

## Exhibit A

Division 8 of Article 4 in the Land Development Regulations will be amended as followed:

### DIVISION 8. – EXCAVATING, ~~ON~~ FILLING, AND MINING

#### Sec. 4.341. ~~Purpose and intent~~ In general.

4.341.A. Purpose and intent. It is the intent of the Board of County Commissioners to provide for the health, safety, and welfare of the residents of Martin County by requiring that ~~excavating~~, filling, and mining activities are not harmful to the natural resources of the county and are consistent with the goals, objectives and policies of the Martin County Comprehensive Growth Management Plan (Comprehensive Plan) by:

1.4.341.A. Ensuring that ~~excavating~~, filling, and mining activities do not adversely impact the health, safety, and welfare of the citizens of Martin County.

2.4.341.B. Preventing the immediate and long-term negative environmental and economic impacts of undesirable land development practices.

3.4.341.C. Requiring the use of environmentally sound ~~excavating~~, filling, and mining practices.

4.4.341.D. Protecting existing and future use of surrounding properties from the negative effects of ~~excavating~~, filling, and mining.

5.4.341.E. Ensuring that mined lakes do not become public safety hazards or sources of water resource degradation or pollution.

6.4.341.F. Preventing public nuisances, safety hazards, and damage to private and public lands.

7.4.341.G. Maintaining environmental integrity and the water quality of groundwater and surface waters.

8.4.341.H. Preserving the county's right to deny any application for ~~excavating~~, filling or mining which does not comply with the provisions of this division, the Comprehensive Plan, the LDR, or the Code, or which is harmful to the natural resources of the county, interferes with the legal rights of others, is inconsistent with the overall objectives of the county, or is otherwise contrary to the public interest.

9.4.341.I. Requiring that the proposed activity is compatible with any existing county stormwater plan for the area, and consistent with existing drainage patterns.

10.4.341.J. Requiring that excavating, filling, and mining shall not create a public nuisance, such as excessive noise or dust and airborne pollution.

11.4.341.K. Requiring that no wetlands will be impacted and that native upland habitat and listed wildlife species will be protected.

12.4.341.L. ~~Ensuring that the rivers and estuaries of Martin County will be improved and not be adversely impacted by changes to the rate, volume, timing and quality of stormwater runoff.~~

4.341.B. Applicability. Any person proposing to excavate or fill any real property in unincorporated Martin County shall first obtain a Martin County Excavation and Fill Permit in accordance with the requirements of this division unless such activity:

1. Results in excavating, filling, or hauling of less than 100 cubic yards over two-years;

2. Is in conjunction with the issuance or approval of a:

a. Building Permit;

b. Final Site Plan; or

c. Mining Operation Development.

3. Is determined to be in conjunction with agricultural activity on agricultural land, provided historical drainage patterns to or from surrounding properties are not altered; or

4. Is in conjunction with the restoration of any previously permitted and constructed development to the limits of any previous permit authorization or condition of approval.

4.341.C. Glossary. For purposes of this division, the following words, terms and phrases shall have the meanings as set forth below.

Agricultural activity is: the raising of crops, inclusive of organic farming; the raising of animals, inclusive of aquaculture; or the production of animal products such as eggs or dairy products, inclusive of a retail or wholesale nursery, on an agricultural or commercial basis.

Agricultural land is land outside the Primary and Secondary Urban Service District, has been designated as Agricultural or Agricultural Ranchette on the Future Land Use Map, and which has received an agricultural classification from the Martin County Property Appraiser pursuant to Section 193.461, Florida Statutes.

Excavating is the work involving the removal of soil, rock, or other natural materials from the natural surface to form an open face, hole, or cavity using tools or machinery.

Filling is the work of adding soil, rock, or other natural materials to the natural surface to modify the existing topography of the site using tools or machinery.

Hauling is the removal of excavated soil, rock, or other natural materials from a site.

Mine is an area of land upon which mining or mining operations have been conducted, are being conducted, or proposed.

Mining or Mining operation is the process of extracting clay, peat, gravel, sand, heavy minerals, limestone, phosphate, or any other solid substance of commercial value found in natural deposits for the sole purpose of receiving profit.

Reclaiming is the reasonable rehabilitation of land where mining operations have occurred.

Restoring is the recontouring and revegetation of lands in a manner that will maintain or improve the water quality and function of the biological systems present at the site prior to mining or mining operations.

Wet season water table is the water control elevation and is the highest water table described in either the "Detailed Soil Map Units" section or table 17, "Water Features," of the USDA Soil Survey of Martin County Area, Florida. A different water control elevation may be used if competent evidence prepared by a Professional Engineer, licensed in the State of Florida, demonstrates, to the satisfaction of the County Engineer, that the water table is different from that shown in the soil survey.

#### **Sec. 4.342. Applicability Fees.**

4.342.A Permit Fee. The permit fee for an Excavation and Fill Permit shall be established by the Board of County Commissioners from time to time by resolution.

4.342.B. Renewal Fee. The renewal fee for an Excavation and Fill Permit shall be established by the Board of County Commissioners from time to time by resolution.

4.342.C. Hauling Fee. The fee for hauling material from a site shall be established by the Board of County Commissioners from time to time by resolution.

~~Any person proposing to excavate, fill or mine any real property in unincorporated Martin County shall first obtain a Martin County excavation and filling permit in accordance with the requirements of this division unless such activity is specifically exempted.~~

~~4.342.A. Excavation or filling of less than 100 cubic yards. Any excavation or filling of less than 100 cubic yards shall not be required to file a separate application for an excavation and filling permit. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and county engineering standards and good engineering practices is required for any excavation and filling in conjunction with an exempted application for proposed development approval. However, such activities are exempted from any requirement for littoral, upland and transitional zone planting.~~

~~4.342.B. Excavation and/or filling of 100 cubic yards up to, but not including, 10,000 cubic yards.~~

