

HARDEE COUNTY, FLORIDA  
**ORDINANCE NO. 2015-03**

AN ORDINANCE OF THE HARDEE COUNTY, FLORIDA

*AMENDING* the HARDEE COUNTY UNIFIED LAND DEVELOPMENT CODE Ordinance No. 1999-02; and,

*PROVIDING* for an amendment to Article 3 of the Hardee County Unified Land Development Code for the purpose of providing more consistent regulations on phosphate mining operations and further protecting the public through the establishment of reasonably amended standards; and

*PROVIDING* for severability;

*PROVIDING* for repeal of conflicting ordinances; and

*PROVIDING* for effective date.

WHEREAS, the Board of County Commissioners of Hardee County, Florida has determined that phosphate mining is critical to the economy of Hardee County; and,

WHEREAS, the Board of County Commissioners of Hardee County, Florida has determined that reclamation of phosphate mining lands is critical to the interests of Hardee County; and,

WHEREAS, the Board of County Commissioners of Hardee County, Florida has determined that is vital to ensure proper reclamation and mitigation of all activities associated with phosphate mining; and,

WHEREAS, the Hardee County Comprehensive Plan allows regulations of mining to ensure compatibility with existing land uses or appropriately buffered from surrounding land use; and,

WHEREAS, pursuant to and consistent with the requirements of Section 125.66, FLORIDA STATUTES, the Board of County Commissioners of Hardee County, Florida has advertised and held public hearings as required and with public notice having been provided to obtain public comment; and,

WHEREAS, the Board of County Commissioners of Hardee County, Florida has considered all written and oral comments received during such public hearings; and,

WHEREAS, the Board of County Commissioners of Hardee County, Florida has determined that this amendment is consistent with the Hardee County Comprehensive Plan,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HARDEE COUNTY, FLORIDA that:

ARTICLE 3, DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS of the HARDEE COUNTY UNIFIED LAND DEVELOPMENT CODE, Ordinance No. 1999-02 as amended, is hereby amended as follows:

**3.14.00. - Performance Standards.**

*3.14.01. General Provisions.*

The purpose of this Section is to provide additional and supplementary regulation for specific development types permitted in the County that, by their nature and characteristics, require additional definition and procedural requirements. In addition, this Section contains procedures and requirements for activities pursuant to permitted and special exception uses special approvals and permits as identified in this Code.

All uses shall conform to the standards of performance described in this Article and shall be constructed, maintained and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazard or glare. Within 100 feet of a residential district, all processes and storage, except for vehicle parking, shall be in completely closed buildings. Processes and storage located at a greater distance shall be effectively screened by a solid wall or fence at least six feet in height. Where other ordinances or regulations, whether federal, state, or local that may be adopted hereinafter impose greater restrictions than those specified herein, compliance with such other ordinances and regulations is mandatory.

*3.14.02. Mining Regulations.*

The purpose of this Section is to protect the public health, safety and general welfare; to ensure the orderly development of mineral resources in a manner compatible with all development of the County as set out in the Hardee County Comprehensive Plan to ensure that mined or excavated areas can be put to some worthwhile use after the mining or earth moving operation is completed and to establish procedures: (a) for monitoring the effects on the environment caused by mining activities, (b) to ensure the timely reporting of the results of monitoring of mining, (c) for making any revisions to existing plans relating to mining necessary to ensure the use of best management practices and developing technology for the control of pollution and other adverse impacts of such activities, (d) to ensure reclamation of the affected areas, (e) to ensure that it is in the public interest of the citizens of Hardee County to allow specific mining activity. The provisions set forth herein shall apply to any mining activity proposed in Hardee County, whether phosphate, limerock, shell, sand, or other mineral/material. In the event the provisions of these mining regulations are inconsistent with other provisions of the County Land Development Code, the mining regulations shall control.

*3.14.02.01. Policy Considerations.*

(A) It is specifically recognized that methods and procedures for mineral extraction and land reclamation must be adaptable to changing markets, developing technologies and public interest considerations because of the significant impact on the environment, the length of time necessary to complete such activities and the impossibility of predicting technology available and conditions existing in the future.

(B) The intent of this Section is to provide a flexible frame of regulations within which the County may consider each application for a Master Mining and Reclamation Plan for mineral extraction in the context of the technology and conditions existing at the time of application, but preserving the ability of the Applicant/Operator to submit, and the County to require detailed design plans and specifications prior to each stage of development of a mining unit, which detailed plans shall utilize the best management practices and technology then available, and shall conform to all applicable Hardee County, state and federal laws then in force.

(C) Except as may contradict or be less stringent than the terms of this Section all applicable Hardee County, state or federal laws now or at any time in the future in force relating to mining, including but not limited to dam construction, waste disposal or reclamation are made a part of this Section. A violation of any such laws which does occur in Hardee County shall be deemed to be a violation of this Section. The County expressly reserves the right to amend or revise any permits granted hereunder pursuant to the procedures set out herein to conform to all adopted Hardee County, state or federal laws as may be now or in the future in force.

(D) Applicability. This Section shall apply to all applications for Master Mining and Reclamation Plan and Annual Review approval for mining activities conducted within the boundaries of Hardee County, Florida filed on or after its effective date. No mining activities may be conducted within Hardee County except those for which appropriate zoning, Master Mining and Reclamation Plan, and development approvals (if applicable) have been obtained. All requirements of this Section shall apply to applications for amendments or transfers of a Master Mining and Reclamation Plan issued before the effective date hereof to the extent that the subject of such amendment or transfer constitutes a change to the Master Mining and Reclamation Plan and shall be reviewed for new or different effects of the mining activity in the context of the requirements of this Section. Revised application fees, financial responsibility requirements, and other administrative provisions shall apply to approved mining operations beginning with the first Annual Review for that operation after the effective date hereof. Reclamation schedules as specified in Section 3.14.02.05 (C)(01)(c) must also be included, but mining and reclamation plans and schedules previously approved by Hardee County will remain in effect unless the operator is unable to comply therewith or otherwise requests significant modification thereof, in which case the requirements of this Section shall comply to the extent of the modification. The Annual Review Fees and Annual Monitoring Fees established by Subsection 3.14.02.09 of this Section shall be effective on the effective date of this Code. Operators shall remit within 60 days of the effective date of this Code the pro rated increase in the Annual Review Fees and Annual Monitoring Fees. For the purpose of this Section the "pro rated increase" in fees shall mean that amount equal to the difference between the fees owed under the fee schedule set forth in Section 3.14.02.09, less the fees paid by the operator at its last Annual Review, times the ratio of the number of days until the next Annual Review over 365.

