

Summary of Ordinance

The purpose of this Ordinance is to amend Lake County Code, Appendix E, Land Development Regulations (“LDR”), in order to revise Section 6.06.01, Land Development Regulations, regarding general provisions for mining, to require that material from the excavation of agricultural ponds under certain conditions must remain onsite. This Ordinance also amends Section 3.09.00, Land Development Regulations, entitled Lighting, to clarify that “dark sky” lighting is required for all nonresidential and agricultural development.

Changes are shown as follows: ~~Strikethrough~~ for deletions and Underline for additions to existing Code sections. The notation “* * *” shall mean that all preceding or subsequent text remains unchanged (excluding any

ORDINANCE 2019- ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING SECTION 6.06.01, LAND DEVELOPMENT REGULATIONS, ENTITLED “GENERAL PROVISIONS”; PROVIDING THAT MATERIAL EXCAVATED FROM AGRICULTURAL PROPERTY UNDER CERTAIN CONDITIONS MUST REMAIN ONSITE; AMENDING SECTION 3.09.00, LAND DEVELOPMENT REGULATIONS, ENTITLED “LIGHTING;” CLARIFYING THAT DARK SKY LIGHTING IS REQUIRED FOR NONRESIDENTIAL AND AGRICULTURAL DEVELOPMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 6.06.01, Lake County Code, Land Development Regulations, states that the natural environment of Lake County is a unique and valuable resource enjoyed by residents and visitors alike; and

WHEREAS, the Land Development Regulations also provide that mining and excavation is a unique land use which requires specialized regulation to ensure the protection of natural resources along with minimizing the adverse impacts of the activities to adjacent property owners, roadways, and the public in general; and

WHEREAS, the Board of County Commissioners has a responsibility to enact regulations that will enhance the quality of life for all residents and businesses alike by ensuring that nonresidential uses operate in a manner that doesn’t impact adjacent and neighboring residential uses; and

WHEREAS, the Lake County Board of County Commissioners determines that this amendment is in the best interests of the citizens of Lake County, Florida.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Lake County, Florida, as follows:

1 **Section 1. Recitals.** The foregoing recitals are true and correct and incorporated
2 herein.

3
4 **Section 2. Amendment.** Section 6.06.01, Land Development Regulations, entitled
5 *General Provisions*, is hereby amended as follows:

6
7 **6.06.01 General Provisions.**

8 A. Legislative Findings. The Board of County Commissioners makes the following
9 legislative findings of fact:

- 10 1. The natural environment of Lake County is a unique and valuable resource enjoyed
11 by residents and visitors alike.
- 12 2. The unique economy of Lake County is dependent upon maintaining and ensuring a
13 high degree of environmental quality.
- 14 3. Conservation of the natural environment is a goal set forth in the Lake County
15 Comprehensive Plan.
- 16 4. Mining and Excavation, together with related activities, is a unique Land Use which
17 requires specialized regulation.
- 18 5. Mining and Excavation properly conducted in accordance with a predetermined plan
19 lends itself to Reclamation of the Lands and need not Significantly impact the natural
20 environment and adjoining properties.
- 21 6. Mining and Excavation and its related industries contribute substantially to the
22 economic stability of Lake County.
- 23 7. The regulations hereinafter set forth are reasonable and necessary to protect the
24 natural environment and the public health, safety and general welfare of the citizens
25 of Lake County.

26 B. Purpose and Intent. The purpose and intent of this Section is to:

- 27 1. Ensure the Development of mineral resources, as well as other naturally occurring
28 organic materials, Shall be compatible with the overall economic objectives of Lake
29 County;
- 30 2. Protect and conserve natural resources and the environment for present and future
31 generations;
- 32 3. Minimize the adverse impacts of mining;
- 33 4. Maximize the positive benefits of mining;
- 34 5. Ensure that Mining Activities will not preclude future uses of mined-out Lands; and
35 6. Implement the Lake County Comprehensive Plan.

