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EXCAVATION AND WATERWAYS

§ 151.01 APPLICATION OF REGULATIONS

Any party, including natural persons, partnerships, firms, corporations, or business entity conducting excavation, dredging, land fill activities, mining, or related functions, (which are generally classified as excavation activities), shall be subject to the provisions of this chapter.

§ 151.02 PERMIT, BOND

- (A) At the time of obtaining a permit for the activities described in § 151.01, the applicant shall make a good faith estimate of the amount of money required to effectuate the restoration activities necessary to create a safe and sanitary condition at the excavation site. Thereafter, the Engineering Department of the city shall determine the sufficiency of the estimate and shall determine the amount of money necessary to provide for the restoration activities.
- (B) Upon the determination of the amount of money necessary to provide for the restoration activities described in division (A) above, the applicant may either post the sum in cash with the city or obtain a bond in that amount satisfactory in form to the city, to insure the restoration activities are completed in accordance with the requirements of this chapter.

§ 151.03 WATERWAY EXCAVATION

- (A) Excavation activities conducted in accordance with the requirements of this chapter and § 154.15(B) shall be subject to the provisions hereof.
- (B) When waterway excavation and excavation activities are conducted in conjunction with subdivision development activities and platting, the party obtaining the permit for the activity shall be permitted to post letters of credit in lieu of bonds in an amount to be established by the City Commission for the purpose of insuring compliance with the needs of the city for restoration and redevelopment. These amounts shall be submitted and applied for to the City Commission by the party seeking the excavation activity permit.
- (C) The bond or letter of credit posted shall be at the discretion of the City Commission and may be allowed to be extended to further activity in lieu of the posting of additional bonds or letters of credit.
- (D) The City Engineer shall implement any further rules, and regulations, and procedures that are necessary to provide for excavation activities consistent herewith

§ 151.04 RESTORATION OF LAND REQUIRED

Those parties conducting excavations shall be fully responsible for the restoration of the land used to a safe and sanitary condition upon completion of the activities. Should the activities be conducted in conjunction with development and construction activities incident to subdivision improvements, then safe and sanitary conditions surrounding the excavation site, at the conclusion of those activities, shall be required. Notations to this effect should be made on the site plan or the subdivision plan at the time of its submittal to the city.

§ 151.05 INSPECTION OF LAND RESTORATION

Upon application for return of the cash bond or excavation bond, the Engineering Department shall inspect the site and determine that the restoration activities have been satisfactorily completed. Thereupon, the Engineering Department shall certify to the City Clerk that the cash bond or excavation bond may be released to the applicant. In no way shall the city be liable for any conditions created as a result of the excavation activities or restoration activities described in this chapter.

§ 154.12 REQUIRED INFORMATION AS TO WATERWAYS EXCAVATIONS; WAIVER OF REGULATIONS BY CITY

- (A) Where a preliminary plat is presented to the Planning and Zoning Board showing that the developer proposes to excavate or create waterways in connection with the development concerned in the plat, the developer shall submit, along with the preliminary plat, the following data.
 - (1) Locations and dimensions of the excavations or waterways.
- (2) Typical cross section showing the elevation of perimeter or banks, grade of slopes, water level at mean low water, depth of excavation, and bottom width.
- (3) A topographical survey of the subject property prepared by a registered land surveyor licensed to practice in the state.
- (4) An estimate of the amount of material to be excavated certified by a registered engineer licensed to practice in the state.
- (B) The City Commission may waive or vary the strict requirements of the waterways regulations of this chapter by five affirmative votes when it deems it to be in the public interest or where

unnecessary hardship would occur to the landowner because of the strict enforcement of these regulations.

§ 154.15 PERFORMANCE BOND, WATERWAYS EXCAVATION BOND

(B) A bond executed by a surety company, letter of credit, cash bond or subdivision improvement agreement, in a form approved by the City Commission after review by the City Attorney (hereinafter referred to collectively as the "Security), based on an estimate by the petitioner's engineers and the city Engineering Department shall be furnished by the subdivider in an amount equal to 110% of the cost of the waterway excavation. The security will be subject to the condition that the excavation will be completed within the time limit set by the City Commission for approval of the final plat and in accordance with other applicable city ordinances, including but not limited to hours of operation. In the event it is not completed, the city may proceed with the work and hold the owner and the security jointly responsible for the costs thereof. This security bond shall be in addition to the bond for improvements as set forth in division (A) above, shall be in a form approved by the City Commission after review by the City Attorney. If a bond is selected as the form of security to be provided to the city it shall be underwritten by a surety company satisfactory to the city.