(E) Review by Planning and Zoning Board: All applications for rezoning, DRI (Development of Regional Impact) approvals, Mining Major Special Exception Use Permit (MMSE), Master Mining and Reclamation Plan approval and Annual Unit Review shall be referred to and reviewed by the Hardee County Planning and Zoning Board for consistency with the Hardee County Comprehensive Plan and compliance with all applicable Hardee County Ordinances. Such reviews shall be conducted at a regularly scheduled meeting of the Planning and Zoning Board, which Board shall make a written report of its findings and recommendations to, the Hardee County Board of County Commissioners. Joint meetings of the two Boards for the purpose of the Annual Unit Review required by this Section may be held at the request of either

Board.

### *3.14.02.02. Zoning Requirements.*

Except as otherwise provided herein, no mining activities shall be conducted on any land in Hardee County except when such land has been properly zoned, and a Master Mining and Reclamation Plan for mineral extraction has been granted by the Board of County Commissioners to conduct such activities. Copies of the applications for or approvals of any necessary rezoning, special exceptions or variances shall accompany the application for Master Mining and Reclamation Plan approval and may be processed by the County simultaneously.

### *3.14.02.03. Definitions.*

In addition to the definitions enumerated in Article 9 of this Code, the following terms as used in this Section have the meanings set forth below, unless the context clearly indicates otherwise.

(A) *Active Dewatering Activities:* Those activities conducted for the purpose of accelerating the dewatering of clay settling ponds and sand clay mix areas to achieve adequate crustal development to support reclamation. Such activities may include but are not necessarily limited to construction and use of perimeter and internal drainage ditches.

(B) *Air Quality:* The applicable concentration levels for those pollutants for which the Florida Department of Environmental Protection has promulgated ambient air quality standards under Chapter 403, Florida Statutes.

(C) *Applicable Hardee County, State and Federal Laws:* When used in this Section, unless otherwise specifically provided, this phrase shall mean those laws, standards, regulations, rules, orders or other official act of a governmental authority with jurisdiction over a project for mineral extraction or mining activity as defined herein. This phrase shall not include matters relating exclusively to the internal management of such authority, the procedures for processing applications, rulemaking, the administration or conduct of any type, of hearing, appeals or other procedural matters. Where there is a conflict, the more stringent or stricter standard shall apply, except as may otherwise be provided by law.

(D) *Anniversary Date:* The annual recurrence of the date of execution of the Development Order by the Chairman of the Board of County Commissioners.

(E) *Annual Unit Review:* The procedure whereby each mining and reclamation unit, covering at least one year's operation, is submitted to the Board of County Commissioners for detailed examination for compliance with the Master Mining and Reclamation Plan, the Development Order and for compliance with all applicable Hardee County, state and federal laws. The term Annual Review shall include both the Annual Unit Review and the Annual Operating Report as the text requires.

(F) *Annual Operating Report:* The yearly progress report submitted by the Applicant/Operator to the Board of County Commissioners describing the past year's operations and the progress of ongoing reclamation so that the Board of County

Commissioners may review the activities for continuing compliance with the Master Mining and Reclamation Plan, the Development Order and all applicable Hardee County, state, and federal laws.

(G) *Applicant/Operator*: The person, firm or corporation named on the Application for Master Mining and Reclamation Plan approval as the intended Operator of the project.

(H) *Approved Reclaimed Land*: Land upon which reclamation activities have been completed and all reclamation criteria in this code have been satisfied including BOCC approval. *(I) Beneficiation*: The process whereby the matrix is washed to separate the mineral from the earthen materials with which it is naturally combined. Specifically for purposes of this Section, beneficiation shall mean the processing of the matrix to separate phosphate rock from the sand and clay soils in which it exists in a natural state.

(J) *Board*: The Board of County Commissioners of Hardee County, Florida; designee and/or authorized representative.

(K) *Dam or Dike*: A barrier erected to impound or restrain the flow of water or liquid materials.

(L) *Development Order*: As defined by the Florida Statutes, but excluding zoning approvals, except as otherwise provided by law.

(M) *Development of Regional Impact (DRI)*: As defined by the Florida Statutes.

(N) *Disturbed Lands*: All lands disturbed by mining activity, including mineral extraction, beneficiation, use for settling ponds, and/any other lands which are an integral part of the mining operation.

(O) *Flood Elevations*: The surface water elevation which has an average recurrence interval in which a flood equal to or greater than that magnitude specified as an annual maximum as determined by the methodology approved by the Mining Coordinator.

(P) *Future Land Use Map*: The Conceptual Future Land Use Map, contained in the Hardee County Comprehensive Plan as currently adopted by Hardee County.

(Q) *Ground Water*: That water occurring beneath the surface of the ground whether or not flowing through known or definite channels.

(R) *Initial Revegetation Process* in which reclamation unit has been recontoured and vegetation has been established in accordance with the approved MMRP.

(S) *Legal Description*: A property description as recorded in the office of the Clerk of the Circuit Court for Hardee County.

(T) *Master Mining and Reclamation Plan*: The general plan describing the overall scope of the mining activities for the life of the mine, and describing the general nature of the operations, geographic characteristics, impacts, monitoring, reclamation and other features relevant to the plan of the mine.

(U) *Matrix*: The ore body consisting of the phosphate rock and other earthen materials naturally occurring with it.

- (V) *Mineral Extraction*: The extraction of ore from the earth by whatever method including the removal of overburden for the purpose of reaching underlying ore. Such term shall also include the treating, crushing, cleaning, beneficiation, or other processing of rocks sand, clays, gravel or other materials extracted from the earth for the purpose of further extracting the ore from the matrix. This term shall not include chemical processing, refining, manufacturing of materials from the ore nor shall it include earth moving or dolomite mining.
- (W) *Mineral or Ore*: Any material extracted from the land for commercial purposes, other than limestone.
- (X) *Mining Activity*: The extraction and transportation of ore, storing of wastes, ore or material, reclamation of disturbed land and other operations necessary for ore extraction in a manner consistent with the public health, safety and welfare.
- (Y) *Mining Coordinator*: The person so designated and appointed by the Board or its designated representative.
- (Z) *Mining Operations*: Those physical activities other than prospecting and site preparation, which are necessary for extraction, waste disposal, storage, or dam maintenance prior to abandonment.
- (AA) *Mining Unit*: An area of land as specified in the Master Mining and Reclamation Plan from which minerals will be extracted within a period of at least one year and not exceeding four years. Such period of time shall be referred to as the unit year.
- (BB) *Monitoring Station*: A device or procedure for monitoring any aspect of air, water, radiation or other medium of the environment. Each device or sampling point shall be a station.
- (CC) *Natural Ground*: The surface of the earth as it exists prior to the beginning of pre-mining activities and mining, and includes the surface of any land previously mined or excavated by earlier operators whether reclaimed or not.
- (DD) *Operator*: The person, firm or corporation engaged in the extraction of phosphate rock.
- (EE) *Overburden*: The collective term for all earthen material overlying mineral ore deposit.
- (FF) *Owner*: A person, firm or corporation who has the primary possessors legal interest in the tract of land under consideration.
- (GG) *Permit*: A written approval, permit or license granted by the Board in accordance with this Section authorizing the commencement and conduct of mining activity.
- (HH) *Phosphatic Clays*: A waste product from phosphate beneficiation operations that consists of a mixture of water and suspended fine solid particles less than 105 microns (150 Tyler Screen) in size, usually containing a high percentage of clays.
- (II) *Pre-mining Activity*: Those activities as specified in an approved Master Mining and Reclamation Plan which are necessary to prepare for commencement of mining activity, and may include excavation for construction of water recirculation systems, perimeter ditch and berm systems, settling areas, construction of the dragline, and construction of beneficiation

facilities, as specified in the Development Order and Master Mining and Reclamation Plan.

