-Officio Clerk  
to the Board of County Commissioners

By:   
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By:   
Janette S. Knowlton, County Attorney

# Economic Impact Estimate

## For an Ordinance Amending the Excavation and Earthmoving Code

### I. Purpose

This proposed Ordinance is to make changes to the existing Excavation and Earthmoving Code (Article XXIII) necessary to accommodate the proposed new Excavation and Mining (EM) zoning district, which are closely related. The existing codes allow Group III Excavations in all Agricultural zoning districts (AG and AE) without any review relating to its location and compatibility with adjacent existing land uses. Extractive industries or activities are also allowed in areas with a FLUM designation of Agriculture or Resource Conservation. This has resulted in the siting of large excavation operations in close proximity to rural and suburban residential developments. The proposed Excavation and Mining zoning district will require Group III operations to obtain a zoning change prior to the use being permitted.

**II. Impact:** Consider costs and benefits, both monetary and non-monetary, for the private sector, non-governmental entities, and the public sector (government). In discussing costs and benefits, distinguish between those which are social (borne by society as a whole) and those, which are private (accrue to certain individuals and groups). Identify the specific groups, which will be impacted.

### A. Costs:

#### 1. Monetary-private sector:

The proposed change to the Excavation and Earthmoving Code will not affect existing Group III Excavations or proposed Group III Excavations which have complete permit applications already submitted to Charlotte County. However, all future Group III Excavations will need to obtain a zoning change to the Excavation and Mining (EM) zoning district, which will require payment of the application fee (\$1,401) required for the requested action.

#### 2. Non-monetary private sector:

The non-monetary costs to the private sector would be the time needed to prepare, submit, process a zoning application. However, this time could run concurrently and overlap with other review processes required for permitting of Group III Excavations.

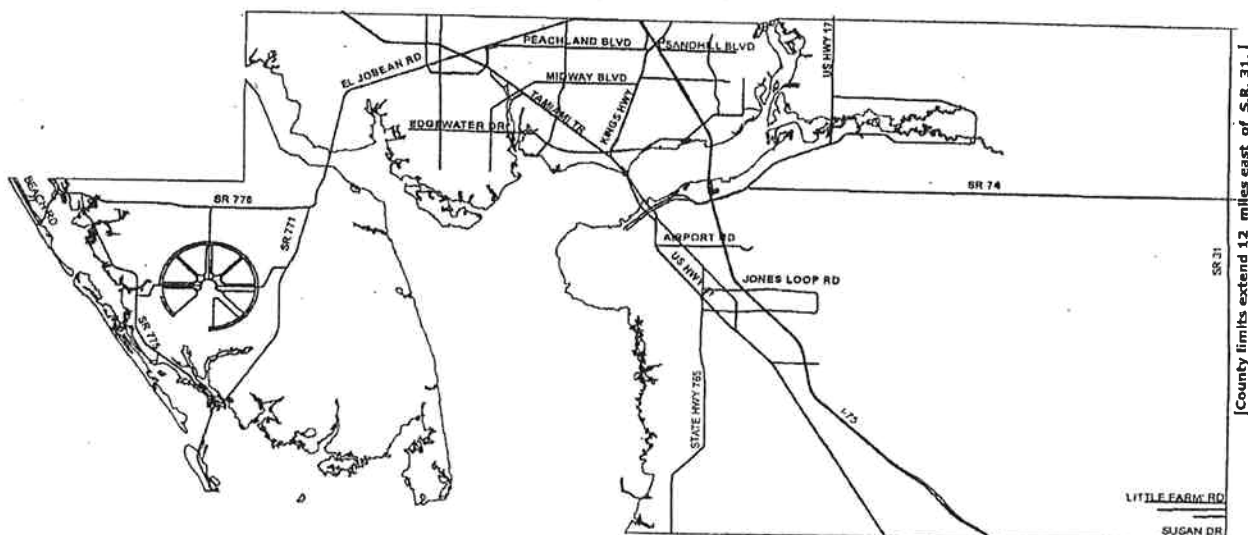
#### 3. Monetary-public sector:

The proposed changes will not cost the County additional funds as the County will be able to process applications for zoning changes with existing staff. The costs of staff time for processing and record keeping are factored into the required application fee.

#### 4. Non-monetary public sector:

Charlotte County elected officials will have a more active role in determining the location and siting of Group III Excavations which could have a significant impact on adjacent land uses and traffic within the area.