§ 154.30 WATERWAY EXCAVATIONS

- (A) Plats submitted for approval showing either the excavations are to be made on waterways existing or are to be created shall be accompanied with or have appearing on the final plat the following.
- (1) A dedication or declaration of restrictions establishing the ownership; right to use; provisions for maintenance, including provisions for financial responsibility for maintenance; limitations; reversary rights if any; easements necessary for the maintenance of the waterway and access thereto from public ways; prohibitions against alteration of the shoreline contours without prior city approval; provisions for the control and subdual of aquatic growth and for the imposition of lines for the cost of such control by the city in the event the adjacent property owners or those receiving beneficial use of the waterway fail to perform the necessary work; and restrictions and limitations on the right of riparian owners to build and erect any improvement or structure on the waterway without prior consent of the city.
- (2) Any other and further deed restrictions, covenants, limitations, easements, or conditions that shall be required by the city prior to its approval of the plat.

(B) The requirements of division (A) above shall be in recordable form and shall be worded so that	it
constitutes a covenant running with the land, which shall be binding and enforceable against the	
developers and their heirs, successors, and assigns.	

§ 154.31 DESIGN STANDARDS FOR WATERWAYS

- (A) Clearing and grubbing. All timber, brush, roots, debris, junk, rubbish, or other objectionable material resulting from clearing or cleaning and grubbing operations shall be disposed of outside of the city limits or as directed by the Engineering Department. Burning of combustible material may be permitted, subject to the approval of the Fire Department. No material shall be buried on the site or disposed of in the excavation.
- (B) Cleanup and drainage. During and after completion of excavation operations, no water shall be permitted to stand in low areas or ponds on the site of the work. Any grading necessary to effect positive drainage shall be done. Drainage may be to the excavation or as directed by the City Engineer. On completion of the work no material shall be left in piles or windrows unless specifically permitted by the city.
- (C) Use of explosives. Explosives shall be used only as permitted by the city, and their use shall be subject to such conditions as may be imposed by the city.
- (D) Working hours. The city reserves the right to regulate the excavator's working hours and may, at its discretion, prohibit night work.
- (E) Design standards for waterways and canals, and offsets and slopes. No excavation shall be permitted closer than 100 feet to an adjoining property line or closer than 50 feet to a dedicated street or road. For purposes of this section, CANALS shall be defined as water bodies of total right-ofway of 100 feet or less and which are used for the conveyance of stormwater and are not used for storage as detention/retention basins.
- (1) The excavations for all waterways located within the city limits permitted after the effective date of Ordinance 886 shall have the following minimum slopes, and in no case shall the bank be steeper than these allowable slopes:

- (a) From the top of the slope line (maximum six inches below finished floor elevation) to the top of the bank (elevation no less than plus 5.5 feet MSL), the slope shall not be steeper than ten horizontal to one vertical.
- (b) From the top of the bank to minus 0.5 feet MSL, or to an elevation three feet below the design water table elevation, as established in the South Florida Water Management District's Permit, the slope of a waterway or canal shall not be steeper than four foot horizontal to one foot vertical, except in commercial, industrial and agricultural zoning districts of the city where canal bank slopes shall be permitted on a slope of two foot horizontal to one foot vertical only if a permanent six-foot chain line fence is erected at the maintenance easement line within 30 days of completion and acceptance by the City Commission, provided, however, if and when such land is thereafter rezoned to residential, then as a condition of the rezoning, the bank slopes shall be reconstructed so that the bank slopes shall not be steeper than four foot horizontal to one foot vertical.
- (c) From minus 0.5 feet MSL, or from an elevation three feet below the design water table elevation to the minimum depth required by the South Florida Water Management District up to the maximum depth allowed by the appropriate governing body, the slope shall not be steeper than two horizontal to one vertical or to the angle of repose of the material encountered.
- (d) For the purposes of this section, all land lying between top of slopeline to the top of the bank shall be considered filled land as designated in § 155.058 of the City Zoning Code.
- (e) The sketch entitled "Typical Waterway Bank Slopes", attached hereto as an Appendix is an example of the method by which waterway bank slopes shall be excavated and shall be available at the office of the City Engineer for review.
- (2) The excavation for all waterways located within the city limits permitted prior to the effective date of Ordinance 886 shall be in accordance with previously approved plans, provided such plans have been designed in accordance with South Florida Water Management's criteria at the time of permitting.
- (F) Depth of excavation. No excavation, when completed, shall have a minimum depth inside the limits of the deep cut line of less than minus twelve feet USC & GS, MSL datum.
 - (G) Storm drainage. Drainage of storm waters into the lake shall be permitted.
 - (H) Lake permit fee. Lake permits will be required, the minimum fee to be as established in \$150.43.