(JJ) *Production Use of Water:* All surface, stream and subsurface waters diverted for use in Applicant's operations but not including waters impounded and entirely isolated on private property owned and used by Applicant/Operator as part of a water recirculation system.

(KK) *Professional Engineer:* An engineer registered in the State of Florida.

(LL) *Project:* The total area and scope of operations to be conducted on a given tract, and for which a permit is sought under this Section.

(MM) *Reclamation:* The restructuring, reshaping, and restoration or revegetation of disturbed lands to a form in which the lands may be of beneficial use and as required by this Section and all applicable Hardee County, state and federal laws.

(NN) *Reclamation Unit:* A specified area of land upon which reclamation activities will be accomplished within a period of time as specified in the Master Mining and Reclamation Plan.

(OO) *Reclaimed Land:* Land upon which reclamation activities have been completed through initial revegetation by the Operator.

(PP) *Settling Ponds:* Areas surrounded by dams into which fluids are placed for the purpose of separating suspended solid matter from water, but not including mined out areas in which sand/clay reclamation is being conducted.

(QQ) *Spoil:* Displaced overburden.

(RR) *Sand Tailings:* A product of phosphate beneficiation operations that consists of solid particles generally larger than 105 microns (150 Tyler Screen) in size and usually consisting of a water/sand mix.

(SS) *Thickener:* A mechanism constructed for the purpose of reducing the water content of the waste product from phosphate beneficiation operations.

(TT) *Toe (of a dam):* The junction between the exterior face of the dam and the adjacent terrain.

(UU) *Tract:* The area of land under consideration.

(VV) *Uplands:* Those areas which are landward of waters of the state and the landward extent of waters of the state as defined in Chapter 62-340, Florida Administrative Code, or other Hardee County, state and federal laws.

(WW) *Water Recirculation Systems:* Those structures used primarily for mine and process water clarification, including reservoirs, dams, dikes, canals and other impoundment structures.

(XX) *Wetlands:* Those lands submerged under waters of the state, and the landward extent of waters of the state as defined by Chapter 62-340, Florida Administrative Code or other Hardee County, state and federal laws.

3.14.02.04. Exemptions.

The following activities shall not be subject to the procedures set out in this Section:

Normal site preparation and grading necessary for the commencement of construction or other activities permitted by the Hardee County Unified Land Development Code, but not including pre-mining activities.

3.14.02.05. Administrative and Permit Procedures.

(A) *Administration:* The requirements of this Section shall be administered by the Board through the Mining Coordinator acting as the coordinating department head for review by other concerned County departments.

(B) *Procedures for Master Mining and Reclamation Plan Review:* In addition to any submittals or procedures required by this Section or any other applicable Hardee County, state or federal law including those relating to developments of regional impact (if applicable), applications for mining activities shall comply with the following:

(01) *Master Mining and Reclamation Plan:* The Applicant/Operator shall submit 25 copies of a proposed Master Mining and Reclamation Plan which outlines the proposed mining or earth moving activity, waste disposal, water use, land reclamation and monitoring for the project and shall include at a minimum:

- a. *Owner:* The names, addresses and telephone numbers of the owner(s) of the project and its agents located in Hardee County upon which service of any papers under this Section may be made.
- b. *Applicant/Operator:* The names, addresses and telephone numbers of the Applicant if other than the owner, and its agent residing in Hardee County upon which service of any papers under this Section may be made.
- c. *Engineer(s):* The name(s), address(es) and telephone number(s) of the Florida registered professional engineer(s) of record for the project, who shall prepare and sign all engineering documents submitted to the County.
- d. *Legal Description:* The legal description of the project tract and the acreage included in said description and the nature of the Applicant/Operator's legal interest in the lands comprising the project tract.
- e. *Material:* Type and volume of material to be extracted.
- f. *Topographic Maps:*

(01) A topographic map or maps of the entire tract covered in the application shall be provided. Said map shall show contour lines at two-foot intervals accurate within approximately one foot, which depict the actual ground contours prior to the commencement of mining operations. The contour map or maps shall be indexed using a grid system of one sheet per section on a 1" = 400' scale with the section corners located;

g. *Mining Plan*: Maps and other appropriate documents depicting the project tract and including:

(01) Owners and locations of all tracts of land contiguous to the tracts of land under consideration, for the project;

(02) Locations of each mining unit;

(03) Mining sequence of the units for the life of the mine shown on a year-by-year basis;

(04) The schedule of operation and completion of each mining unit for the life of the mine shown on a year-by-year basis;

(05) Locations and sizes of proposed settling ponds together with a breach analysis depicting an estimate of the maximum area which would be affected by a dam breakage; the breach analysis shall include the estimated depth of water/material at all areas affected by the breach.

(06) Locations and sizes of proposed thickeners and appurtenant devices together with an estimate of the maximum area which would be affected by a dam breakage;

(07) Location and general description of all physical plant facilities or other structures, including permanent pipelines and pipelines at road crossings to be constructed on the project tract;

(08) Location and general description of all flood control features including approximate dimensions of each.;

(09) Location and general description of all points of discharge for air pollutants, wastewater, and stormwater runoff;

(10) Location and general description of all existing natural and man-made streams and lakes, and definition of the 100-year and 25-year flood plains pursuant to methodology approved by the Mining Coordinator;

(11) Location and description of all points of withdrawal of water for production use, whether surface or subsurface;

(12) Location and description of all existing and proposed monitoring stations;

(13) Location and description of all existing wells;

(14) Type and classification of the soil overburden;

(15) Water table elevations both existing and the historical high;

(16) Results of the exploratory drilling showing the elevation of the base of the ore zone;

(17) A detailed transportation analysis if deemed necessary by the Mining Coordinator under MMSE or DRI requirements as applicable;

(18) The results of a detailed survey of the entire tract by a qualified archeologist in order to make a full assessment of its archeological and historical resources;

(19) The location of any archeological sites, historical sites cemeteries or burial grounds contained on the tract and what, if any, measures the Applicant/Operator proposes to preserve or dispose of such findings;

(20) Location of all existing utility lines, easements and existing roads, public or private;

(21) If sand/clay mix disposal is to be used as a reclamation technique, the details of the nature and placement of such materials, including the specifications of retaining dams, estimated settling and dewatering period and the physical characteristics of the sand/clay mix including the types of reagents used in the sand/clay mix and expected residual levels;

h. *Monitoring Plan:* A composite map or maps, or other appropriate document shall be provided depicting as to the project showing:

(01) Locations and description of each monitoring station or group of stations;

(02) The type of device or monitoring procedure for each station;

(03) Parameters that will be monitored for each station and the standards used for each parameter.

