

ARTICLE XIII, DIVISION 4.

LAND ALTERATION

Subdivision I.

General Provisions

Sec. 62-4391. Definitions.

For the purpose of this division, the following terms shall have the meaning set forth in this section:

Abandoned mine reclamation means the reclamation of previously altered lands which require intervention to be made safe, environmentally sound and capable of supporting land uses that are reasonable or economically viable and come into compliance with all other current environmental and land development regulations.

Altered lands means the land areas in which the natural land surface has been disturbed as the result of, or incidental to, land excavation or filling activities.

Annual floodplain means the annual riverine floodplain as defined within article X, division 5, of this chapter.

Aquifer means a saturated geologic formation, group of formations, or part of a formation that transmits groundwater.

Aquifer recharge areas means those areas classified as either prime, class I or secondary aquifer recharge areas by the criteria set forth in article X, division 2, of this chapter.

Blasting agent means any material or mixture, consisting of fuel and oxidizer, intended for blasting and not otherwise defined as an explosive, provided the finished product, ready for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined.

Board means the board of county commissioners.

Class I aquifer recharge areas means the class I aquifer recharge areas defined within article X, division 2, of this chapter.

Clean debris means includes those materials so defined within chapter 94.

Conditional use permit (CUP) means a written warrant, permit or zoning resolution granted by the board in accordance with the provisions of article VI of this

chapter authorizing a specified use such as land alterations, private lakes or mining operations.

Construction debris means materials generally considered not to be water soluble and nonhazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard and lumber, from the construction or destruction of a structure as part of a construction or demolition project, or from the renovation or maintenance of a structure.

County means Brevard County, Florida.

Depiction means a representation of the required information using appropriate drawings, maps, illustrations, pictures or other similar visual means.

Detention basin means that element of a surface water drainage system designed and constructed incidental to an approved site development plan or subdivision plan for the purpose of collecting and temporarily storing stormwater in such a manner as to provide for treatment through physical, chemical or biological processes with subsequent gradual release of the stormwater.

Detonator means any device containing a detonating charge that is used for initiating detonation of an explosive and includes, but is not limited to, blasting caps and electric blasting caps of instantaneous and delay types.

Director means the director of the county office of natural resources management, or the director's designee.

Endangered species means species listed as endangered in the Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida, compiled by the state game and fresh water fish commission.

Excavation means the removal of rock, stone, minerals, shell, sand, marl, clay, muck or other like materials by any process from their natural state and location, regardless of whether or not the materials are to be utilized on the site, whether or not the materials are to be offered for sale or trade or bargained for anything of value. Land excavation can include earthmoving, land alteration or private lake activities.

Explosives means any chemical compound, mixture, or device, the primary purpose of which is to function by explosion. The term “explosives” includes, but is not limited to, dynamite, nitroglycerin, trinitrotoluene, other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. “Explosives” does not include cartridges for firearms and does not include fireworks as defined in chapter 791.

Explosive materials means explosives, blasting agents or detonators.

Filling activities means the adding of any material to alter the existing topography of the land.

Groundwater means the water occurring beneath the natural land surface.

Haul route means those public and private roads upon which vehicles transporting land excavation or fill materials shall travel.

Isolated wetlands means isolated wetlands as defined within article X, division 4, of this chapter.

Lake means a body of standing water occupying a natural basin or manmade depression in the earth's surface.

Lake creation means land excavation which will result in the creation or enlargement of a lake.

Land alteration means the process of excavating, filling and reclaiming lands.

Land alteration permit (LAP) means a permit issued by the county for the excavation, filling and reclamation of lands within the county.

Land alteration plan means documentation provided to the county with required information describing proposed land alteration activities for the purpose of determining whether a land alteration permit may be issued.

Legal description means a property description as recorded in the office of the clerk of the circuit court for the county.

Littoral zone means a shallow water region typically around the perimeter of a lake, stormwater management system or pond, or within a lake, where there is light penetration to the bottom and which is typically occupied by rooted plants.

Mine means the altered lands that result from the process of removing minerals or other resources from the land including mining and smelting operations, borrow pits, and commercial borrow pits.

Natural topography means the surface of the earth as it exists prior to the commencement of excavation or filling activities, and includes the surface of any land previously excavated or filled, whether reclaimed or not.

100-year floodplain means the 100-year riverine floodplain as defined within article X, division 5, of this chapter.

Person means any corporation, individual, partnership, association or other entity, including any officer or governing or managing body thereof.

Prime aquifer recharge areas means the prime aquifer recharge areas as defined within article X, division 2, of this chapter.

Private lake means a land excavation on private property up to ten acres in size intended to generate fill material for on-site development or to provide a recreational or aesthetic amenity, and where the fill is not removed from the site.

Professional engineer means an engineer registered by the state department of professional regulation.

Professional land surveyor means a land surveyor registered by the state department of professional regulation.

Putrescible materials means any material which decays, including but not limited to trees, lumber, land clearing debris and other organic materials.