1. ~~Any excavation or filling of 100 cubic yards up to, but not including, 10,000 cubic yards in conjunction with an application for a building permit or other development order shall not be required to file a separate application for an excavation and filling permit, or a land clearing permit. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and county engineering standards and good engineering practices is required for any excavation and filling in conjunction with an application for a building permit or proposed development order.~~
  2. ~~Any excavation or filling of 100 cubic yards up to, but not including, 10,000 cubic yards that is not in conjunction with an application for a building permit or other development order shall be required to file an application for an excavation and filling permit. Upon determination of compliance with all requirements of the Comprehensive Plan and the LDR, the excavation and fill permit shall constitute a final site plan. A land clearing permit may be issued with the excavation and filling permit. However no land clearing permit shall be issued for the clearing of native vegetation on a residential subdivision lot prior to the issuance of a building permit except; 1) that which is necessary for roads, utilities installation and drainage improvements; or 2) within a zero lot line development with lot sizes of 6,500 square feet or less; or 3) when it is necessary to retain excess fill on site in designated areas (i.e., building pads).~~
- 4.342.C. ~~Excavation and/or filling of more than 10,000 cubic yards where no fill is proposed to be hauled on or off site.~~
1. ~~Any excavation and/or filling in excess of 10,000 cubic yards in conjunction with an application for a standard, minor or major development order, as defined in article 10 of the LDR, where no fill is hauled onto or off the site, shall not require a separate application for an excavation and filling permit or a land clearing permit.~~
  2. ~~Any excavation and or filling in excess of 10,000 cubic yards that is not in conjunction with an application for a standard, minor or major development order, as defined in article 10 of the LDR, where no fill is hauled onto or off the site, shall file an application, for an excavation and fill permit. Upon determination of compliance with all requirements of the Comprehensive Plan and the LDR, the excavation and fill permit shall constitute a final site plan. However no land clearing permit shall be issued for the clearing of native vegetation on a residential subdivision lot prior to the issuance of a building permit except: 1) that which is necessary for roads, utilities installation and drainage improvements; or 2) within a zero lot line development with lot sizes of 6,500 square feet or less; or 3) when it is necessary to retain excess fill on site in designated areas (i.e., building pads).~~
  3. ~~The Public Services Director may allow more than 10,000 cubic yards of fill to be hauled on site where necessary, as part of a building permit application, to set the finished floor of a single family residence above a drainfield.~~
- 4.342.D. ~~Excavation and/or filling of 10,000 cubic yards or more, where fill is hauled onto or off site, and any mining. Any excavation or filling of 10,000 cubic yards or more, where fill is proposed to be hauled onto or off the site, and any mining shall be subject to the major development review procedures of article 10 of the LDR. No separate excavation and filling or land clearing permits will be necessary.~~
- 4.342.E. ~~On site maintenance. Maintenance of any previously permitted and constructed development, including, but not limited to, public utilities, to the limits of any previous permit or condition of approval shall not be required to file a separate application for an excavation and filling permit. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and County engineering standards and good engineering practices is required. However, such activities are exempted from any requirement for littoral, upland and transitional zone planting.~~
- 4.342.F. ~~Bona fide agricultural activities. Certain excavation and filling activities that are in association with bona fide agricultural activities shall not be required to file a separate application for an excavation and filling permit providing there is no hauling of fill from the site. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and county engineering standards and good engineering practices is required.~~
1. ~~For the purposes of this division bona fide agriculture means any plot of land outside the primary and secondary urban service district where the principal use is the raising of crops, inclusive of organic farming, or raising of animals, inclusive of aquaculture, or production of animal products such as eggs or~~

dairy products, inclusive of a retail or wholesale nursery on an agricultural or commercial basis. Agricultural uses shall comply with the following supplementary use standards:

a. ~~Designation standards.~~

- ~~(1) — *Continuous use.* The use has been continuous; and~~
- ~~(2) — *Farming procedures.* Farming procedures have been demonstrated by past action or documented plans to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, but not limited to, fertilizing, liming, tilling, mowing, reforestation and other accepted agricultural practices; and~~
- ~~(3) — *Agricultural classification.*
  - ~~(a) — The property has received a qualified agricultural classification pursuant to F.S. § 193.461; and~~
  - ~~(b) — The Comprehensive Growth Management Plan future land use designation is agricultural, with agricultural ranchette specifically excluded.~~~~

b. ~~Productivity standards.~~ The productivity or proposed net return or production of the farm operation based on net or yield for the type of agricultural production on the site is comparable to the average net or yield for the type of agriculture in Florida based on the following criteria:

- ~~(1) — *Amount of land.* The amount of land under cultivation or in agricultural use (including canal or drainage features) is greater than 60 percent of the total parcel.~~
- ~~(2) — *Investment.* There has been ongoing investment in and maintenance of the *agricultural land use or documented plans for investment in agricultural use of the land.*~~
- ~~(3) — *Employees.* *There are typical contract laborers, seasonal or full-time employees for the agricultural operation.*~~
- ~~(4) — *No nonagricultural development.* *There is no nonagricultural development (except accessory agricultural uses) on-site.*~~
- ~~(5) — *Duration.* *The intent is that the land will be used for agricultural production for more than five years.*~~

c. ~~Additional guidelines.~~

- ~~(1) — *Size.* *The size of the land area, as it relates to a specific agricultural use is appropriate.*~~
- ~~(2) — *Lease.* *Whether such land is under lease, and if so, the effective length, terms and conditions of the lease.*~~
- ~~(3) — *Intent.* *The intent of the landowner not to sell or convert the land for nonagricultural purposes.*~~
- ~~(4) — *Productivity.* The productivity of land in its present use.~~

2. ~~These on-site activities for bona fide agriculture do not require notice to Martin County.~~

- a. ~~Routine resetting or replacement of tree crops (citrus) or other crops to replace dead or diseased plants.~~
- b. ~~Installation, repair or replacement of irrigation piping systems.~~
- c. ~~Filling in of holes caused by domestic animals.~~
- d. ~~Maintenance of drainage systems.~~
- e. ~~Maintenance of cattle watering ponds.~~
- f. ~~Construction of ponds with a surface area less than or equal to one-half acre and a maximum of eight feet below the wet season water table. Such activity is also exempt from any requirement for littoral, upland and transitional zone planting.~~

- g. ~~Recontouring of raised beds, water furrows, and swales.~~
- 3. ~~The following bona fide agricultural activities shall require a notice to Martin County, in a form approved by the county.~~
  - a. ~~New ditches.~~
  - b. ~~Any activities requiring a South Florida Water Management District permit.~~
- 4. ~~The notice must be received 21 days prior to the commencement of any work. Prior to the expiration of the 21 days, Martin County may request additional information about the project. No work may commence until Martin County has received a copy of an issued South Florida Water Management District permit for the proposed work.~~