36 C. Construction of Code Provisions. Nothing in these provisions Shall be:

- 37 1. Construed to limit, abridge or alter any duties, authority and responsibilities of any
38 agency of the United States, the State of Florida or any other Governmental Agency
39 having jurisdiction; or

1 2. Deemed to preempt other Lake County ordinances or provisions of the Lake County
2 Code that impose stricter Reclamation standards.

3 D. Scope of Application. The regulations set forth herein Shall apply to the extraction,
4 mining, harvesting or Removal of muck, peat, sand, rock, clay, shell, soil, phosphate
5 minerals or other extractable materials within all Unincorporated Areas of Lake County.
6 No Person Shall operate or expand a Mine or conduct Mining Activities within the
7 unincorporated area of Lake County, Florida, without a Mining Conditional Use Permit
8 approved by the Board of County Commissioners and an Operating Plan unless otherwise
9 exempted by the provisions of Subsection (F) herein.

10 E. Vested Rights for Existing Mines. The regulations herein set forth Shall apply to existing
11 Mines in Lake County, with the following exceptions:

12 1. Vested rights. Any Mine which is a Lawful Mine as of May 8, 1990 and the Operator
13 or Owner of the Mine complies with the registration provisions set forth in
14 Subsection E(3) below Shall be Permitted to continue to Mine pursuant to the Lake
15 County authorization granted for that particular Mine subject to the conditions set
16 out herein.

17 The Applicant Shall submit all information required under E(3), below. Upon receipt
18 of such information, the County Shall review all data, including all existing
19 governmental Permits that have been submitted as part of the registration process,
20 and any existing Lake County conditional use Permit(s), zoning approvals or other
21 applicable County ordinances, regulations or rules in place at the time the operation
22 of the Mine was approved.

23 If, after reviewing all existing Permits for a Lawful Mine, the County staff determines
24 there is no hazard or threat to the public health, safety and general welfare of the
25 residents of Lake County due to the continued operation of the Mine under the
26 existing applicable conditions, the Mine Shall be Permitted to continue to operate
27 pursuant to the then existing Permits, authorizations and conditions applicable to that
28 Mine.

29 However, if the professional staff of the County conducting the review determines
30 that there is a hazard or threat to the health, safety and general welfare of the public
31 by the operation of the Mine, the Reclamation operation or Reclamation plan based
32 upon the existing authorizations, the staff Shall request the Owner or Operator of the
33 Mine to make changes deemed necessary to eliminate any hazard or threat to the
34 public health, safety or general welfare. The request requirements may include
35 compliance with any applicable provisions of this Section or other applicable
36 provisions of the Lake County Code.

37 In the event that the County staff and the Owner or Operator of the Mine are not able
38 to agree on the method of alleviating the perceived hazard or threat to the public
39 health, safety or general welfare, or the Owner or Operator is unable to comply with
40 the new requirements, an Appeal may be brought to the Board of County
41 Commissioners. The Board of County Commissioners Shall consider the matter in a
42 duly advertised Public Hearing.