Reclaimed land means land upon which reclamation activities have been completed by the applicant and approved by the county.

Reclamation means the restructuring, reshaping and revegetation of altered lands and water bodies to achieve a safe, environmentally sound condition, capable of supporting land uses that are reasonable or economically viable, and come into compliance with all other current environmental and land development regulations.

Reclamation plan means the plan submitted to the county which describes the filling, backfilling, restructuring, reshaping and revegetation of a land alteration site and describes the proposed activities which are intended to occur on the property after land alteration ceases and reclamation has been completed. This plan will set forth the process of restoration to be followed, provide the required details of how and when reclamation will be accomplished and demonstrate how the property may be utilized as productive land after land alteration has been completed.

Reclamation unit means a specified area of land upon which restoration or reclamation activities will be accomplished within a specified period of time as specified in the land alteration permit.

Removal of vegetation means land clearing as defined within division 3 of this article.

Resource of particular concern means an area as identified and designated for protection within management documents by the county, including but not limited to archaeological resources, conservation areas and easements, wetlands, floodplains, recharge areas, surface waters and wildlife corridors established by county, state or federal agencies.

Retention basin means that element of the stormwater management system such as infiltration reservoirs or basins, usually dry, which provide complete on-site storage of a specific volume of stormwater runoff.

Secondary recharge areas means the secondary recharge areas as defined within article X, division 2, of this chapter.

Species of special concern means species listed as being of special concern in the Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida compiled by the state game and fresh water fish commission.

Stormwater management system means the designed features of any property which collect, convey, channel, hold, inhibit or divert the movement of stormwater. This definition includes but is not limited to retention and detention basins.

Ten-year floodplain means the ten-year riverine floodplain as defined within article X, division 5, of this chapter.

Threatened species means species listed as threatened in the Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida compiled by the state game and fresh water fish commission.

25-year floodplain means the 25-year riverine floodplain as defined within article X, division 5, of this chapter.

Wetlands means wetlands as defined within article X, division 4, of this chapter. (Code 1979, § 14-112.1)

Cross References: Definitions generally, § 1-2.

Sec. 62-4392. Correction of violations.

If land alteration occurs in violation of this division, no further alteration may occur on the subject property until such time as the violation is rectified by issuance of a valid permit or restoration of the site occurs.

(Code 1979, § 14-112.13)

Sec. 62-4393. Additional remedies.

In addition to any other remedy, whether civil or criminal, for any violation of this division, the county may institute any appropriate action or proceeding, including injunction, in a court of competent jurisdiction.

(Code 1979, § 14-112.14)

Sec. 62-4394. Purpose and intent.

(a) The purpose of this division is to protect the public health, safety and general welfare and the natural environment of the county through the establishment of reasonable standards for the review and regulation of land alteration activities, and to establish procedures and standards that clearly set forth the criteria by which applications are reviewed and decisions made on approval or denial of a land alteration permit and whereby reviews are conducted in a similar manner to that utilized in other site plan and subdivision plan reviews.

(b) It is the intent of this division to ensure that the excavation, filling and reclamation of lands in the county resulting from the removal of such materials as vegetation, muck, peat, clay, shell, sand, gravel, marl, stone, rock, minerals and the like is accomplished in accordance with the provisions of this division and in a manner that will protect the public health and safety and the land and water resources of the county.
(Code 1979, § 14-112)

Sec. 62-4395. Prohibited activities.

Prohibited activities shall include:

- (1) Any nonexempt land alteration activities occurring without a valid land alteration permit.
- (2) Any land alteration activities occurring in violation of a land alteration permit.
- (3) Knowingly receiving fill material derived from a site for which a valid land alteration permit does not exist.
- (4) Knowingly hauling fill material from a site for which a valid land alteration permit does not exist.
- (5) Conducting work associated with land alteration on a site for which a valid land alteration permit does not exist.
- (6) The use of any materials other than clean debris or on-site use of construction debris as fill.
- (7) Any land alteration activities occurring without applicable federal, state or other local government permits.
- (8) Any land alteration activities occurring in violation of any applicable federal, state or other local government permits.

- (9) Conducting work associated with land alteration on a site for which any required federal, state or other local government permits do not exist.
(Code 1979, § 14-112.12)

Sec. 62-4396. Location of land alteration activities.