(04) Monitoring schedules for each stations;

(05) A detailed plan for compiling and submitting reports of the results from each monitoring station;

(06) The allowable limits for each parameter being monitored as applicable.

i. *Inspection Plan:* The Applicant/Operator shall provide a plan for regular inspection of all dams, settling ponds, thickeners, and any other operational features of the mining activities.

j. *Production Water Use Plan:* The Applicant/Operator shall provide a plan for the production use of water and data verifying the availability of the quantity required, including any water use permits, water balance report and water recirculation plan.

k. *Reclamation Plan:* A composite and other map(s) shall be provided depicting as to the project tract.

(01) Contours to which the tract will be graded or restored;

(02) Location of each reclamation unit;

(03) Sequence of reclamation of the units for the life of the mine shown on a year-by-year basis;

(04) Schedule of reclamation and completion of each unit for the life of the

mine shown on a year-by-year basis;

(05) Detailed description and density of plantings for each land use/cover type;

(06) Post reclamation land use and cover (FLUCFCS FDOT 1999 or similar).

02. *Pre-Mining Activities:* A detailed schedule and plans outlining all pre-operating construction and other activities necessary to prepare the tract for start-up of mining activity including the process of conducting pre-clearing vegetation/wildlife surveys and identification of potential listed species.

03. *Financial Responsibility:*

a. Every Applicant/Operator shall furnish to the Board evidence of financial responsibility in an amount based upon the total number of acres to be mined or excavated or utilized as settling pond areas during the first year of actual mining operations under the proposed mining and reclamation plan according to the following schedules:

(01) For each acre of land to be mined or excavated, \$15,000.00;

(02) For each acre-foot of the maximum above grade of the largest settling pond, sand/clay mix settling area or thickening pond proposed during the first year of actual mining, \$1,000.00.

b. Such evidence of financial responsibility shall be by:

(01) Evidence of insurance, surety bonds, letters of credit, or other financial instruments acceptable to Hardee County, where a payee is required it shall be payable to Hardee County to cover all costs and expenses of completion of reclamation of any areas which are not reclaimed as required by the approved Master Mining and Reclamation Plan and the costs of cleanups of any pollutants released by failure of any settling or thickening pond, dam, spillway or other outlet structure and damages to public lands and waters caused thereby; or

(02) A financial statement which has been audited and certified without qualification by a certified public accountant giving indication of ability to respond to liability in the amounts determined according to the above schedule. If the statement reflects the financial position of the Applicant/Operator as of a date more than 60 days prior to the date of filing of the application it shall be accompanied by copies of all interim balance sheets if any, of the Applicant/Operator certified by the chief financial officer to be true and correct; and if the latest interim balance sheet reflects the Applicant/Operator's financial position as of a date more than 60 days prior to filing of the application, by a certification of the chief financial officer of the Applicant/Operator dated no earlier than 60 days prior to filing that no material adverse changes have occurred to the Applicant/Operator's financial condition in the interim. Applicant/Operator shall be responsible for payment of all reasonable costs incurred by the County, including but not limited to the fees of any accountant or financial

consultant, in the review of such financial statement. The above notwithstanding, if at any time the Board should determine that the Applicant/Operator is of doubtful ability to respond to liability in the amount determined according to schedule in subsection a. above, the Board may require the Applicant/Operator to provide evidence of financial responsibility in the manner provided in subsection b. (01).

c. Subsequent Proofs: At the time of submission of the Annual Report required by Subsection 13.14.03.05 (C) of this Section, the Applicant/Operator shall provide updated financial information and proof of financial responsibility applicable to each prospective unit.

04. *Operating Plans.* In order for the Board to adequately review the operations to be conducted pursuant to the Master Mining and Reclamation Plan, the Applicant/Operator shall also submit the following:

a. Copies of all local, state and federal permits issued for the project or any applications for any such permits pending but not yet issued. The Applicant/Operator shall also file a summary listing of all project permits by agency, identification number and date of issuance and expiration;

b. An updated proof of financial responsibility, if necessary;

c. Detailed engineering specifications and drawings of any plants, structures dams or dikes constructed or to be constructed preparatory to initial mining activities;

d. Current high resolution aerial photographs taken along flight lines out to a distance of one mile on adjacent properties. These aerial photographs shall be provided at a scale of 1" = 400'. Additional enlargements shall be furnished by the Applicant/Operator at the request of the Mining Coordinator;

e. The detailed unit design and plan information for the initial mining unit.

05. *Procedures for Review:* Within 60 days from the date of submittal the Applicant/Operator shall be notified in writing by the Mining Coordinator as to the completeness of the applications, if additional information is required, the Applicant/Operator shall provide it within 30 days or such other reasonable time as may be approved by the Mining Coordinator. Upon receipt of all required information the application shall be deemed complete, and the Mining Coordinator shall prepare a staff report and recommendation and proposed MMRP Approval, which shall be forwarded to the Planning and Zoning Board for review. The Planning and Zoning Board shall review the application as required by this Section, and shall recommend approval with conditions or disapproval of the Master Mining and Reclamation Plan, MMSE, and shall provide its recommendation to the Board of County Commissioners with a request to set a public hearing date.

06. *Public Hearing:* The Board of County Commissioners upon receipt of notification from the Mining Coordinator shall set a public hearing date on each application within 30 days after receipt of notice to be no later than 90 days after the issuance of notice by the Mining Coordinator that a public hearing may be set, unless extended by mutual

agreement of the Board and the Applicant/Operator. Notice of the time and place of the hearing shall be given in the same manner as for a rezoning. Within 30 days of the close of the public hearing, the Board shall approve, approve with conditions, or disapprove the Master Mining and Reclamation Plan in writing and giving the reasons for any conditions or disapproval.

07. *Effect of Master Mining and Reclamation Plan Approval:* Approval of the Master Mining and Reclamation Plan shall be deemed to be permission to operate the project and approval of all necessary pre-operating construction activities, but shall not relieve the Applicant/Operator of compliance with any other applicable Hardee County, state or federal laws nor with the requirements of this ordinance for annual review of the operations.

08. *Term of Master Mining and Reclamation Plan Approval:* Once Master Mining and Reclamation Plan, approval is granted the Applicant/Operator shall have three years within which to commence approved operations unless some other time is specified by the Board in the Master Mining and Reclamation Plan approval.