~~4.342.G. Agricultural ranchette/rural.~~

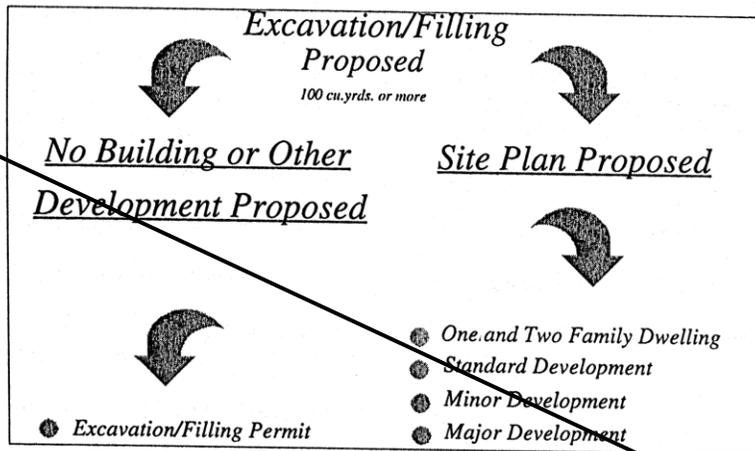
- 1. ~~Excavations for agricultural activities, involving the care or raising of animals, on parcels with a future land use designation of agricultural ranchette or rural may be exempt from the littoral planting requirements provided all of the following criteria are met:~~
  - a. ~~An excavation and fill permit is obtained and all other requirements of the Comprehensive Growth Management Plan and the Martin County Land Development Regulations are met.~~
  - b. ~~Construction of ponds is limited to a surface area less than or equal to one half acre and a maximum of eight feet below the wet season water table.~~

~~4.342.H. Performance criteria for wetland areas.~~

- 1. ~~Existing functional structures within wetlands or wetland buffers may be maintained provided the maintenance is performed in the least intrusive manner possible, shall not result in additional damage to the wetland or wetland buffer zone, and:~~
  - a. ~~Any clearing, direct removal of vegetation, dredging, or filling within a wetland or the buffer zone surrounding a wetland shall be done in compliance with a preserve area management plan approved by the Growth Management Department.~~
  - b. ~~Ditches and other manmade excavations that are delineated as wetlands and are navigable and connected to waters of the State may be maintained to the width, depth, and side slopes that existed on April 1, 1982, only if there is evidence that the maintenance is required to restore historic flood protection.~~
  - c. ~~Ditches or other excavations that existed on April 1, 1982, in natural wetlands may be maintained to the width, depth, and side slopes that existed on April 1, 1982, only if there is evidence that the maintenance is required to restore historic flood protection.~~
  - d. ~~All materials that are cleared from the wetland or buffer zone shall be removed from the wetland or buffer zone and not piled or stored within the wetland, buffer zone or a designated upland preserve areas.~~
- 2. ~~Where required to restore the hydroperiod of wetlands, clearing of native vegetation, dredging or filling may be allowed for new structures in the wetland or wetland buffer subject to the following conditions:~~
  - a. ~~An alternatives analysis must demonstrate that no other feasible alternative exists, and~~
  - b. ~~The project improves the functions and values of the wetland, and~~
  - c. ~~The project serves a necessary public purpose and is clearly in the public interest for stormwater management.~~

**Sec. 4.343. Permit Application requirements.**

An application for an Excavation and Fill Permit shall be submitted on a form approved by the County Administrator and made available to the public. It shall be signed by the owner or other person having power of attorney from the owner to make the application and shall be accompanied by the appropriate fee. Such application shall include the applicant's full name, address, mailing address if different, electronic mail address, telephone number, and:



Excavation/Filling Proposed

Graph 1: The Excavation, Filling and Mining Permitting Process

4.343.A. *General requirements.* The following information shall be required for any application for excavating and/or filling:

1. ~~\_\_\_\_\_~~ A *site plan*, including a topographic survey, extending, where possible, ~~200~~50 feet beyond the property boundary or to a discernable drainage basin boundary as specified in F.A.C. ch. 61G-17 shall be that is signed and sealed by a Professional Engineer and/or Professional Surveyor and Mapper licensed in the State of Florida registered engineer and/or land surveyor, as appropriate, showing the area of the proposed excavation or fill. The site plan shall also include, but not be limited to:
  - ~~2-~~ 1. The location and dimensions of any existing the stormwater or and groundwater storage areas;
  - ~~3-~~ 2. The location and extent of the proposed excavation or proposed placement of fill including dimensions to all property lines;
  - ~~4-~~ 3. The location of Aall wells and septic systems on the site or within 100 feet of the perimeter of the proposed excavation and / or placement of fill shall be located and shown on the site plan;
  - ~~5-~~ 4. The location of the permit display;
  5. The location of wetlands within 200 feet of a proposed excavation;
  6. The location, size, color, and wording of signs warning of the potential hazard created by the excavation, if applicable;
  - ~~6-~~ 7. Cross sections, signed and sealed by a Florida registered engineer and/or land surveyor, as appropriate, showing:
    - a. Elevation of existing ground;
    - b. Peak elevation of proposed fill;
    - c. Lowest point of proposed excavation;
    - d. Typical side slopes, ~~and~~
    - e. The location of littoral, upland and transitional zones;
    - f. Proposed volume of excavated, filled, and hauled material;
  - ~~7-~~ ~~\_\_\_\_\_~~ A littoral, upland and transitional buffer zones plan, including a planting plan, and a lake management plan prepared by a qualified environmental consultant with experience in restoration ecology.
  8. The location of A-the required wind and water erosion and sediment control plan showing: methods including installation details;
    - a. ~~Where wind driven erosion is expected to occur; and~~

- ~~b. Where water driven erosion is expected to occur; and~~
- ~~c. Erosion control methods including location and installation detail.~~
- 9. The excavation and filling, including any limited hauling when authorized by this division, are specified and their impacts adequately addressed on the authorized site plan. The location of equipment refueling and maintenance areas. The location of proposed petroleum and waste oil storage tanks shall comply with all applicable county, State and Federal laws, rules and regulations;
- 10. ~~An environmental assessment shall at a minimum include a 1975, 1986 and current aerial photographs, a soil survey, a tabulation of on-site acreage and identification of all wetlands on- and off-site within 200 feet of the proposed excavation. Certified wetland delineations are not required for excavations under 1,000 cubic yards unless requested by the Engineering Department. The hours of operation; and~~
- 11. The location of required littoral and upland transition zones to be planted, including the total linear footage of the lake.