- (a) *Aquifer recharge areas.*
- (1) *Prime and class I aquifer recharge areas.* Land alteration activities are not permitted within prime or class I aquifer recharge areas.
- (2) *Secondary aquifer recharge areas.* For alterations proposed in these recharge areas, the applicant shall provide certification by a professional engineer that the proposed alteration will:
- a. Not increase the rate and volume of runoff from the property;
 - b. Not substantially decrease the ability of the property to recharge the groundwater aquifer; and
 - c. Not adversely affect the quality of any existing groundwater on the site.
- (b) *Setbacks generally.*
- (1) No land alteration activities larger than 50 acres shall be permitted within:
- a. The setbacks set forth within section 62-1939, pertaining to specific conditions for mining and smelting operations.
 - b. Fifty feet of a resource of particular concern, unless permitted pursuant to Article X or XII.
- (2) No land alteration activities between ten and 50 acres shall be permitted within:
- a. The setbacks set forth within section 62-1936, pertaining to specific conditions for land alteration.
 - b. Fifty feet of a resource of particular concern, unless permitted pursuant to Article X or XII.
- (c) *Authority to require additional setback.* The director may require greater setbacks if the director finds such greater setbacks would be necessary to protect resources of particular concern or adjoining property not owned by the applicant, or for

the implementation of the county comprehensive plan, including but not limited to the conservation, stormwater management, future land use and transportation elements. (Code 1979, § 14-112.7)

Sec. 62-4397. Operation of land alteration activities.

(a) *Boundary markers.* Permanent boundary corners with intermediate stakes at minimum intervals of 300 feet at all limits of alteration shall be staked, marked and maintained with visible flags in accordance with approved plans for permits.

(b) *Fencing.* Unless otherwise authorized by the director, all land excavation areas adjacent to a residential zoning category or within urban or urbanizing service sectors shall be secured with a fence to prevent unauthorized access to the land excavation so as to protect the public from hazards on the property. All points of access shall be secured when no activity is occurring. The director may require that warning signs also be posted. In determining whether a fence is required and the type of fence to be required, the director shall consider the following factors:

- (1) The location, size, depth and side slopes of the excavation.
- (2) The nature of the surrounding uses and the county comprehensive plan for the area.
- (3) The depth of the water, if any, in the land excavation during the period of excavation activity.
- (4) Natural or manmade features existing on the site.

The director shall allow the fence to be removed after the reclamation is completed and approved by the director. All other applicable requirements as stated in article VI of this chapter must also be met.

(c) *Hours of operation.* No trucking or hauling activities shall be conducted between one-half hour after sunset and one-half hour before sunrise. Other hours of operation restrictions may be placed on land alteration activities by the director. In determining whether hours of operation restrictions will be placed on land alteration activities, the director shall consider the following factors:

- (1) The proximity and type of surrounding land uses.
- (2) The type of land alterations proposed.
- (3) The type of equipment and kinds of processes that are proposed to be used during the land alteration.

(d) *Haul routes.*

- (1) No haul route shall be on a roadway functionally classified as a local road except under any of the following circumstances:
 - a. Commercial or Industrial Zoned Properties. The land alteration activity is within a commercial or industrial zoned parcel or lot and whose proposed haul route does not include travel on local roads that service existing residential uses.
 - b. Other Properties. The land alteration activity is incidental to the primary purpose of the proposed development of the property and meets all of the following standards:
 - i. Activity shall not exceed sixty (60) days in duration; and
 - ii. Land alteration activities are limited to between one-half hour after sunrise and one-half hour before sunset, Monday through Friday.
 - iii. Permit extensions for land alteration activities beyond the initial 60 day limitation may be granted by the Board of County Commissioners when circumstances beyond the control of the applicant have occurred that have delayed completion of the land alteration activity. Requests for extensions shall include detailed information on said circumstances that clearly demonstrate conditions that were beyond the control of the applicant. No more than two extensions may be granted for the project.
 - c. Public Interest Projects. The land alteration activity has been determined by the Board of County Commissioners in a duly noticed public hearing to be in the public interest.
- (2) If a haul route contains a dirt road segment, the applicant shall maintain the dirt road segment in a satisfactory operating condition as determined by the transportation department, and shall control dust generated by equipment and vehicles within 500 feet of any residence.
- (3) Asphalt aprons shall be required for all access points to public roads from land alteration sites from which material is excavated and transported on any public road, subject to a waiver by the county engineer.
- (4) On the site, excavated material shall be transported along a course from the land excavation to the point of access which would have the least adverse impact, if any, on surrounding land uses and resources of particular concern.
- (5) No crossings of county or state roads or rights-of-way by draglines or other equipment not designed for use on such roads shall be permitted without the prior written approval of the county engineer.