09. *Scope:* The scope of or limitations on operations permitted under any Master Mining and Reclamation Plan shall be specified in the order of approval, which may reference the whole or any part of the Development Order, the Master Mining and Reclamation Plan or any other recommendation submitted to the Board by a County department, public or private agency, or individual. A copy of any so incorporated documents, recommendations or pertinent part thereof shall be attached and made a part of the Plan.

10. *Effect of Unit Review:* At the time of Annual Unit Review as provided for in this Section, each mining unit then under consideration shall be reviewed in detail and the Board expressly reserves the right to alter, amend or modify the Master Mining and Reclamation Plan to incorporate any reasonable additional conditions to the permit relating to a particular unit, if such changes are found to be in the public interest or necessary to ensure compliance with the then applicable Hardee County, state or federal laws.

11. *Inspection:* A condition of the approval of each Master Mining and Reclamation Plan under this Section shall be the agreement of the Applicant/Operator to allow designated representatives of the Board upon appropriate notice to enter upon the premises of any operations conducted thereunder for the purpose of inspection to ensure compliance with the terms and conditions of the plan approval, this Section and applicable Hardee County, state or federal laws.

12. *Absolute Liability:*

a. As a further condition of the issuance of any Master Mining and Reclamation Plan approval under this Section the Applicant/Operator shall be subject to absolute liability, without, the necessity of proof of negligence in any form or manner, to any injured party for damages resulting from failure of any dam, impoundment, spillway or other outlet structure, settling pond or thickening pond, sand/clay mix area, or from failure of the Permittee to complete any reclamation of lands as required;

b. The liability of this Section shall be in addition to those imposed as civil or

criminal penalties by any other section of this Section or any other applicable Hardee County, state or federal law.

C. *Annual Unit Review:*

01. *Submittal of Unit Plan:* Twenty-five copies of a detailed mining and reclamation plan for each unit as identified in the MMSE or DRI (if applicable) and Master Mining and Reclamation Plan for at least one year's operation shall be submitted yearly by the Applicant/Operator 60 days prior to the anniversary date of approval of the Master Mining and Reclamation Plan. An alternative anniversary date for the purposes of setting the annual recurrence date for the Annual Unit Review and submittal of the Unit Plan may be established by the Board. The Unit Plan shall conform to the approved Master Mining and Reclamation Plan, and DRI if applicable. No mining operations within a unit shall commence prior to receiving written approval from the Mining Coordinator or by annual unit review approval from the Board.

a. *Unit Mining Plan:* A map of the mining unit shall be provided in an appropriate scale depicting as to that unit:

(01) The existing ground contours with contour lines at least two-foot intervals accurate within approximately one foot;

(02) Location of the unit with respect to the tract;

(03) The schedule of operation and completion of the unit;

(04) Location and construction plans of all settling ponds and sand clay mix areas;

(05) Location and construction plans of all thickeners and appurtenant devices;

(06) Location and construction plans of all physical plant facilities;

(07) Location and construction plans of all major pipelines, roadways and related items;

(08) Location and construction plans of all storm drainage and flood control structures and their relationships with the approved Master Mining and Reclamation Plan;

(09) Location of all points of discharge for air pollutants, waste water and storm water runoff, together with an estimate of the quantities, chemical and physical characteristics of each. Only those pollutants regulated under any federal, state or local standards shall be required to be identified and quantified individually;

(10) Location of all natural and manmade streams;

(11) Sources of and data pertinent to production water to be used for the unit;

(12) Location of all existing utility lines and existing roads public and private;

(13) An aerial photo of appropriate scale to show the unit and surrounding areas of comparable size;

(14) If sand/clay mix, disposal is to be used as a reclamation technique, the details of the nature and placement of such materials including the specifications of retaining dams, estimated settling and dewatering period and the estimated settling and dewatering period and the physical characteristics of the sand/clay mix including the types of reagents used in the sand/clay mix and expected residual levels.

b. *Monitoring and Inspection Plan:* A composite map, maps, or other documents shall be provided depicting:

(01) Location and description of all monitoring stations within the unit;

(02) Types of devices, including manufacturer and model numbers and procedure of each station;

(03) Monitoring schedule at each station;

(04) A detailed plan for compiling and submitting reports of the results from each monitoring station;

(05) A proposal detailing the Operator's course of action if monitoring indicates that the allowable levels have been exceeded;

(06) A proposal detailing the Operator's inspection plans for the unit, including items to be inspected and the frequency of inspection for each item;

c. *Reclamation Plan:* A composite map or, maps, and other documents shall be provided depicting:

(01) Location of the reclamation unit with respect to the tract;

(02) Proposed final ground contours using contour lines at least two -foot intervals;

(03) Schedule of reclamation operations and completion of each reclamation unit;

(04) Detailed description and location of vegetation to be planted;

(05) After the completion of the initial units a detailed description, including maps, and aerial photographs of the reclamation progress of prior units.

d. *Emergency Response Plans:* The Operator shall discuss emergency response plans to be followed in the event of a dam failure for each settling pond, sand clay mix area or thickening pond currently active or to become active in the following operational year. Each plan shall include mapping showing areas subject to downstream flooding and a notification of local and state officials. All appropriate Operator employees shall be trained in the implementation of the emergency response plans. The Operator shall maintain records documenting such training.

02. *Annual Operating Report:* Each year at the same time as the submission of the Mining Unit design for annual review or, if no mining unit is submitted for review that year, within 60 days prior to the anniversary date of the issuance of the Master Mining and Reclamation Plan the Applicant/Operator shall file 25 copies of an Annual Operating Report with the Board. An alternative anniversary date for the purposes of setting the annual recurrence date for the submittal of the Annual Operating Report may be established if approved by the Board. The report shall:

- a. Review mining operations that have occurred during the reporting period and include in tabular form acreages mined, disturbed, areas utilized for mining operations, reclamation in progress, reclamation complete and reclamation approved.
- b. Reclamation progress of all areas that have been mined and or disturbed that are not in active mine use.
- c. Summarize all monitoring and inspection results including graphical and tabular representation of environmental monitoring data during the preceding operational year.
- d. Identify all lands upon which operations will be performed during the upcoming reporting period.