**NOTICE OF PUBLIC HEARING FOR AMENDING CHAPTER 3-9 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, TO CREATE A NEW ZONING DISTRICT, AND FOR AN ORDINANCE AMENDING CHAPTER 3-5 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BY AMENDING ARTICLE XXIII, EXCAVATION AND EARTHMOVING; BY PROVIDING FOR REVISIONS OF DEFINITIONS, NONCONFORMING FACILITIES, GROUP III EXCAVATION LOCATION STANDARDS; PROVIDING FOR CORRECTION OF ERRORS; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**



A PUBLIC HEARING ON PROPOSALS AND PETITIONS AS DESCRIBED BELOW WILL BE CONDUCTED BY THE BOARD OF COUNTY COMMISSIONERS AT A REGULAR MEETING ON TUESDAY, DECEMBER 11, 2007, AT 2:00 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD DURING THE COURSE OF ACTION. THE HEARING WILL BE HELD IN COMMISSION CHAMBERS, ROOM 119, FIRST FLOOR, BUILDING A, THE CHARLOTTE COUNTY ADMINISTRATION CENTER, 18500 MURDOCK CIRCLE, PORT CHARLOTTE, FLORIDA. THE BOARD IS NOT BOUND TO CONSIDER THE PETITIONS IN THE ORDER LISTED IN THIS NOTICE. ANY OF THESE PETITIONS MAY BE CONSIDERED AS SOON AS THE MEETING COMMENCES.

COPIES OF SAID PETITIONS WITH COMPLETE LEGAL DESCRIPTIONS AND SUBSEQUENT STAFF REPORTS WILL BE AVAILABLE FOR REVIEW AT THE CHARLOTTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT, AND ALL CHARLOTTE COUNTY PUBLIC LIBRARIES.

A MEETING AGENDA AND PETITION PACKETS MAY BE REVIEWED AT THE FOLLOWING INTERNET ADDRESS: <http://www.charlottecountyfl.com/agenda.asp>

ALL INTERESTED PERSONS ARE URGED TO ATTEND THESE PUBLIC HEARINGS. THE PUBLIC IS WELCOME TO SPEAK; THERE WILL BE A FIVE-MINUTE TIME LIMIT FOR EACH CITIZEN'S PRESENTATION ON AN AGENDA ITEM. IF YOU HAVE SPECIFIC QUESTIONS OR COMMENTS, YOU ARE ENCOURAGED TO CONTACT A STAFF PERSON AT ANY TIME IN ADVANCE OF THE PUBLIC HEARING(S). PLEASE CALL 941-764-4903 AND MENTION THE PETITION NUMBER OF THE MATTER YOU WISH TO DISCUSS

**PETITION**

**New Excavation Zoning District**      **Legislative**      **Commission Districts I, II, III, IV & V**  
 An ordinance amending Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, creating a new Excavation Zoning District, Section 3-9-55, to accommodate mining operations; providing for conflict with other ordinances; providing for severability; and providing an effective date; Commission Districts I, II, III, IV and V; applicant Charlotte County Board of County Commissioners.

**Ordinance Amendment**      **Commission District I, II, III, IV & V**  
 An ordinance amending Chapter 3-5 of the Code of Laws and Ordinances of Charlotte County, Florida, by amending Article XXIII, excavation and earthmoving; by providing for revisions of definitions, nonconforming facilities, Group III Excavation location standards, providing for correction of errors; providing for conflict with other ordinances; providing for severability; and providing an effective date; Commission Districts I, II, III, IV and V; applicant Charlotte County Board of County Commissioners.

SHOULD ANY AGENCY OR PERSON DECIDE TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING, A RECORD OF THE PROCEEDING, AND FOR SUCH PURPOSE, A VERBATIM RECORD OF THE PROCEEDING IS REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

P.O. #: 2008000264.JJ  
 Publish: November 26, 2007

CERTIFIED TRUE COPY  
 OF THE ORIGINAL  
 BARBARA T. SCOTT  
 CLERK OF THE CIRCUIT COURT  
 CHARLOTTE COUNTY FLORIDA  
 BY: *Annie Blalock*  
 DEPUTY CLERK



**FLORIDA DEPARTMENT of STATE**

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

December 21, 2007

Ms. Barbara T. Scott  
Clerk of the Circuit Court  
Charlotte County  
18500 Murdock Circle, Room 416  
Port Charlotte, Florida 33948-1094

Attn: Anne L. Pfahler, Deputy Clerk

Dear Ms. Scott:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated December 17, 2007 and certified copies of Charlotte County Ordinance Nos. 2007-086 through 2007-091, which were filed in this office on December 19, 2007.

Sincerely,

Liz Cloud  
Program Administrator

RECEIVED AT  
MURDOCK BRANCH  
2007 DEC 26 PM 4:42  
BARBARA T. SCOTT  
CLERK OF CIRCUIT COURT  
CHARLOTTE COUNTY, FL

LC/jru

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850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dls.dos.state.fl.us>

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