- 1 2. Term of vested rights. Authorization to operate a Mine, which is lawfully in existence
2 as of May 8, 1990, Shall remain valid and in force, providing all conditions of the
3 permit/plan are met. If Mining Activities cease for a period of three (3) years, mining
4 permission Shall expire unless extended. Extension of mining authorization Shall be
5 requested in writing by the Applicant or Operator and shall be subject to Board of
6 County Commissioners' approval. The mining activities may be extended for a period
7 of up to three (3) years.
- 8 3. Registration. All existing Mines Shall have registered with the County within ninety
9 (90) days of May 8, 1990. Registration Shall be accomplished by filing an application
10 with the County which Shall consist of the following:
 - 11 a. Name, address, telephone number of current Owner and Operator.
 - 12 b. Survey or sketch with a legal description of the entire mining Site.
 - 13 c. Aerial map of the entire mining Site delineating areas previously Mined and
14 reclaimed, areas of active mining and areas of future mining.
 - 15 d. Copies of all other Permits for the Mine, including Site Plans, operating plans
16 and Reclamation plans associated with the Permits issued, if applicable, by the
17 Florida Department of Environmental Protection, St. Johns River Water
18 Management District, Southwest Florida Water Management District, U.S.
19 Army Corps of Engineers and U.S. Environmental Protection Agency.
- 20 4. Failure to register. Any Mine for which an application for registration was not filed
21 within the time period specified in Section F(3) Shall lose any vested rights for the
22 operation of such Mine. In order to operate such Mine, the Mine Shall be required to
23 comply with all provisions of the Lake County Code, including applying for an
24 approved Mining Conditional Use Permit and obtaining an Operating Plan.
- 25 F. Exemptions. The following activities Shall not be subject to the Mining Conditional Use
26 Permit and Operating Plan requirements set forth herein:
 - 27 1. Installation of utilities provided a valid underground utility Permit or Right-of-Way
28 utilization Permit has been issued.
 - 29 2. Excavation in conjunction with bona fide commercial, industrial or Subdivision
30 Construction provided a Construction approval or Building Permit has been obtained
31 from the County and Excavation is completed and Construction initiated within a
32 reasonable period of time from the date that Excavation is initiated. Said time period
33 Shall be determined by the County based upon the type of Construction and Shall be
34 indicated on the written exemption document. Excess Overburden generated as a
35 result of the bona fide Construction may be Removed offsite only as follows:
 - 36 a. Excess overburden generated as a result of the bona fide Construction may be
37 removed offsite so long as the County Manager or designee is provided written
38 notice during Construction approval or Building Permit application process and
39 so long as the total amount of material removed offsite is not greater than two
40 hundred (200) percent of the minimum stormwater retention/detention volume
41 required.
 - 42 b. If the above criteria is exceeded or excavation is not storm water related, the
43 County Manager or designee may give approval for removal of such excess

- 1 Overburden if the applicant shows that removal of such excess Overburden is
2 necessary for development of the Site due to physical factors of the Land or
3 Permitting requirements from a governmental agency. In making this decision,
4 the County Manager or designee shall consider the following factors:
- 5 (1) Unique physical characteristics and topography of the Land involved;
 - 6 (2) Engineering and environmental factors requiring overburden removal;
 - 7 (3) Whether excavation and removal of Overburden is necessary for access to
8 the property;
 - 9 (4) Permitting requirements of state, local and federal governmental agencies;
10 or
 - 11 (5) Such other matters that may be deemed appropriate by the County Manager
12 or designee.
- 13 c. If the County Manager or designee gives written approval of such Overburden
14 removal, the County Manager or designee may attach such conditions,
15 limitations and requirements to such approval as are necessary to effectuate the
16 purposes of this exemption; to carry out the spirit and purpose of the Mining
17 Regulations and the Lake County Comprehensive Plan; and to prevent or
18 minimize adverse effects upon Natural Resources and other nearby properties,
19 including but not limited to requiring:
- 20 (1) A Mining Conditional Use Permit;
 - 21 (2) A Mining Operating Plan;
 - 22 (3) A Mining Reclamation Plan;
 - 23 (4) A Grading Plan;
 - 24 (5) Provision of bonds or other security necessary to enforce the conditions of
25 the approval; and/or
 - 26 (6) Limitations on the development operation such as regulation of Ingress and
27 Egress, operational hours, duration of the approval, and limitations in size
28 and amount of removal.
- 29 3. Minor Landscaping projects provided they do not encroach in Flood-prone Areas as
30 depicted on the FEMA maps or change the natural drainage pattern of the ground
31 surface at the property line.
- 32 4. Swimming pool Construction provided a Building Permit has been issued by the
33 County for Construction of the pool.
- 34 5. Excavation of agricultural use ponds, provided the following conditions are met:
- 35 a. Pond location shall be restricted to upland areas unless all required Water
36 Management District permits or exemptions are obtained for potential wetland
37 disturbance.
 - 38 b. The extent of excavation is wholly within one (1) Owner's property.
 - 39 c. Offsite drainage is not affected.