03. *Financial Responsibility:* Each year at the time of Annual Review the Applicant/Operator shall furnish to the Board evidence of financial responsibility updated to the anniversary date. The amount shall be based upon the following schedule:

- a. For each acre of land to be mined in the year following the anniversary date, \$15,000.00;
- b. For each acre of land mined or previously covered by a settling pond, sand clay mix area, or thickening pond but not reclaimed in compliance with this Section and the permit as of the anniversary date \$15,000.00;
- c. For each acre-foot of the maximum above grade storage of the largest settling pond, sand/clay mix settling area or thickening pond in the year following the anniversary date, \$1,000.00;
- d. At the Annual Review when the last mining unit of the Master Mining and Reclamation Plan is presented, the Operator shall demonstrate to the Board adequate financial ability to ensure the completion of all land reclamation in adherence to the Master Mining and Reclamation Plan. Such evidence shall be by:

(01) Evidence of insurance, surety bonds, letters of credit, or other financial instruments acceptable by Hardee County, where a payee is required it shall be payable to Hardee County, to cover all costs and expenses of completion of reclamation of any areas which are not reclaimed as required by the approved Master Mining and Reclamation Plan and the costs of cleanups of any pollutants released by failure of any settling or thickening pond, dam, spillway or other outlet structure and damages to public lands and waters caused thereby; or

(02) A financial statement which has been audited and certified without qualification by a certified public accountant giving, indication of ability to respond to liability in the amounts determined according to the above schedule. If the statement reflects the financial position of the Applicant/Operator as of a date more than 60 days prior to the date of submission of the Annual Unit Review and the Annual Operating Report it shall be accompanied by copies of all interim balance sheets if any, of the Applicant/Operator certified by the chief financial officer to be true and correct; and if the latest interim balance sheet reflects the Applicant/Operator's financial position as of a date more than 60 days prior to the submission of the Annual Unit Review and Annual Operating Report, by a certification of the chief financial officer of the Applicant/Operator dated no earlier than 60 days prior to filing that no material adverse changes have occurred to the Applicant/Operator's financial condition in the interim. The Applicant/Operator shall be responsible for payment of all reasonable costs incurred by the County, including but not limited to the fees of any accountant or financial consultant, in the review of such financial statement. The above notwithstanding, if at any time the Board should determine that the Applicant/Operator is of doubtful ability to respond to liability in the amount determined according to schedule in subsection a. above, the Board may require the Applicant/Operator to provide evidence of financial responsibility in the manner provided in Subsection 13.14.02.05(B)(03).

04. *Procedures for Annual Review:* The procedures for the Annual Review shall be the same as for issuance of the Master Mining and Reclamation Plan.

05. *Standard of Review:* At the public hearings all persons shall be heard. The Board shall review the Annual Operating Report and Unit Plan for compliance with the Development Order, Master Mining and Reclamation Plan and supporting documents and all applicable Hardee County, state or federal laws then and any time before in effect and applicable to the project, and shall render its findings in writing, approving or disapproving or approving with conditions the unit plan for the next unit and the Annual Operating Reports.

D. *Dam Construction Plans Review:*

At the time the Operator submits dam construction plans to the State, they shall be concurrently submitted to Hardee County for review. At that time Contingency plans for containment and cleanup of any spill from a dam breakage shall also be submitted for review and approval.

3.14.02.06. *Standards*

All mining and reclamation activities within Hardee County shall at a minimum conform to these standards.

A. *Mining Standards:*

(01) No mining operations, except temporary storage of excavated materials, shall be performed within:

- a. One-quarter mile from the following future land use classifications specified

and shown on the Future Land Use Map: incorporated towns and cities; Town Center; Highway Mixed Use; Residential Mixed Use; and Rural Center. The Board of County Commissioners may allow mining operations within one-quarter mile upon demonstration by the Applicant/Operator/Owner that such mining operations will not significantly interfere with current or planned uses within or adjacent to such land use classification;

b. Five hundred feet from a public park boundary, cemetery, historical site, or permanent buildings (including Mobile Homes or Manufactured Housing) used for residential, commercial, church or public purposes, on site at time of application for a mining unit approval, in areas not controlled by Paragraph A(01)a. above;

c. One hundred feet from an existing public right-of-way, or public easement for drainage, utility or road purposes, in areas not controlled by Paragraphs A(01)a. and (01)b. above;

d. Fifty feet from Permittee's property line, in areas not controlled by paragraphs A(01)a., A(01)b., and A(01)c. above.

(02) No settling pond, sand clay mix area, or thickening pond shall be constructed within:

a. Five hundred feet from a public park boundary, cemetery, historical site, or permanent buildings (including Mobile Homes or Manufactured Housing) used for residential, commercial, church or public purposes on site at time of application for mining unit approval;

b. Five hundred feet from any right-of-way line of any public road;

c. Two hundred feet from Permittee's property line in areas not controlled by Paragraphs A(02)a. and A(02)b. above.

(03) No excavated material or stock pile shall be left longer than 14 days within:

a. Five hundred feet of the Applicant/Operator's property line which abuts a public park boundary, cemetery, historical site, or permanent building (including Mobile Homes or Manufactured Housing) used for residential, commercial, church or public purposes, on site at time of application for mining unit approval;

b. One hundred feet from an existing public right-of-way or public easement for drainage, utility or road purposes, in areas not controlled by Paragraph A(03)a. above;

c. Fifty feet from Permittee's property line in areas not controlled by paragraphs A(03)a. and A(03)b. above.

(04) Effect on Adjoining Owners:

a. The above setback requirements are the minimum, and the Board expressly reserves the right to require whatever setbacks may be necessary, on a case by case evaluation, to protect adjoining property uses, including but not limited to citrus operations and improved pasture;

b. The setback requirements described in subparagraphs (01) through (03) above shall not apply where owners of the land protected by said setbacks have expressly consented to a reduction thereof by written instrument executed with the formality of a deed and recorded in the public records of Hardee County, Florida. Such consent and recordation must occur prior to any mining activities by the Applicant/Operator in the areas subject to the agreement and certified copies of the recorded instrument shall be furnished to the Mining Coordinator, who shall acknowledge receipt in writing.

(05) Excavated materials and stock piles shall not be higher than a slope-line of 1 vertical to 5 horizontal projected from the nearest point of Applicant/Operator's property line.

(06) Increases to ambient noise levels resulting from mining operations shall not result in readings in excess of 75 decibels as measured at the Applicant/Operator's property lines, nor shall mining operations generate noise in excess of that allowed by any applicable Hardee County, state or federal law.

(07) Soil vibrations caused by any mining operations shall be below the levels which would be detrimental to the health, welfare and wellbeing of the general public or existing structures.

(08) No blasting or other use of explosives shall be performed without the written permission of the Board. Should blasting or other use of explosives be permitted, the transportation, handling, storage and use of explosives shall be directed and supervised by a person of proven experience and ability in blasting operations, and shall conform to all applicable Hardee County, state or federal laws.

(09) Spillways and other outlet structures from settling ponds shall be designed and constructed in accordance with a plan developed and certified by a professional engineer. The minimum design capacity shall be based on a 12-inch, 24-hour rainfall.

(10) All clay settling ponds and sand clay mix areas shall be contained within fenced areas, or shall otherwise be blocked to public access.

(11) Archeological and historical sites, cemeteries, and burial grounds shall be preserved, or if removal of remains is deemed necessary, it shall be accomplished by process of applicable law.