Sites that contain upland or wetland habitat shall include a detailed environmental assessment and a preserve area management plan (PAMP) conducted by a qualified environmental professional. See divisions 1 and 2 of this article for more information.

4.343.B. A lake area management plan (LAMP) for the required planted littoral and upland transition zones, which is prepared in accordance with Division 9 of this Article.

4.343.C. A planting plan for required lake littoral and upland transition zone plantings in accordance with Division 9 of this Article.

~~11.4.343.D. A dewatering plan which that specifies the methods to be utilized in dewatering the excavation, shall be required when the duration of the proposed dewatering exceeds ten (10) days. the amounts specified in the South Florida Water Management (SFWMD) District no notice general permit requirements. The dewatering effluent shall not be discharged off-site unless approved by the County Engineer. The plan shall indicate the size and location of on-site holding ponds and include calculations used in determining the size of holding ponds, if applicable. The A soils report shall be provided, which documents the ability of the subsurface soils of the holding ponds to percolate and that details the zone of influence for the given pumping rate over the anticipated duration of the activity through a groundwater draw-down analysis. the effluent directed to the holding ponds. Should the dewatering operation exceed the SFWMD no notice general permit requirements a groundwater draw-down analysis shall be included, The soils report shall be prepared by a Professional geotechnical eEngineer or professional hydrogeologist licensed in the State of Florida that is qualified to provide the required information, and which details the zone of influence for the given pumping rate over the anticipated duration of the activity. The analysis shall demonstrate that the proposed operation will not have an adverse impact on groundwater quality, wetlands, or adjacent wells. Dewatering may be allowed on a 24-hour basis only if all applicable Federal, State, and local permits, including SFWMD permits, have been obtained. If dewatering is allowed, pumps may be required to be located or encased in an insulated structure in order to comply with the Martin County Noise Control Ordinance, article 10 of chapter 67 of the Code of Ordinances.~~

~~12. Include on the site plan a statement that addresses hours of operation. All activities within the site, including, but not limited to, digging, loading trucks, excavating, dredging, rock crushing, and hauling of fill from the site shall be conducted between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturday unless otherwise determined by the BCC.~~

13. The plat, if applicable, the PAMP, and the restrictive covenant and property owners association documents shall contain the following statement:

"It shall be unlawful to alter the approved slopes, contours, or cross sections or to chemically mechanically, or manually remove, damage, or destroy any plants in the littoral or upland transition zone buffer areas of constructed lakes except upon the written approval of the Growth Management Director, as applicable. It is the responsibility of the owner or property owners association, its successors or assigns to maintain the required survivorship and coverage of the reclaimed upland and planted littoral and upland transition areas and to ensure ongoing removal of prohibited and invasive non-native plant species from these areas."

14. ~~For major or other conditional development order applications when a plat is not required and there are littoral and transition zones, the following language shall be specifically provided on the final site plan:~~

~~"It shall be unlawful to alter the approved slopes, contours, or cross sections or to chemically, mechanically, or manually remove, damage, or destroy any plants in the littoral or upland transition zone buffer areas of constructed lakes except upon the written approval of the Growth Management Director, as applicable. It is the responsibility of the owner or property owners association, its successors or assigns to maintain the required survivorship and coverage of the reclaimed upland and planted littoral and upland transition areas and to ensure ongoing removal of prohibited and invasive non-native plant species from these areas."~~

~~4.343.B. Excavation and/or filling of quantities of 1,000 cubic yards up to, but not including, 10,000 total cubic yards. In addition to the general application requirements specified above, the following information shall be included in any application for excavation and/or filling of 1,000 cubic yards up to, but not including, 10,000 cubic yards:~~

- ~~1. The area within 100 feet of the proposed excavation or fill, and the location of wetlands within 200 feet of a proposed excavation shall be shown on the topographic survey.~~
- ~~2. Project specific erosion prevention, control, and restoration instructions detailing where and how erosion will occur and be prevented or controlled, to prevent impacts to surrounding properties.~~
- ~~3. Equipment refueling and maintenance areas shall be determined and their location shown on the plan. Petroleum and waste oil storage tanks shall comply with all applicable county, State and Federal laws, rules and regulations.~~

~~4.343.C. Excavation and/or filling of 10,000 cubic yards or more, where fill is hauled onto or off site, and any mining. In addition to the application information required above in subsections A, B, and C, the following requirements shall be included in an application for a development approval involving mining:~~

- ~~1. The minimum project site for mining activities shall be five acres unless otherwise approved by the Board of County Commissioners.~~
- ~~2. Hauling of fill on or off of the permitted site may be authorized by the PSD director.~~
- ~~3. A proposed hauling route shall be approved by the PSD director.~~
- ~~4. If private roads or easements are to be used, the written, signed and notarized permission from the property owners.~~
- ~~5. No load limits shall be exceeded along the haul route.~~
- ~~6. Mats, culverts, ramps or paved drives shall be provided at entrances and exits of haul sites to protect pavement edges, shoulders, curbs and sidewalks, and other improvements from damage.~~
- ~~7. A hauling fee as established by resolution of the BCC.~~
- ~~8. Traffic control is the responsibility of the operator. Traffic control shall be provided by the operator when deemed necessary by the county.~~
- ~~9. A haul route map depicting, at a minimum, the primary haul routes within two miles of the mine or mine area for operations serving general or County wide projects.~~
- ~~10. Documentation that no mining activities shall occur within those upland habitats which are considered endangered, unique or rare or in designated preserve and native upland transitional buffer areas. Such habitats are sand pine/scrub oak, hardwood hammock, tropical hammock, coastal hammock and cabbage palm/oak hammocks. Refer to division 2 of this article, the Uplands LDR.~~

#### **Sec. 4.344. Submittal, review and permitting procedures Permit application review.**

An application for an ~~e~~Excavation and ~~f~~Filling ~~p~~Permit shall be submitted and processed as follows:

4.344.A. Application Completeness. See section 10.2, article 10, entitled "Application submittal." Within ten business days of the receipt of the permit application and fee, the County Engineer shall determine whether the

application is complete. The parties may mutually agree in writing to extend the ten business day determination period. If an application is deemed incomplete, the County Engineer shall notify the applicant by electronic mail and provide a written explanation of the deficiencies.