- 1 d. The excavated material ~~from ponds larger than one (1) acre in size~~ remains on-
2 Site and is stored on the upland areas. ~~Material excavated from ponds one (1)~~
3 ~~acre or less in size may be moved off Site. If excavated material cannot be stored~~
4 onsite on the upland areas, a mining conditional use permit shall be required.
- 5 6. Activities where no extractable material is Removed from the Site.
- 6 7. Excavation for the Construction of approved Stormwater/water Retention Areas and
7 Roads (within the proposed right-of-way only) as part of a Platted Subdivision.
- 8 8. Materials as a result of shoreline clearing or shoreline excavation as allowed under
9 state and local law and where all appropriate state permits have been issued where
10 applicable.
- 11 G. Administration of Section. Except as hereinafter provided, this Section Shall be
12 administered, implemented and enforced by the County Manager or designee who Shall
13 coordinate the activities of all appropriate County agencies concerning the processing
14 review, monitoring and inspection of all activities covered by this Section within the
15 unincorporated area of the County. This Section Shall not limit the authority of the Board
16 of County Commissioners or any County agency to enforce or monitor compliance with
17 other applicable Statutes, ordinances, resolutions, regulations, rules or Permit conditions.
- 18 H. Change of Ownership or Operation of the Mining Activity. If a change in the Ownership
19 or Operator of a Mine takes place at any time, the new Owner or Operator Shall be
20 required to notify the County, in writing, of the current name, address and telephone
21 number of the Owner and Operator of the Mine. Notification Shall take place within sixty
22 (60) days of the change of Ownership or Operator.
- 23 I. Mining in Environmentally Sensitive Areas. Mining in Environmentally Sensitive areas
24 of Lake County which cannot be reclaimed shall be prohibited. In addition, mining
25 activity in environmentally sensitive areas shall be restricted as shown below:
- 26 1. New mining of Limestone and peat deposits within the Green Swamp Wildlife
27 Management Area and the Okahumpka Swamp are prohibited.
- 28 2. New mining of phosphate deposits on the west side of Lake George are prohibited.
- 29 3. New mining in the Wekiva River Protection Area, Wekiva Study Area and Wekiva-
30 Ocala Rural Protection Area is prohibited, unless exempted as shown in 6.06.01.1
31 (7), below.
- 32 4. New phosphate and peat mining shall be prohibited in most effective recharge areas
33 and protected recharge areas.
- 34 5. All mining, except sand mining, shall be prohibited within the Green Swamp Area
35 of Critical State Concern.
- 36 6. Expansion of existing mining activities within environmentally sensitive areas of the
37 County shall be subject to the provisions of the Lake County Code and the approval
38 of the Board of County Commissioners.
- 39 7. Any new borrow pit or any expansion of an existing borrow pit in an environmentally
40 sensitive area (excluding Green Swamp Area of Critical State Concern) shall be
41 limited to those necessary for the construction of or improvement to highways or

1 other public works projects within or near those environmentally sensitive areas of
2 the County.

3 J. Mining in Aquifer Recharge Areas. Where mining is Permitted, mining activity Shall not
4 Significantly alter the quality and quantity of ground and Surface Waters. Where
5 required, the costs of water monitoring activity Shall be the responsibility of the extractor
6 and all requirements of the Mining Conditional Use Permit and Operating Plan shall be
7 met. Notwithstanding the foregoing:

8 1. Phosphate and peat mining shall be prohibited in most effective recharge areas.

9 2. Phosphate and peat mining shall be prohibited in protected recharge areas.

10 K. Protection of Property from Mining Impacts. New mining operations within established
11 predominantly residential areas Shall be prohibited. It is recognized however, that Mining
12 Activities may be compatible within PUD's in some situations.

13

14 **Section 3. Amendment.** Section 3.09.00, Land Development Regulations, entitled
15 *Lighting*, is hereby amended as follows:

16 **3.09.00 Lighting Standards.**

17 **3.09.01 Purpose and Intent.** Lighting design shall be designed to provide safe,
18 convenient, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a
19 consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be
20 integrated and designed to enhance the visual impact on the community and/or blends into the
21 landscape.

22 **3.09.02 General Provisions.** Outdoor lighting for any development approved for
23 construction shall follow the standards as outlined below. Product documentation and lighting
24 plans shall be required for review and approval with all projects requiring a building permit for a
25 final site plan approval.