(12) No mining, placement of fill, construction of permanent buildings or other facilities inside the 100-year floodplain shall be permitted unless the Applicant/Operator can show that the operations will not increase the flood hazards. Dragline crossings are permitted as approved under the Master Mining and Reclamation Plan.

B. *Monitoring Standards:* Monitoring and reporting in accordance with these regulations shall be performed by the Applicant/Operator for a minimum period of one year prior to beginning mining operations, with continuous monitoring and reporting until all mining operations cease. The Board may, at any time, order additional monitoring as may be reasonably necessary to protect the public health, safety and welfare.

(01) The waters of all natural and man-made streams entering upon the Operator's property shall be monitored once weekly at the point of entry and exit, or at a location and

frequency specified by the Mining Coordinator, to determine the quantity and quality.

(02) The air quality shall be monitored around the Applicant/Operator's property by monitoring devices. The monitoring devices shall be installed at intervals not to exceed 5,280 feet from the areas where mineral is being extracted, or in accordance with a suitable air monitoring plan prepared under the seal of a professional engineer. The monitoring shall be performed according to the approved monitoring plan.

(03) Observation wells shall be constructed around the boundary of the Applicant/Operator's property for purposes of monitoring the ground water levels potentiometric level of, the aquifer(s) from which production water is being withdrawn and the water quality of each. The monitoring for the water levels shall be done on a continuous basis. The monitoring of the water quality shall be performed once monthly or periodically as specified by the Mining Coordinator as necessary to monitor ground water quality.

(04) Rainfall gauges shall be installed on the Applicant/Operator's property. They shall be placed at random with an average density of one per two square miles or two minimum, whichever is the greater number, or at locations or densities as specified by the Mining Coordinator. The monitoring shall be performed on a continuous basis with recordings tabulated monthly.

(05) Effluent from all sewage treatment plants shall be monitored for quantity and quality. The water quality and monitoring of the effluent shall meet the standards established by applicable Hardee County, state and federal laws.

(06) The effluent from all operations and treatment plants other than sewage shall be monitored for quantity and quality. The water quality and monitoring shall meet the standards established by applicable Hardee County, state and federal laws.

(07) Water for production use, as defined herein shall be monitored for quantity and quality. The monitoring for quantity shall be performed on a continuous basis. The monitoring for quality shall be performed once monthly or periodically as specified by the Mining Coordinator as necessary to monitor water quality.

(08) All dams shall be inspected daily by a representative of the Applicant/Operator and in accordance with all applicable Hardee County, state and federal laws.

C. *Reclamation Standards:*

(01) Between one-quarter mile and one-half mile from the following future land use classifications specified and shown on the Future Land Use Map: incorporated towns and cities; Town Center; Highway Mixed Use; Residential Mixed Use; and Rural Center, the reclamation by placement of sand tailings, and/or over burden or a combination of both, shall be considered the method of maximizing urban land development potential. The use of land/lakes reclamation is also encouraged. Between one-half mile and one mile from the same future land use classifications there shall be a Reclamation Transition Zone, in which reclamation shall maximize the opportunity for urban development of mined land. The Board of County Commissioners may allow alternative methods of reclamation upon demonstration by the Applicant/Owner that such reclamation will not significantly interfere with current or planned uses within or adjacent to such land use classification;

(02) The restoration of wetlands and construction of lakes are encouraged in Reclamation Transition zone, and shall be considered maximization of urban land development potential;

(03) All reclamation within 300 feet from the right-of-way of arterial and collector roads shall be by sand tailings and/or overburden or a combination of both;

(04) Except as provided otherwise in this Section, all duly adopted state and federal reclamation criteria and standards shall apply to reclamation or restoration of lands located in Hardee County, Florida;

(05) All surface areas of the mining site actually mined or disturbed by mining activities, and lying within one-half mile of incorporated towns and cities, and Future Land Use Classifications of Town Center; Highway Mixed Use; Residential Mixed Use; and Rural Center shall be reclaimed not later than two years after completion of mineral extraction in all areas not containing an active corridor or a Clay Settling Area;

(06) All surface areas of the mining site actually mined or disturbed by mining activities and lying within 300 feet from the right-of-way of arterial and collector roads shall be reclaimed not later than two years after completion of mineral extraction

(07) All other areas shall be reclaimed as follows:

a. Areas not including settling ponds, sand clay mix areas, sand tailings piles or recirculating water systems shall be reclaimed within four (4) years from the date mining operations are completed. All backfilling and reshaping must be completed within 18 months. All soil treatment, soil enrichment and grassing (or temporary vegetation) must be completed within two years. All initial permanent vegetation (trees and shrubs) must be completed within three years. The fourth year shall include at least a one-year growing season for the permanent vegetation. Shade adapted or other species specific site requirements may be planted at a later date than specified;

b. Settling ponds and sand clay mix areas shall be reclaimed within four years after active dewatering activities are complete and the area is sufficiently consolidated to support reclamation activities being taken out of use as settling ponds, using the same requirements as paragraph a. above;

c. Recirculating water systems and sand tailings piles shall be reclaimed within two years after commencement of reclamation. All backfilling, reshaping, enrichment and treatment of the soil, and all revegetation must be completed within one year. The second year shall include the one-year growing season for permanent vegetation;

d. The Board of County Commissioners of Hardee County, Florida may require a more expeditious reclamation schedule in order to minimize impacts to neighbors, wetlands, offsite drainage or floodplains. Also, the Board may grant a more lengthy reclamation schedule, if there are circumstances outside the Applicant's/Operator's control that delays the reclamation process.

(08) All reclaimed land shall be revegetated in accordance with the approved

Development Order, Master Mining and Reclamation Plan, and in accordance with any Conceptual Reclamation Plan submitted and approved in accordance with applicable state and federal laws. In addition to other requirements relating to revegetation, the Operator shall guarantee a plant survival rate of 80%, established ground cover one year after planting, excluding areas such as roads, groves, or row crops. Forested areas will be considered to be reforested if a stand density of 200 trees/acre is achieved at the end of one year after planting and maintained until approval. In the event the survival rate is not maintained, the Operator shall replant as necessary to achieve such rate. Coverage of nuisance exotic plant species shall be 10% or less of the overall reclamation parcel.

(09) During backfilling, if tailings are used, such tailings shall be placed in the fill area first and overburden shall be used for top soil. Areas where this process is not applicable must be defined within each annual report required by this code. If sand/clay mix is used to reclaim mined out areas, reclamation shall be completed in the period of time specified for a particular unit in the Development Order and Master Mining and Reclamation Plan.

(10) After mining operations cease on the entire site, no more than 30 percent of the land area shown on the Master Mining and Reclamation Plan as settling areas shall be covered by un-reclaimed settling ponds or pits.