~~4.344.B. *Completeness determination.* See section 10.2.C, article 10, entitled "Application completeness determination." The PSD director shall make the determination of completeness.~~

~~4.344.CB. *Review and analysis.* Complete applications shall be reviewed by staff of the Engineering Department who shall prepare a report of the compliance findings within 30 days of the date that the application was determined to be complete. A proposed excavation and/or filling activity shall be eligible for an excavation and filling permit when the PSD director has determined and documented that the proposed activity is in compliance with all applicable provisions of the Comprehensive Plan, the LDR and the Code. *Application Review.* Within 30 days of the date the permit application is deemed complete, the County Engineer shall approve, approve with conditions, or deny the application. The parties may mutually agree in writing to extend the 30 day review period. No later than the end of the application review period, the County Engineer shall notify the applicant by electronic mail whether the the application is approved, approved with conditions, or denied. If the application is denied, the County Engineer shall specify in writing the basis of the denial, including the specific Code provisions on which the denial is based. The applicant may cure the deficiencies identified by the County Engineer and resubmit the application within 30 days after the notice of denial is sent. If the applicant fails to meet the resubmittal deadline, including any approved extension period, the application shall be terminated. The County Engineer shall approve or deny the revised application within 30 days after the date of the resubmittal of the application.~~

~~4.344.D. *Display of the permit.* The permittee shall maintain a copy of the excavation and filling permit on the site during the entire permit period, fully visible and at the location shown on the approved site plan.~~

~~4.344.E. *Permit expiration and extension.*~~

- ~~1. All excavation and filling permits shall automatically expire one year from the date of issuance except when otherwise limited to a shorter time period by another, more stringent Comprehensive Plan, LDR or Code requirement or development order condition of approval or except when renewed as provided herein.~~
- ~~2. The Board of County Commissioners shall approve a reasonable timetable of development for the completion of all mining activities. No mining permit including restoration shall be issued for a period greater than three years.~~
- ~~3. A request for an extension of a major or other conditional development timetable of development may be made pursuant to section 10.14 of article 10.~~

~~4.344.F. *Renewal.*~~

- ~~1. A request for renewal of an excavating and/or fill permit may be made for a maximum cumulative renewal period of three years beyond the original date of issuance. Each renewal shall not exceed a period of one year and shall require the updating of and re-review of the application, to include, but not to be limited to, the excavation and/or filling activity remaining to be completed, and the payment of a fee. The renewal shall subject the remaining excavation and/or filling activity to the regulations in effect at the time of the renewal.~~
- ~~2. A permit may be renewed by submitting to the PSD director a progress report, prepared by a Florida registered engineer, demonstrating that the permit criteria have been met and that the project is in compliance with all other applicable permits. The progress report shall include drawings of all work done to the date of the renewal application.~~

~~4.344.G. *As-built excavation and filling site plan.* An excavation and filling record drawing signed and sealed by a Florida registered engineer and/or land surveyor, as appropriate, shall be provided to the PSD director at the completion of the permitted activity. The record drawing shall contain sufficient information to document that all requirements of the permit have been met and shall include cross sections of the excavation or fill and a drawing which locates the extent of the excavation or fill and the distance to all property lines.~~

**Sec. 4.345. ~~Inspection of the site~~ Permit issuance.**

- 4.345.A. *Hauling fee.* Prior to the issuance of an Excavation and Fill Permit, the applicant shall pay the appropriate hauling fee, unless the material being hauled is associated with a Mining Operation, in which case, the hauling fee will be deferred to quarterly payments in a manner approved by the County Engineer.
- 3.345.B. *Display of Permit.* The applicant shall maintain a fully visible copy of the Excavation and Fill Permit at the location shown on the approved site plan during the entire permit period.
- 4.345.C. *Inspections.* The county shall be allowed reasonable access to inspect the property that is the site of the excavation and filling permit for inspection during all times that the entire permit period is valid.
- 4.345.D. *Permit expiration and extension.* Excavation and filling permits shall automatically expire one year from the date of issuance, except when renewed as provided herein.
- 4.345.E. *Renewal.* An Excavation and Fill Permit may be renewed for one year; however, the maximum cumulative renewal period is three years from the original date of issuance. Each renewal shall require a written request from the applicant accompanied by the Excavation and Fill Permit renewal fee.
- 4.345.F. *Suspension.* Failure to comply with the conditions of the Excavation and Fill Permit will result in the suspension of development activity pursuant to Section 10.14 of Article 10 of the LDR.

**Sec. 4.346. ~~Suspension of an excavation and filling p~~ Permit certification and final acceptance.**

~~Suspension of the excavation and filling permit shall be governed by the provisions of section 10.8 of article 10 of the LDR. However, the PSD director shall take any action required of the PDS director.~~

- 4.346.A. *Certification.* Within 30 days of the completion of the excavating and/or filling associated with an Excavation and Fill Permit, a Professional Engineer, or a Professional Surveyor and Mapper licensed in the State of Florida shall certify that the excavating and/or filling was completed. The following shall be submitted to the County Engineer to request a final acceptance inspection:
  - 1. *Final certification report* prepared by a Professional Engineer, licensed in the State of Florida, shall demonstrate that the permit criteria have been met and the site is in compliance with the Excavation and Fill Permit. The following certification statement must also appear on the signed and sealed certification report:  

I hereby notify Martin County of the completion of all excavating and filling on the site referenced in Excavation and Fill Permit Number \_\_\_\_\_ and I certify that they were completed in conformance with the plans and specifications permitted by the county including, but not limited to: all area and quantities of all excavation and fill material; excavation setbacks, depths, and side slopes; vegetated littoral and upland buffer zones; and natural resources protection.
  - 2. *Density test reports* of filled area, if applicable, prepared by a Professional Engineer licensed in the State of Florida.
  - 3. *Record Drawings* prepared by a Professional Engineer or an "as-built" survey signed and sealed by a Professional Surveyor and Mapper licensed in the state of Florida. The record drawing shall contain sufficient information to document that all requirements of the permit have been met and shall include cross sections of the excavated and/or filled area or include a bathymetric survey to document the lake depth and side slope requirements were not exceeded. The drawing shall also locate the extent of the excavation or fill and the distance to all property lines.
  - 4. *Special Conditions* of the Excavation and Fill Permit shall be identified and certified complete as appropriate.
- 4.347.B. *Final Acceptance.* Upon receipt of the documents required in Section 4.346.A, the County Engineer will schedule a final acceptance inspection with the engineer of record. In order to receive final acceptance, the County Engineer must approve the engineer of record's certification and verify that the excavating and filling was performed in substantial conformance with the plans and specifications of the Excavation and Fill Permit.