26 **3.09.03 Street Lighting.** Street Lighting applies to all common lighting within
27 subdivisions. All lighting fixtures shall be designed and arranged so as not to interfere with the
28 enjoyment of neighboring properties, residents, or the safety of neighboring roads. The amount of
29 light which radiates from a street lighting source and crosses an adjacent lot, parcel or property lot
30 line shall not exceed two tenths (0.2) of one (1) foot candle as measured from five (5) feet the
31 parcel or property Lot Line of the adjacent residential lot. The following standards apply:

32 A. Lighting shall be decorative and blend with the architectural style of the development.

33 B. Lighting shall be cutoff fixtures designed and located to minimize glare and overhead sky
34 glow.

35 C. Lighting shall be spaced no greater than three hundred (300) feet apart and shall be top
36 shielded, downward directional lighting.

37 D. Canopy and overhead lighting shall be recessed or shielded in a manner that prevents
38 lighting of the horizontal axis.

39 E. Lighting controls shall be provided that will automatically extinguish all outdoor lighting
40 when sufficient daylight is available.

1 **3.09.04 ~~Commercial Nonresidential and Agricultural Lighting.~~ ~~Commercial buildings~~**
2 **~~and projects~~Nonresidential and agricultural development**, including parking areas and outparcels,
3 shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles.
4 Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting
5 and lighting fixtures shall be integrated and designed to enhance the visual impact of the
6 **~~project~~development** on the community and/or blends into the landscape. The following standards
7 apply:

- 8 A. Lighting shall be designed to prevent direct glare, light spillage and hazardous
9 interference with automotive and pedestrian traffic on adjacent streets and all adjacent
10 properties.
- 11 B. Lighting fixtures shall be a maximum of thirty (30) feet in height within the parking lot
12 and shall be a maximum of fifteen (15) feet in height within non-vehicular pedestrian
13 areas.
- 14 C. Lighting shall be used to provide safety while accenting key architectural elements and/or
15 to emphasize landscape features. Light fixtures shall be designed as an integral design
16 element that complements the design or the project through style, material or color and
17 shall be designed to blend into the landscape using dark colors. Mill finish is not
18 permitted.
- 19 D. Parking lots that are to be used after dark shall be adequately lighted. The lighting shall
20 not shine directly upon any adjacent residence or street and shall not produce excessive
21 glare.
- 22 E. Lighting controls shall be provided that will automatically extinguish all outdoor lighting
23 when sufficient daylight is available.

24 **3.09.05 Residential Lighting.** All outside residential lighting fixtures shall be designed
25 and arranged so as not to interfere with the enjoyment of neighboring properties, residents, or the
26 safety of neighboring roads. The amount of light which radiates from a source and crosses an
27 adjacent residential or agricultural lot line shall not exceed two tenths (0.2) of one (1) foot candle
28 as measured at the residential or agricultural lot line. Lighting shall be provided that will
29 automatically extinguish all outdoor lighting when sufficient daylight is available.

- 30 **3.09.06 Exemptions.** The following shall be exempt from the provisions of this Section:
- 31 A. Lighting within a public right-of-way or easement for the principal purpose of
32 illuminating streets or roads other than those within new subdivisions.
- 33 B. Lighting of public monuments and statuary.
- 34 C. Lighting for signs.
- 35 D. Temporary lighting for construction sites.
- 36 E. Seasonal lighting.
- 37 F. Lighting for emergency purposes.
- 38 G. Lighting on property owned or under the control of any municipality, county, state or
39 federal government.

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Section 4. Inclusion in Code. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake County Code and that the sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Severability. If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance; and it shall be construed to have been the Commissioners’ intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after the exclusion of such part or parts shall be deemed and held to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions thereof shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other person, property or circumstances.

Section 6. Filing with the Department of State. The Clerk shall be and is hereby directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

Section 7. Effective Date. This ordinance shall become effective as provided for by law.

ENACTED this day of _____ day of _____, 2019.

FILED with the Secretary of State the ____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

Gary J. Cooney, Clerk
Board of County Commissioners of
Lake County, Florida
2019.

Leslie Campione, Chairman

This ____ day of _____,

Approved as to form and legality:

1 Melanie Marsh, County Attorney