- (6) Trucking or hauling activities shall not result in damage to roads and bridges located along any proposed haul routes.
- (e) *Water quality and quantity.*
 - (1) Land alteration operations shall not detrimentally impact the quality of groundwater and surface water available for recharge to the surficial aquifer.
 - (2) Land alteration operations shall not have an adverse impact on the quality or quantity of either surface water or groundwater on surrounding property or upon the surface water drainage system servicing the proposed land alteration site or the surrounding property. Applicants must ensure that the proposed operation meets the water quality standards of the state department of environmental regulation and the St. Johns River Water Management District.
 - (3) Point source discharges of water into waters of the state are prohibited in connection with land alteration activities without appropriate state permits. In no event may any discharges of water or liquid wastes have an adverse effect on water quality, riverine or aquatic biota, or preexisting lawful uses of water bodies off the property to be altered. The county may require the applicant to conduct water quality monitoring of receiving water bodies and submit results regarding water quality to the county.
 - (4) Treatment of stormwater from disturbed lands shall be provided by retention or detention basins, settling ponds, or performance equivalent structures or systems.
 - (5) Best management practices shall be employed throughout the land alteration activity to prevent erosion and loss of soil from the property and sedimentation of off-property surface water bodies or facilities.
 - (6) Land alteration operations shall not reduce the volume of water recharged on the site, nor shall the level of the surficial aquifer, water table or Floridan Aquifer beyond the boundaries of the property be reduced. The director may require the applicant to install appropriate monitoring or observation wells, and may require the applicant to submit monitoring reports regarding water level fluctuations.
- (f) *Noise levels.* Increases in ambient noise levels resulting from land alteration activities shall not result in decibel readings in excess of the maximum allowable noise level limits as specified in chapter 46, article IV.
- (g) *Dust.* The land alteration shall be operated in such a manner that fugitive dust emissions are in compliance with article VI, division 6, subdivision III, of this

chapter. Dirt roads may require regular watering to minimize dust emission. The county may require the land alteration operation to cease whenever fugitive dust emissions occur which result in or cause a public nuisance.

(Code 1979, § 14-112.8)

Sec. 62-4398. Reclamation of disturbed property.

All lands disturbed by land alteration activities, shall be reclaimed in accordance with the following standards:

- (1) *Scheduling.* In all types of land alteration, reclamation, including revegetation of upland areas, shall be completed within 180 days of completion of the altering activity. Revegetation of littoral zones of lakes shall be completed within one year of completion of the altering activity.
- (2) *Revegetation.* All altered lands shall be revegetated with indigenous species whenever possible, according to the standards set forth in divisions 2 and 3 of this article.
- (3) *Topography and drainage.*
 - a. Except for water bodies, low-profile berms and surface water management systems, all final contours on reclaimed land shall be no steeper than the original contours of the site.
 - b. The reclamation plan shall provide for restoration as nearly as possible to prealteration drainage characteristics. In no event shall the applicant permit unplanned stream channel, wetland or lake development.
- (4) *Soils.* Topsoil, segregated and stored prior to land alteration, or other suitable soil or strata, properly conditioned, shall be applied to the surface of all reclaimed lands as necessary to provide a suitable growing medium for all required revegetation. Revegetation, mulching, contouring or other acceptable soil conservation practices shall be used to enhance soil stabilization. Should washes and rills develop after revegetation, the applicant shall repair the eroded slopes and stabilize the area.
- (5) *Site cleanup.* All construction debris, refuse, junk, and wornout unusable equipment or materials, including footings, poles, pilings and cables, shall be removed from all altered lands as part of the reclamation process. All structures shall also be dismantled and removed except where their reuse is consistent with post-reclamation land use goals. Temporary roads shall be returned to grade.

- (6) *Incidental wetlands.* Impacts to functional wetlands resulting from the previous or current land alteration activity are permitted, with mitigation, where said impacts are necessary to meet the approved restoration plan.
(Code 1979, § 14-112.9)

Sec. 62-4399. Specific standards for individual land use types.

(a) In addition to the specific standards described in this section, the following land uses shall be revegetated in accordance with the standards set forth in divisions 2 and 3 of this article:

- (1) *Agricultural lands.* Lands reclaimed for agricultural use shall be:
- a. Sufficiently level and free of holes, gullies and washouts to permit safe operation of conventional agricultural equipment.
 - b. Settled and firmed to the extent that the land will support conventional agricultural equipment and that livestock will be able to walk on the surface of the land.
- (2) *Lakes.* Lands reclaimed as lakes shall meet the following standards in addition to those outlined within subsection 62-4398(3), pertaining to topography and drainage. A vegetated littoral zone below mean high-water shall be established for lakes. A mixture of native vegetation shall be established by natural colonization, by inoculation or by planting within 12 months after the excavation activity is completed. Where planting is used, plantings shall be on three-foot centers and shall consist of species found in subsection (b) of this section. The applicant shall provide the director with a quarterly report, including photographs of the littoral zone, for a period of two years after the lake has been completed. At the end of this two-year period, if the plants have not attained 80 percent coverage of the required planted area, replanting must occur to attain the appropriate coverage. Herbicides approved for aquatic use may be applied to control undesirable aquatic plants.
- a. Side slopes shall be not steeper than five feet horizontal to one foot vertical to a mean water depth of five feet. Slopes deeper than five feet shall be no steeper than two to one.
 - b. No portion of the lake shall exceed 35 feet in depth below the mean water level, unless a St. Johns River Water Management District permit is obtained for the additional depth and the following information is provided to and approved by the board of county commissioners:

1. Adequate assurance that no adverse impact will occur to adjacent resources of particular concern;
2. Representative soil profiles of the borrow location to a depth of at least five feet below the proposed final depth of the lake.
3. Representative data on the water levels, chloride concentrations, and head calculations from permanent shallow and deep well monitoring stations including well locations and construction logs. If the additional depth is approved, periodic monitoring of these parameters will be required as necessary.
4. Assurance that the hydrologic conditions will not be adversely impacted so as to cause a connection between aquifers.
5. A model of the effects of groundwater withdrawal on the surrounding area if the project is not providing a rim ditch to recharge the water withdrawn during excavation.
6. The applicant shall immediately notify the county and the St. Johns River Water Management District in writing of any previously submitted information that is later discovered to be inaccurate.
7. If unanticipated significant adverse impacts occur to resources of particular concern, the county may revoke the permit in whole or in part to curtail or abate further adverse impacts, unless the impacts can be mitigated by the applicant. It shall be the financial responsibility of the applicant to curtail or abate any adverse impacts or, if the adverse impact is caused by a breach of a permit condition, to restore the resource to a condition that existed prior to the breach of the condition.
8. A bond may be required by the board as necessary to provide adequate assurance that no adverse impacts will occur to adjacent resources. The bond shall be set in an amount of the costs reasonably calculated to correct or repair a reasonably foreseeable violation of the conditions of approval imposed by the board or the St. Johns River Water Management District.

- c. For the purposes of establishing an area that will sustain fish and wildlife and to provide for water quality maintenance, all lakes shall include a littoral zone in accordance with the following design criteria:
1. When lakes are utilized within a stormwater management system and pretreatment of the stormwater is provided prior to entering the lake, a littoral zone comprising 25 percent of the total surface area of the lake at mean water level shall be provided.
 2. When lakes are utilized within a stormwater management system and pretreatment of the water is not provided prior to entering the lake, a littoral zone comprising 30 percent of the total surface area of the lake at mean water level shall be provided.
 3. When lakes are not utilized within a stormwater management system, and stormwater is not entering the lake, a littoral zone comprising 15 percent of the total lake area at mean water level shall be provided.

In some cases the director may allow the area covered by native littoral vegetation to be established off the site when this would enhance an existing or created wildlife habitat and when this would not adversely affect the water quality of the lake.

- (3) *Wildlife habitats.* Except where altered lands are reclaimed to agricultural lands, wetlands or lakes, they shall be reclaimed to wildlife habitat with native species typical of this area of the state.

(b) Plant species suitable for and sometimes available from nurseries for littoral zone plantings of private lakes are as follows:

Common Name	Scientific Name
Arrowhead/Duck-potato	Sagittaria latifolia
Blue flag iris	Iris virginicus
Bulrush	Cyperus, Scirpus spp.
Climbing aster	Aster carolinianus
Coinwort/Water pennywort	Hydrocotyle umbellata
Cordgrass	Spartina bakeri
Cypress	Taxodium spp.
Golden canna	Canna flaccida

Maidencane	Panicum hemitomon
Pickereelweed	Pontederia lanceolata
Rushes	Juncus, Eleocharis spp.
Spatterdock/Yellow pond lily	Nuphar luteum
Sedges	Cyperus spp.
Water-shield/Dollar bonnet	Brasenis schreberi
Water tupelo/Cotton gum	Nyssa spp.
White water lily	Nymphaea odorata

Other plant species may be acceptable for littoral zone plantings. Species other than those listed in this subsection must be approved by the office of natural resources management prior to planting.

(Code 1979, § 14-112.10; Ord. No. 99-30, § 1, 4-27-99)

Secs. 62-4400--62-4420. Reserved.

Subdivision II.

Permit

Sec. 62-4421. Required; prerequisites for issuance.

- (a) A permit for land alteration activities shall be obtained from the director whenever:
- (1) The total acreage of all excavations within a single parcel of land is greater than or equal to three-quarters of an acre, regardless of the depth of excavation, and the fill is removed from the parcel of land;
 - (2) The total acreage of all excavations within a single parcel of land is less than three-quarters of an acre and where the excavation has an accumulation of water greater than six feet in depth, and the fill is removed from the parcel of land; or
 - (3) The total acreage of all filled areas within a single parcel of land is greater than or equal to three-quarters of an acre.
 - (4) Abandoned mine reclamation. Such reclamations shall comply with Sec. 62-4398 (2)-(5), Sec. 62-4399, Sec 62-4423(e)-(i), Sec 62-4424 and Sec. 62-4425 as applicable.

(b) All persons desiring to excavate an area greater than five acres in size must obtain both a land alteration permit and a conditional use permit from the county for the excavation. The land alteration permit and the conditional use permit can be applied for at the same time. If the land alteration permit is denied, the conditional use permit shall not be issued. In cases where land alteration will cause a removal of vegetation, a land clearing permit or a notification of land clearing, whichever is applicable, will be required. No land clearing permit or notification of land clearing, whichever is applicable, shall be issued until a land alteration permit is issued. The land alteration permit can be revoked or suspended if other applicable federal, state or other local government permits are not obtained.

(Code 1979, § 14-112.2)

Sec. 62-4422. Exemptions.