## **Sec. 4.347. Excavation and Fill standards.**

All excavation and fill must meet minimum standards. All activities within the site, including, but not limited to, digging, loading trucks, excavating, dredging, rock crushing, and hauling of material from the site shall only be conducted between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturday unless otherwise authorized by the Board of County Commissioners.

### 4.347.A. General Excavation standards.

1. Minimum distance from rights-of-way. No excavation that creates an open body of water shall be allowed within 50 feet of any road right-of-way or easement as measured from the water control elevation of the open body of water unless approved by the County Engineer. The County Engineer may require, at applicant's expense, a guardrail or other suitable barrier to be placed between the right-of-way and excavation when consistent with County engineering standards and good engineering practice.
2. Minimum distance from property lines. No excavation that creates an open body of water shall be allowed within 20 feet of any property line as measured from the water control elevation of the open body of water unless approved by the County Engineer.
3. Minimum distance from wetlands. The excavation that creates an open body of water near wetlands shall be designed and operated such that the natural hydroperiod of wetlands shall not be altered, and wetlands shall be protected from siltation and eutrophication. See Divisions 1 and 2 of this Article for more information.
4. Minimum distance from wells and septic systems. No excavation that creates an open body of water shall be allowed within 75 feet of an existing well or septic system as measured from the water control elevation of the open body of water unless a 75 foot setback cannot be achieved on the lot, in which case, the maximum attainable setback must be used.
5. Minimum depth. The minimum depth of a swale shall be eight (8) inches, unless approved by the County Engineer.
6. Maximum depth. The depth of an excavated body of water shall not exceed 20 feet as measured from the water control elevation to the bottom. For excavation proposed deeper than 15 feet below the water control elevation, the applicant shall provide soil and geological assessments that fully document the subsurface soils and groundwater conditions, fully document the proximity to the subsurface aquifers and confining layers, and address the potential impacts upon the water quality of the aquifers and surrounding wells. All such assessments shall be prepared by a Professional Engineer or Professional Geologist licensed in the State of Florida qualified to provide the required information and subject to the review and approval of the County Engineer.
7. Maximum side slopes.
  - a. Excavation that creates an open body of water shall not exceed one foot vertical to four feet horizontal from the top of bank to a depth of three feet below the control elevation. Below the depth of three feet from the water control elevation, the excavation shall not exceed one foot vertical to two feet horizontal.
  - b. Excavation that does not create an open body of water shall not exceed one foot vertical to four feet horizontal and shall be conducted via wide vegetated areas which meander where possible to maximize nutrient removal.
8. Dewatering. The maximum depth of dewatering shall be 20 feet as measured from the control elevation. A dewatering plan in accordance with Section 4.343.D shall be approved by the County Engineer in conjunction with the applicable development approval.

### 4.347.B. Fill Standards

- 4.347-A 1. Fill quality. Fill material for any loadbearing purpose shall be free of roots, boards, organic matter, and other debris ~~which that~~ may adversely affect the loadbearing capacity. In order to be used for purposes other than loadbearing, fill containing muck, peat, clay, unstable soils, organic matter, trash, liquid or solid wastes, or any form of debris that is subject to consolidation, disintegration, erosion, or encourages the presence of insects, termites or vermin will require the approval of the

County Engineer. Fill placed within county rights-of-way must be deemed satisfactory by the County Engineer and may require compaction and soil tests of backfill and underlying material at permittee's expense. The permittee's engineer is required to certify the type of material and method of placement in county rights-of-way.

~~4.347.B.2.~~ *Maximum side slopes.* Side slopes shall not exceed one foot vertical to four feet horizontal except for landscaped berms, golf courses and other special cases as approved by the ~~PSD Director~~County Engineer who must be satisfied that maintenance and safety concerns are addressed and that adjacent properties will not be adversely impacted. Examples of special cases include, but are not limited to, ~~dry~~ dry retention areas, fill areas where retaining walls are used, and rock revetments. All slopes shall be properly stabilized to the satisfaction of the ~~PSD Director~~County Engineer consistent with County engineering standards and good engineering practices.

~~4.347.C.~~ *Fill source.* The permit shall designate the source of fill. No fill permit shall be issued where there is not a current valid excavation permit, if required, for the source of the fill. If the source of fill is outside of the county, it shall be so stated on the application.

~~4.347.D.~~ *Aesthetic berms.* Berms which are to be provided for aesthetic reasons shall have their design and placement approved by the County Engineer.

~~4.347.E.~~ *Stabilization.* All excavation and fill ~~Areas to be filled~~ shall be contained stabilized to prevent runoff and degradation of buffer zone vegetation ~~within a minimum of 24 hours prior to the excavating and filling. and shall be stabilized with sod or other suitable method within 30 days of vegetation removal or fill placement.~~ All disturbed areas shall be stabilized by planting or seeding with a permanent native ground cover to reduce the loss of topsoil due to water and wind erosion, to prevent the establishment of prohibited plant species, and to provide adequate growing conditions. Stabilization of excavation areas shall occur no later than 30 days after the completion of the excavation, vegetation removal, or fill placement.

~~4.348.F7.D.~~ *Construction period drainage.* Drainage related to excavating and filling shall be retained entirely on-site during construction, unless approved by the County Engineer.

#### **~~Sec. 4.348. Excavation standards.~~**

~~4.348.A.~~ *General standards.* All excavations must meet minimum design and construction standards and all water conveyance criteria, where applicable.