(I) Maintenance easement. An easement with a right-of-way fifteen (15') feet wide must be provided to permit entrance of equipment to the waterway for maintenance.

§ 155.340 DEFINITIONS

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXCAVATION

The digging, stripping, or removal by any process of natural materials or deposits from their natural state and location. EXCAVATION as used herein shall not include digging for foundations, fences, structures, or incidental to construction work, wherein no materials are removed from the premises, except surplus not required for backfill or grading of the premises. EXCAVATION shall include but not be limited to, the creation of canals, waterways, and lakes incidental to real estate subdividing and development.

MATERIALS AND DEPOSITS

Includes rock, stone, minerals, shell, sand, marl, muck, and soil, but does not include sod.

§ 155.341 PERMIT REQUIRED; PERMIT RENEWAL

- (A) A permit for new excavation shall be obtained from the City Engineering Department.
- (B) After an original permit for an excavation has been issued, the enforcing officer shall issue a renewal permit for the continuance of the excavation in accordance with the original permit and plans, where the work has been conducted in accordance with those plans and with these regulations.
- (C) Within 30 days after this chapter is adopted, owners or operators of existing excavations shall submit to the enforcing officer a plat showing their presently owned property adjacent to and forming

a continuous property with the existing excavation area. The plat shall also show future right-of-way lines and the final limits to which the owner or operator plans to carry excavations in that property. These plats are to be kept for record, and the excavations indicated thereon will be exempt from the requirements of these regulations, with the following exceptions:

- (1) The owners or operators of excavations existing at the time this chapter is adopted shall apply for an excavation permit within 30 days after this subchapter is officially adopted.
- (2) Sections 155.345 and 155.346 shall apply to excavations existing at the time this subchapter is officially adopted.
- (D) Yearly renewals of the excavation permit shall be granted to the owners and operators of excavations existing at the time this subchapter is adopted, provided the applicable requirements are complied with.
- (E) Any extension, beyond the excavation limits shown in each plat required by division (C) of this section to be filed with the Engineering Department, shall be treated as a new excavation; and shall, therefore, be subject to the full requirements of these regulations.
- (F) Where excavation has been discontinued for a period of six months or more, or has been abandoned, any renewal or resumption of excavation shall be required to be subject to a permit for a new excavation, and the issuance of a permit therefor shall be subject to all the requirements of this subchapter for a new permit.

§ 155.342 APPLICATION FOR PERMIT; PLANS AND SURVEYS

Applications for original permits shall be accompanied by the following:

- (A) A plot plan to show the property owned or controlled by the applicant with reference to streets, highways, and contiguous platted areas.
- (B) Cross-sections to show approximate elevation and grades at the final outside boundaries of excavation.

- (C) A final grading plan to show the ground elevations of the land immediately adjacent to the side of the excavation and all of bounding streets or roads.
- (D) Upon completion of the excavation, and when there is a question that the excavation is in accordance with the plans approved, a topographical survey may be required showing elevations and cross-sections of the final outside boundaries of each excavation at 100-foot intervals.
- (E) The plans, maps, elevations, and cross-sections required by this section shall be made by a surveyor-engineer registered as such by the state.

§ 155.343 PERFORMANCE BOND

The applicant for a permit for an excavation shall post a performance bond which, shall be \$100,000 for each waterway to excavated, conditioned upon complete compliance with the regulations of the city pertaining to the initiation, conduct, and completion of excavations in a manner conforming to this chapter, within a period of not more than one year after the excavation has been carried to the extent authorized by a valid permit, or after work on excavation has been abandoned or discontinued for a period of six months or more.