The following alterations shall be permitted under this division without the requirement of a land alteration permit, provided such alteration occurs in accordance with applicable federal, state and local regulations:

- (1) Land alteration activities and the creation of drainage systems which are incidental to agricultural pursuits where no excavated materials are sold, whether directly or indirectly, or transferred from one parcel of land to any noncontiguous parcel.
- (2) Excavation of materials for the construction of a private lake for which the conditions of division 5 of this article have been met.
- (3) Maintenance of nonagricultural drainage facilities, recreational facilities or navigation canals when such activities are approved by the county engineer.
- (4) Maintenance of agricultural drainage facilities on lands which are in agricultural use.
- (5) Installation of utilities and wells.
- (6) Excavation relating to the accessory use of land when the excavation is to be refilled upon completion of the excavation, such as excavation relating to the placement of septic tanks and drainfields and grave digging operations.
- (7) Construction of swimming pools under a valid building permit.
- (8) Alterations or leveling for private drives to provide ingress or egress.

- (9) Stormwater management systems no deeper than 12 feet and drainage facilities that are required and approved by the county engineer and included within an approved site plan or subdivision plat.
- (10) Excavations for wetland mitigation projects required by federal, state or local governments and agencies.
- (11) Minimal fill adequate for house pads, septic systems and roads built in conjunction with an approved building permit, site plan or subdivision plat.
- (12) Alterations which have been issued a conditional use permit and which have begun construction prior to the effective date of the ordinance from which this division is derived. For the purposes of this division, any physical alteration of the land directly associated with the alteration activity shall constitute a beginning of construction.

(Code 1979, § 14-112.3)

Sec. 62-4423. Financial security; required information; certification of compliance; inspections.

(a) *Financial security.* Unless specifically exempted in this division, it shall be unlawful for any person to alter land without prior issuance of a land alteration permit pursuant to the following conditions:

- (1) *Road damage or improvement bond.* Prior to using roads in the county for truck transport of land excavation materials, the applicant may be required to post a bond sufficient to indemnify the county for any damage to such roads from such use. The road and bridge division will determine the amount of the bond. If improvements to any county or state roads will be necessitated by such truck use, the applicant shall pay for the cost of such improvement and shall post a bond prior to permit approval to guarantee such payment.
- (2) *Financial security for reclamation plans.*
 - a. *Required.* An applicant shall be required to secure its performance of the reclamation required under this division by a performance bond, letter of credit, savings account or cash. The applicant shall deliver bids from at least two qualified licensed general construction contractors or an estimate certified by a professional engineer for the complete construction of all reclamation in compliance with the approved reclamation plans and the requirements of this division.

- b. *Nature of security.* The applicant shall deliver security in the amount of 100 percent of the estimated costs of the reclamation, insuring that reclamation of the altered area will occur within the time period specified in the plan. The applicant shall provide the board of county commissioners security as follows:
1. The applicant shall deliver to the board a good and sufficient performance bond guaranteeing the performance of the reclamation activities and that such work shall be free from defects and properly done;
 2. The applicant shall deliver to the board a good and sufficient letter of credit issued by a banking institution located in the county in accordance with section 62-2848, with such letter of credit guaranteeing performance of the reclamation activities and that such reclamation is free from defects and properly done; or
 3. The applicant shall establish a savings account or provide a certificate of deposit in a county bank or savings and loan institution. The savings account or certificate of deposit shall specify that payment to the county shall be made on the written demand of the county to the bank or institution and notice to the applicant that reclamation activities have not been completed as required or that such reclamation is not free from defects in materials or workmanship.

A letter of credit shall be accepted as security where the total cost of the reclamation project is less than \$100,000.00. The applicant shall execute a performance agreement with the board and the bank or financial institution when a letter of credit, certificate of deposit or savings account is furnished as security. Any bond or letter of credit furnished the board shall contain an agreement that the surety or financial institution shall pay the board costs, including reasonable attorneys' fees, if the board finds it necessary to commence legal action on the security.

- c. *Form of bonds.* The bonds required by this section shall be issued from a company licensed as a surety in the state, listed by the U.S. Treasury Department, and rated AAAAA in Best's Insurance Guide. The form of the bond submitted under this section shall be approved by the county, and the bond shall be filed with the clerk of the circuit court in the county.

d. *Release or reduction of security.* No security shall be released until a certificate of completion of the reclamation project has been issued.

(b) *Identification information.* The following information is required:

- (1) The name, address and telephone number of the owner or owners of the land for which the permit is requested. If the applicant is not the owner, a notarized statement from the owner consenting to the alteration shall be attached to the application.
- (2) The name, address and telephone number of the applicant's agent residing in the county upon whom service of legal process may be made.
- (3) The name, address and telephone number of the Florida registered professional engineer of record for the project.
- (4) The name and address of all owners of land contiguous to the property to be altered, together with a map showing the location of their ownership.
- (5) The legal description and street address, if any, of the parcel of land for which the permit is requested, and a copy of the deed reflecting ownership of the land.