~~1.~~ *Minimum distance from roadways.* No excavation shall be allowed within 20 feet of any road right-of-way or easement as measured from the top of bank of the excavated area unless approved by the County Engineer. The county may require, at permittee's expense, a guardrail or other suitable barrier to be placed between the right of way and excavation when indicated by good engineering practice.

~~2.~~ *Minimum distance from property lines.* No excavation shall be permitted within 50 feet of any property line as measured from the top of bank of the excavated area unless approved by the County Engineer. Excavation for water control conveyances such as swales or ditches or for any purpose consistent with this division shall not be permitted closer than 50 feet from property lines.

~~3.~~ *Wetland protection.* Water management systems shall be designed and operated such that the natural hydroperiod of wetlands shall not be altered, and wetlands shall be protected from siltation and eutrophication. The permittee shall submit for approval a written plan that includes details of the proposed methods of protecting wetlands during construction and written soil erosion and environmental management plans, including details of proposed methods of monitoring and maintaining the wetlands.

a. Excavation and/or filling shall not occur within wetlands or the buffer zone surrounding the wetlands except in compliance with a PAMP approved by the Growth Management Department.

b. A minimum 200-foot wide separation shall be maintained between any wetland and any excavation unless an alternative plan utilizing an impermeable barrier or gradient analysis is approved by Martin County in consultation with the South Florida Water Management District. The gradient analysis, provided in compliance with state permitting requirements, shall show that the drawdown will not result in adverse impacts to wetlands.

- ~~c. Excavation must be contained to prevent runoff and degradation of buffer zone vegetation within a minimum of 24 hours prior to the work and shall be stabilized with sod or other suitable method within 30 days of vegetation removal.~~
- ~~d. Wetland buffers, buffer protection areas and upland preserve areas shall be protected from excavation, construction and other building maintenance activities as set forth in division 1 of this article, Wetlands Protection.~~
- ~~4. If an excavation that will result in the creation of open surface water is proposed on a lot with an existing well or septic system, the excavation must be set back a minimum of 75 feet from the well or septic system. If a 75-foot setback cannot be achieved on the lot, the maximum setback attainable must be used.~~
- ~~5. Prior to the start of an excavation, all underground utilities shall be located by the applicant through the appropriate agencies. All underground and aboveground utilities shall be protected by the applicant for the duration of the excavation activity. Utility service shall be maintained for the duration of the construction activity. Should an interruption of utility service be required, the interruption shall be coordinated and approved by the owner of the utility.~~
- ~~6. Prior to the start of an excavation that creates an open body of water, the applicant shall post signs warning of the potential hazard created by the excavation. The size, color, location, and wording of the signs shall be shown on the site plan for the project.~~

4.348.B. *Water management standards.*

- ~~1. *Maximum lake depth.* Lake depth shall not exceed 20 feet as measured from the control elevation to the lake bottom. For any excavation proposed to exceed 15 feet below the control elevation, soil and geological assessments shall be provided to fully determine the subsurface soils and groundwater conditions, to determine the proximity to subsurface aquifers and confining layers and to address the potential impacts upon the water quality of the aquifers and surrounding wells. All such information shall be prepared by a State of Florida-registered engineer qualified to provide the required information.~~
- ~~2. *Side slopes of artificially created water bodies.* All lakes shall comply with all other applicable governmental agency standards for wet detention/retention areas unless such rules are less restrictive than those of the county.
 
  - ~~a. The maximum slope of lake areas from top of bank to a depth of three feet below the control elevation shall not exceed one foot vertical to four feet horizontal.~~
  - ~~b. The slope of lake area below a depth of three feet from the control elevation shall not exceed one foot vertical to two feet horizontal.~~~~
- ~~3. [*Maximum side slope for ditches.*] The maximum side slope for ditches shall not exceed one foot vertical to two feet horizontal.~~
- ~~4. *Swale design.* All swale drainage shall be conducted via wide vegetated areas which meander where possible to maximize nutrient removal. Such swales shall not directly discharge to a receiving body.~~
- ~~5. *Preserve area requirements.* Excavation and fill projects shall conform with all applicable wetland and upland preservation requirements.~~
- ~~6. *Wet season water table.* The wet season water table shall be the highest water table described in either the "Detailed Soil Map Units" section or table 17, "Water Features," of the USDA Soil Survey of Martin County Area, Florida. A different water table elevation may be used if competent evidence prepared by a Florida-registered engineer demonstrates, to the satisfaction of the PSD director, that the water table is different from that shown in the soil survey.~~
- ~~7. *Littoral upland and transitional buffer zones.* Permanent plantings consisting of native vegetation shall be established and maintained as part of the surface water management system. All landscaping, revegetation, and lake management plans shall be approved by the Growth Management Director and comply with all other applicable governmental agency permitting. Such plans shall contain designs which include:~~

- a. ~~The species and number of plants to be used; the location and dimensions of the littoral, upland and transitional areas; typical cross section of planted littoral, upland and transitional areas and the methods for planting and ensuring survival of the plants.~~
- b. ~~Description of how vegetation is to be established including the extent, method, type, and timing of any planting provided.~~
- c. ~~Description of the water management procedures to be followed to assure the continued viability and health of the plantings.~~
- d. ~~A written strategy that identifies who shall be responsible for regular monitoring and removal of noxious, pest plant, and exotic species in order to assure a continued healthy diversity in littoral zone vegetation.~~

~~4.348.C. Reclamation. All disturbed mining/excavation areas shall be reclaimed, and reclamation shall begin immediately following excavation or each phase of excavation, whichever occurs first. All disturbed and reclaimed areas shall be planted or seeded with a permanent native ground cover to reduce the loss of topsoil due to water and wind erosion, to prevent the establishment of prohibited plant species and to provide adequate growing conditions for reclamation planting requirements.~~