§ 155.344 ZONING LIMITATIONS

- (A) The use of heavy machinery for extraction and removal of natural material or deposits is permissible where the removal has been approved and authorized by permit.
- (B) The land area exposed by the extraction and removal of natural materials or deposits shall be left suitable for future use and development purposes in accordance with the final grading plan and in accordance with any zoning regulations applicable thereto.
- (C) New excavation shall be a permissible use only in a zoning district wherein that use is permissible under this chapter, subject to the provisions of this subchapter.
- (D) An existing excavation for which a permit is issued pursuant to § 155.341 may be continued and extended pursuant to that permit and shall not be construed to be a nonconforming use.

§ 155.345 LOCATION

(A) No excavation shall be allowed within fifty (50') feet of the future right-of-way line for any stre	et
or highway, nor within one hundred (100") feet of any private property line. line.	

(B) The excavation, and slope if required, may commence at the common property line in the case of private property if waivers are secured from the abutting property owners.

§ 155.346 POSTING OF WARNING SIGNS

During the excavation operations, the premises shall be suitably posted with warning signs of such character and location as may be adequate to warn the public concerning possible hazards.

§ 155.347 CONDUCT OF EXCAVATION OPERATION

- (A) The grading, leveling, and sloping of the final banks shall be on a progressive basis as the project develops and the excavation progresses.
- (B) If sand is encountered during excavation, the vertical cut at the final bank shall be modified in such a manner that the required perimeter slope of one vertical to five horizontal will be sustained and maintained.
- (C) The property shall be staked along the property line and the top-slope line in the portion of the final perimeter to which the excavation extends during the period covered by the yearly permit in effect. Stakes shall be maintained in proper fashion during that period so that the limits of excavation slopes and grade levels in that portion of the final perimeter may be easily determined and verified.
- (D) During the entire operation, dynamite shall not be used except in accordance with state regulations.

(E) The hours of operation shall be limited to the period between the hours of 7:00 a.m. and 10:00 p.m. Monday through Saturday.
(F) Every owner or operator of any excavation shall be insured to the extent of \$100,000 against liability arising from any activities or operations incidental to excavation carried on or conducted pursuant to any permit or approval given for that excavation by the city.
(G) All excavation access-roads shall be well sprinkled to minimize dust. This sprinkling shall not be required 500 feet or more from a public street or highway.
§ 155.348 CLEAN-UP AND REHABILITATION
(A) Upon completion of the project, the property shall be dressed up so that it will be left in a presentable condition.
(B) The perimeter of the excavation shall be properly backfilled and graded. Slopes shall comply with §154.31(E).
(C) Whenever excavation operations on any property shall have been completed, abandoned, or permanently discontinued, then all plants, buildings, structures (except fences), and equipment shall be entirely removed from that property; and all stockpiles, topsoil, refuse, or waste materials shall be removed, redistributed on the premises, or backfilled within the pit, within one year after the completion. However, the provisions of this division shall not apply to any plants, buildings, structures, equipment, or stockpiles whenever and so long as any rock, gravel, or other materials shall be available from other properties for processing by or through any such plants, buildings, structures, or equipment.
(D) These provisions shall not apply to any portion of an existing excavation which was in existence at the time of the passage of these regulations.
§ 155.349 FILLING OF EXCAVATIONS; PERMIT REQUIRED

Excavations may be filled if a permit is obtained from the Engineering Department, subject to the following conditions:

- (A) The applicant for permit and the owner of property shall comply with such terms and conditions as may be required to prevent objectionable odors; to prevent the operation from becoming detrimental to the health, safety, and general welfare of the adjacent neighborhood; and which will prevent promiscuous dumping by unauthorized persons.
- (B) That a top-dressing, consisting of not less than one foot of clear fill, shall be provided so that the property shall be in a clean, presentable, and sanitary condition.
- (C) That the owner of the property, and the operator, shall post a bond in such amount as may be determined by the enforcing officer as necessary to insure compliance with the terms and conditions as may be established for the filling permit.
- (D) No permit shall be issued for, or excavation or other area filled with refuse, debris, junk, organic material or garbage, unless the use conforms to all applicable zoning resolutions and conforms to any applicable regulations of the appropriate health officials.