(c) *Information regarding existing conditions.* Prior to the issuance of any land alteration permit, a description of existing conditions, including the following information, must be provided to the county. For sites less than ten acres in size, the information requested in this subsection shall be prepared in favor of the county by a professional land surveyor or a professional engineer, with the exception of subsections (c)(1)c, (c)(8) and (c)(9). For sites ten acres in size or greater, the information must be certified in favor of the county by a professional land surveyor or a professional engineer, with the exception of subsections (c)(1), (c)(8) and (c)(9).

- (1) Topographic maps of the property showing contour lines, at two-foot intervals, of the actual ground contours prior to the commencement of alteration. These maps shall include a north arrow, date, and scale of one inch equals 20 feet, one inch equals 50 feet, one inch equals 100 feet, or one inch equals 200 feet. Through overlays or other graphic techniques, the maps shall clearly show:
 - a. The boundary of the property.
 - b. The location of the 100-year, 25-year and ten-year floodplains as indicated by The Flood Insurance Study for Brevard County, Florida, and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and The Mean Annual,

Ten-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985), or the most current data available to and approved by the county.

- c. All wetlands and other water bodies on the property.
- (2) Blue line aerials of the property prior to the commencement of alteration at a scale of one inch equals 200 feet or one inch equals 400 feet.
- (3) A description and depiction of existing land use on the property and within 100 feet of the property, and existing structures, roads, easements, septic systems and utility lines.
- (4) An inventory of all existing wells on the property, including locations, depths, water source, estimated annual extraction rates, water use and proposed disposition of the wells.
- (5) A description and depiction of specific soil types or soil associations occurring on the property.
- (6) The location for permit display.
- (7) A description and depiction of the surface hydrology on the property, including mean water level and average flows of all surface watercourses, and drainage patterns.
- (8) A description and depiction of the vegetative associations on the property.
- (9) An indication of which wetlands will be preserved, or disturbed but restored, or negatively impacted.

(d) *Information regarding proposed activities.* Prior to the issuance of a land alteration permit, a description of proposed activities must be provided to the county. At a minimum, excavation and filling projects must provide the information requested within the indicated requirements listed in this subsection. Such descriptions must be prepared and certified by a professional land surveyor or professional engineer according to the same size thresholds established in subsection (c) of this section.

Activity	Excavation	Excavation	Filling
Acreage	3/4--10	Over 10	3/4 or greater
Requirements	(1)--(8)	(1)--(14)	(1)--(6), (9), (14)

- (1) A description and depiction of the units to be altered, the sequence of alteration, and the estimated periods of time involved.
- (2) Depiction of the areas to remain undisturbed and calculation of the acreage of land to be disturbed by alteration activities.
- (3) A description of the hydrological impacts of the proposed alteration activities, including impacts on post-reclamation drainage patterns. Effects on mean water level and average base flows of surface watercourses shall also be given, as well as effects on the surficial aquifer and wetlands during and after the completion of alteration operations.
- (4) A description of erosion and nonpoint pollution control measures to be taken during alteration activities, specifying the extent, density and types of vegetative cover to be used, plans and layout of any erosion control structures or devices, and measures to reduce fugitive dust from unpaved roads, processing areas, loading facilities and similar sources.
- (5) Cross section of proposed excavation and fill areas showing:
 - a. Elevation of existing ground.
 - b. Peak elevation of proposed fill.
 - c. Lowest point of proposed excavation.
 - d. Typical side slopes.
- (6) Applicable St. Johns River Water Management District, state department of environmental regulation or other applicable permits or completed permit applications. If the operation is exempt from permits, a letter of exemption must be provided.
- (7) Applicable county drainage permits. If the operation will be dewatering or otherwise discharging water into a county-maintained drainage facility, a letter of exemption must be provided.
- (8) Identification of the materials to be excavated and the estimated yearly production of ore, product and byproduct.
- (9) A description and depiction of the location of all proposed storage and haul routes, including but not limited to permanent roads, bridges, railroad tracks or other permanent transportation facilities.

- (10) A description of any chemical processes proposed to be used, and the nature, type and expected efficiency rate of any pollution control devices used in the operation.
- (11) A description of the use of water and the water recirculation system, including identification of the estimated quantities of water to be extracted, impounded or diverted, dewatering pumpage and the locations thereof, any aquifer recharge systems and the locations thereof, and a description of well construction and any dam or diversion structures. This shall include engineering estimates of the monthly water balance for the projected highest, lowest and average rainfall sequence for the operation life of the excavation, accounting for all sources of water input to the water recirculation facilities and ore processing steps and all water outputs and losses from the system. This shall also include an explanation of computational methods and assumptions.
- (12) A description of solid and liquid waste to be created by the excavation operation, including quantities, locations of generation and disposal, disposal methods, time schedules for disposal, and the physical, chemical and radiological properties of the waste.
- (13) Plans to protect water bodies from sedimentation and water quality degradation. Water bodies associated with the recirculation water system are exempt from this requirement.
- (14) A description of the location of equipment storage, maintenance and fueling facilities, if any.
- (15) Disclosure of land alteration activity that may involve the use of explosive materials and a depiction of where such activities may take place.