- 1. ~~Stabilization of excavated lakes or ponds shall occur no later than 30 days after the completion of the excavation. Excavated lakes or ponds shall be planted with required littoral and upland vegetation prior to the issuance of the first certificate of occupancy for any lot in the development or the associated development phase. The applicant shall provide as part of the PAMP a phasing plan for planting large-scale lake systems or interconnected multilake systems that would allow lake planting to be phased. For lakes within single lots, the planting shall begin within 30 days of completion of the excavation.~~
- 2. ~~The littoral zone shall include a total area of at least ten square feet per linear foot of lake perimeter. The lake perimeter shall be measured at the control elevation of the lake. The littoral zone planting area consists of that area between one foot above control water elevation to four feet below control water elevation. With some exceptions predicated on species and exposure, extended littoral zone shelves should be located in pocketed areas of the lake and/or in areas of the lake which receive direct drainage outfall from adjacent development.~~
  - a. ~~Slopes for planted littoral zones shall be no steeper than ten feet horizontal to one foot vertical to a distance of five feet waterward of the designated planted littoral zone area. Shallower slopes are encouraged to promote greater success of the littoral zone plantings.~~
  - b. ~~The littoral zone shall be provided with a minimum of six inches of an organic topsoil mix to promote vegetative growth for those areas that do not have adequate soil conditions to ensure plant survivorship. The littoral zone shall be planted with at least five species of appropriate native wetland vegetation with an average spacing of two feet on center. Submergent vegetation, such as underwater grasses, as well as emergent vegetation may be used to satisfy the littoral planting requirement. The design and species used shall have an anticipated minimal 80 percent coverage. The Growth Management Department shall maintain a list of acceptable plant species for use in appropriate elevations within the littoral zones.~~
  - c. ~~A minimum of one tree for every 500 square feet of littoral zone area is required. The trees must be a minimum of eight feet in height and consist of native freshwater wetland and transitional varieties.~~
- 3. ~~Upland and transitional zone planting area requirement. The native upland and transitional zone buffer area shall also include a total area of at least ten square feet per linear foot of lake perimeter. The native upland and transitional zone planting area consists of that area immediately beyond the landward extent of the littoral zone planting area. The native upland and transitional zone buffer may consist of preserved or planted vegetation but shall include trees, understory and ground cover of native species only. The native upland and transitional zone and the adjacent littoral zone shall be designed and maintained to provide a continuous compatible habitat area.~~
  - a. ~~The upland and transitional zone shall be planted with at least five native plant species which shall include trees with a minimum height of eight feet and understory seedlings with a minimum height~~

of 18 inches. Existing native vegetation in the upland transitional zone shall qualify to help fulfill this requirement. Plants are required to be installed in accordance with the applicable standards provided in division 1 of this article. The design and species used shall have an anticipated minimum 80 percent coverage.

b. A minimum of one tree shall be planted for every 500 square feet of upland and transitional zone area. The trees must be a minimum of eight feet in height and native upland and transitional varieties.

4.348.D. ~~Adjacent habitat and islands.~~ The required area of littoral zones and upland buffer zones may be created by utilizing contiguous areas adjacent to the lake or by creating "habitat islands" within the water body to the extent that no less than 25 percent of the lake shoreline is provided with littoral zones and adjacent upland buffers a minimum of ten feet wide. Utilization of islands with native littoral zone and upland vegetation are encouraged to meet this requirement. Where habitat islands are not included in the construction of the lake, a minimum of 50 percent of the lake perimeter will be provided with a vegetated extended littoral zone shelf and upland and transitional zone.

4.348.E. ~~Wetland protection.~~ Wetlands shall be protected from any negative impacts which may result from construction, excavation, maintenance or monitoring activities.

4.348.F. ~~Construction period drainage.~~ Drainage related to the excavation shall be retained entirely on-site during construction.

4.348.G. ~~Siltation avoidance.~~ Water management systems such as swales and interconnected wetlands and lakes shall be specifically designed to inhibit siltation of the lakes and wetlands and the eutrophication process. The permittee shall submit for approval by the PDS and PSD directors a written environmental management and lake monitoring plan specifying system monitoring methods and corrective actions should siltation or eutrophication occur.

4.348.H. ~~Maintenance easement.~~ An easement acceptable to the county and a minimum of 20 feet wide shall be provided for access and maintenance of control structures. This maintenance easement shall be measured from the top of bank landward and have a slope no steeper than one foot vertical to four feet horizontal. Access to the maintenance easement from adjacent roadways is required.

4.348.I. ~~Structural intrusions.~~ Lakes shall have their littoral zones increased on a one to one ratio to compensate for littoral space lost due to permanent structures constructed to the top of, or over, the bank of the lake. Approvals are required by the PDS and PSD directors and all other applicable governmental agencies. Maintenance easements are not required in areas around the lake where permanent structures occur. The maximum amount of shoreline that can be used for such construction shall be 40 percent of the lake frontage. Access to all easements will be required.

#### **Sec. 4.349. Mining standards.**

An application for mining shall comply with the major or other conditional development provisions of article 10 and the applicable excavation and filling standards. An annual progress report shall be submitted to the PDS within 30 days of the anniversary date of the permit for all mining permits that have a duration of more than one year. The report shall be prepared by a Florida registered engineer, shall demonstrate that the permit criteria have been met to date and that the project is in compliance with all other applicable permits. ~~The annual progress report shall include record ("as built") drawings of all work done to the date of the report.~~

#### **Sec. 4.350. Guarantee and performance bond requirement.**

A three-year performance bond/security is required to ensure that restoration of the excavation and/or fill or mining site shall be completed, including items such as, but not limited to, general clean-up, grading, and revegetation of the lake banks, littoral zones and upland transition zone. The amount of the security shall be approved by the County Engineer, and shall be based on 110 percent of a cost estimate prepared by a Florida registered engineer for the general clean-up, grading, and site restoration including the required littoral zone and upland plantings by an environmental professional. The guarantees for phased projects may be bonded separately.

**Sec. 4.351. Compliance certification.**

~~Within 30 days of the completion of the excavation and/or filling or mining, a Florida registered professional engineer, a Florida registered professional surveyor and mapper, or a Florida registered professional landscape architect shall certify that the excavation was constructed in substantial conformance with the plans and specifications approved by the county. The following certification statement must also appear on the certification report:~~

~~I hereby notify Martin County of the completion of all excavation and filling for the above referenced project and certify that they have been constructed in conformance with the plans and specifications permitted by the county including, but not limited to, all area and quantities of vegetated littoral and upland buffer zones, all excavation and fill material quantities, excavation depths, and natural resources protection. (A copy of the approved permit drawings is attached.) I hereby affix my seal this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.~~

{Signature}

{Seal}

{Printed name}

Florida Registration No. \_\_\_\_\_

**Secs. 4.352348—4.380. Reserved.**