(e) *Reclamation plan.* The reclamation plan submitted with the application for land excavations shall include the following information. With the exception of subsections (e)(2), (8), (9) and (12) of this section, reclamation plans shall also be prepared and certified in favor of the county by a professional land surveyor or professional engineer according to the site size thresholds established in subsection (c) of this section.

- (1) The plan shall include a site plan with a north arrow, date, and scale of one inch equals 20 feet, one inch equals 50 feet, one inch equals 100 feet, or one inch equals 200 feet.
- (2) The plan shall describe the manner in which restructuring, reshaping and revegetation will be accomplished, including type, size and density of vegetation to be used.

- (3) The plan shall show all areas to be reclaimed by depicting or describing what manmade and natural features will exist when the reclamation plan is completed.
- (4) The plan shall depict the area to become a lake for all lake creations.
- (5) The plan shall delineate the configuration and area of the littoral zone for all lake creations.
- (6) The plan shall depict a typical cross section, with contours generally oriented lengthwise through the alteration area, showing areas to be filled, backfilled, reconstructed or reshaped. High and mean water elevations shall also be shown when a lake creation is proposed.
- (7) When a fence, wall or vegetative buffer is proposed or required, its location shall be depicted within the reclamation plan.
- (8) The plan shall document how the proposed reclamation of the property relates to existing and planned land uses in the area and how it complies with the county comprehensive plan.
- (9) Where a conflict exists between the reclamation plan and the county comprehensive plan, the reclamation plan shall state how and when these conflicts will be reconciled.
- (10) Alternative reclamation plans may be submitted at any time to reflect changing land use patterns and character.
- (11) The plan shall include a description of how water quality and wildlife habitat will be maintained in the future.
- (12) The plan shall include a description of the recreational amenities created by the reclamation activity, if any.

(f) *Relationship to other permit applications.* When the proposed alterations are also the subject of a development of regional impact application pursuant to F.S. ch. 380, or where a St. Johns River Water Management permit is required, the alteration plan application need not duplicate the information presented in the DRI or St. Johns River Water Management District permit application, which when simultaneously submitted to the county for review may be appropriately cross referenced in the alteration plan application.

(g) *Fee.* The required fee shall be established by resolution of the board.

(h) *Certification of compliance.* Within 60 days of the completion of the land alteration activities permitted under this division, the applicant shall provide the county a

certified statement that the alteration activities outlined within the application have been completed according to the conditions of the permit. The certification shall be provided by a professional land surveyor or professional engineer.

(i) *Inspections.* Inspections of a land alteration site may be conducted by the director to determine whether the land alteration permit conditions are being met. (Code 1979, § 14-112.4)

Sec. 62-4424. Review criteria.

(a) If the director determines that the proposed land alteration activity does not meet the requirements of this section or the mandatory requirements of sections 62-4396, 62-4397, 62-4398 and 62-4399, or the proposed activity is deemed incompatible with existing or planned land uses, then the land alteration permit shall be denied.

(b) At a minimum, the following factors shall be considered during the review of a land alteration permit application. However, the criteria outlined within subsection (b)(1) of this section shall only be considered within the land alteration permit review process when a project does not require a conditional use permit.

- (1) The compatibility of the proposed land alteration with existing and planned land uses as stipulated in the county comprehensive plan. In making a determination of compatibility, the director shall consider the mandatory requirements of sections 62-4396, 62-4397, 62-4398 and 62-4399, as well as the following items:
 - a. The nature of existing and planned land uses.
 - b. The nature of surrounding land uses.
 - c. The size of the proposed land alteration.
 - d. The effect of increased truck traffic generation on existing and planned land uses.
 - e. The proximity to residences, schools, hospitals and recreation areas, such as parks and playgrounds.
 - f. Cumulative impacts of all permitted land alterations within one mile of the proposed land alteration.
- (2) Negative impacts to resources of particular concern. Alteration resulting in negative impacts to resources of particular concern shall be cause for denial of the land alteration permit.

- (3) Application for and receipt of applicable federal, state or other local government permits. If federal, state or other permits have not been received, the land alteration permit shall be conditional upon receipt of applicable permits.

(Code 1979, § 14-112.5)

Sec. 62-4425. Suspension.

(a) Except as provided in subsection (b) of this section, if a violation of this division is found, the director shall notify the permit holder in writing and give him a reasonable time to correct the violation. If the violation is not corrected by the time specified for correction by the director, the permit may be suspended by the director, and the notice shall so state.

(b) If the director has reason to believe a violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the director shall make a reasonable effort to notify the permit holder, and may immediately suspend the permit.

(c) The permit holder may appeal the suspension of a permit to the board of county commissioners.

(Code 1979, § 14-112.11)

Sec. 62-4426. Appeals.

Appeals to the director's decisions under this division may be made to the board of county commissioners.

(Code 1979, § 14-112.6)