(11) After mining is complete, all phosphatic clay pits and settling ponds shall be restricted from public access until reclamation is complete.

(12) No permanent body of water with a bottom width of less than 100 feet or an average bottom diameter of less than 100 feet, if circular in shape, shall be permitted.

(13) Reclamation of Agricultural/Cropland, Pine Flatwoods, Upland Hardwood Forests Forested Wetlands, Herbaceous Wetlands and Lakes shall be reclaimed as follows:

a. Agricultural Lands

- i. Agricultural Lands shall, at a minimum, be compacted sufficiently, to permit the safe operation of conventional farm and agricultural equipment and other ordinary agricultural use of land.
- ii. The land shall have a slope that does not exceed 4:1.
- iii. Ground cover in pasture shall be perennial vegetation. Ground cover shall be a minimum eighty (80) percent areal coverage following one full growing season. This coverage shall be maintained until approval.
- iv. Planting shall be completed in accordance with the Planting Descriptions/Plans in the approved Master Mining and Reclamation Plan.
- v. The area should be kept free from livestock grazing for one year after initial reclamation is completed.

b. Pine Flatwoods

- i. Flatwoods shall contain native tree, shrub, forbs and grasses that will be diverse. The areas shall be suitable for livestock grazing with little

maintenance while also providing a corridor for wildlife movement.

- ii. Sand tailings or overburden shall be graded to gradual slopes with little topographical relief and covered with a layer of topsoil (when available) from an area with similar community structure.
- iii. Vegetation shall be diverse with tree species including, but not limited to longleaf pine, slash pine and oak. Ground cover shall include low shrubs, native grasses, legumes and forbs that will provide soil stability and be beneficial for livestock grazing.
- iv. Planting shall be completed in accordance with the Planting Descriptions/Plans in the approved Master Mining and Reclamation Plan.
- v. Livestock grazing shall not occur for a minimum of three years after planting.

c. Upland Hardwood Forests

- i. Upland Hardwood Forests shall contain native tree, shrub, forbs and grasses that will be diverse. The areas shall be between upland communities and waterways and/or wetlands providing a corridor for wildlife movement.
- ii. Sand tailings or overburden shall be graded to gradual slopes with little topographical relief and covered with a layer of topsoil (when available) from an area with similar community structure.
- iii. Trees shall include, but not be limited to Oak, Magnolia, Cabbage Palm, and Pines. Ground cover shall be diverse and include, but not be limited to native shrubs, native grasses, and forbs that will provide soil stability.
- iv. Planting shall be completed in accordance with the Planting Descriptions/Plans in the approved Master Mining and Reclamation Plan.
- v. Livestock grazing shall not occur for a minimum of three years after planting.

d. Forested Wetlands

- i. Forested Wetlands shall contain native tree, shrub, forbs and grasses that will be diverse.
- ii. Sand tailings or overburden shall be graded covered with a minimum 3-inch layer of topsoil/muck from a wetland (when available) of similar community structure.
- iii. Trees shall include at least three different species. Ground cover shall be diverse and include but not be limited to native shrubs, and native herbaceous plant species that will provide soil stability.

- iv. Planting shall be completed in accordance with the Planting Descriptions/Plans in the approved Master Mining and Reclamation Plan.
  - v. The area shall be protected from livestock grazing until established or approved as reclaimed.
- e. Herbaceous Wetlands
  - i. Herbaceous Wetlands shall contain native shrub, forbs and grasses that will be diverse.
  - ii. Sand tailings or overburden shall be graded covered with a minimum 3-inch layer of wetland muck or topsoil when available. In the event that insufficient wetland muck or topsoil is available, the Applicant/Operator shall use other appropriate organic materials.
  - iii. Ground cover shall be diverse and include but not be limited to native shrubs, and native herbaceous plant species that will provide soil stability.
  - iv. Planting shall be completed in accordance with the Planting Descriptions/Plans in the approved Master Mining and Reclamation Plan.
  - v. The area shall be protected from livestock grazing until established or approved as reclaimed.
- f. Lakes
  - i. In order to encourage a variety of emergent habitats and a balance of deep and shallow water bodies throughout the mined area in Hardee County, the development of deeper lakes or water bodies, with a smaller littoral zone than that set out in Section 62C-16.051, Florida Administrative Code, may be permitted if specifically approved by the Board.
  - ii. All such deeper lakes shall be a minimum of eight feet deep as measured from the water surface, with a maximum side slope of one vertical and four horizontal. This depth requirement may be reduced to six feet where bedrock would otherwise have to be pierced.

(14) Approval of Reclamation:

- a. After reclamation of an area, the Operator shall make written application to the Mining Coordinator for review. Upon completion of review and the application is considered complete, the Mining Coordinator will present the request to the Board of County Commissioners for approval/denial of the reclamation. The application shall

identify the lands and contain certification by the project superintendent or manager that reclamation has been performed according to these regulations. The Board reserves the right to require a certification from a professional engineer or a professional geologist;

- b. The application shall include.
  - i. Description of all areas in which Reclamation Approval is being requested, including identifying the land use and acreage of each reclamation parcel.
  - ii. General Location Map that identifies roadways and all reclamation parcels.
  - iii. Aerial Map with all reclamation parcels and identifying parcels in which Approval is requested.
  - iv. Land Use and Cover Map (FLUCFCS FDOT 1999 or similar).
  - v. Copies of all State and Federal (if applicable) letters granting release of reclamation.
- c. At the time of Annual Unit and Operating Review, the Operator shall also file the status of any reclamation permit or approval as applied for pending or received from any other local, state or federal governmental authority;
- d. The Board shall act upon the application within thirty days of receipt of the complete information. In the event the reclamation is not approved, the Board shall inform the Operator in writing of the specific areas of non-compliance and shall specify a reasonable period of time for compliance. Failure to comply with such reclamation order within the time specified shall be a violation of this Section subject to the enforcement procedures set out herein.

D. *Standard for Production Use of Water:* The water usage for operations subject to this Section shall not exceed the available water supply as determined by these standards or the standards set by any other applicable regulatory agency, whichever allows the lesser usage rate.

(01) A proposed rate of withdrawal for production use of any ground water shall be determined after analyzing the results of an onsite test well program performed by the Applicant/Operator. The test program and analysis shall be performed under the control and seal of a professional engineer or certified hydrologist.

- a. Test wells shall be drilled to determine the depth and characteristics of the subsurface, geologic and hydrologic units and variations in water quality and potentiometric levels.
- b. Detailed pumping tests shall be conducted on the aquifer(s) from which production withdrawal is proposed with monitoring of water level and potentiometric levels in the pumped aquifer, and all overlying aquifers by means of observation wells located at various distances from the pumping wells.

- c. The hydrogeologic characteristics, including transmissivity and storage coefficient of the pumped aquifers, and coefficient of vertical permeability of the confining layers shall be determined.
- d. The proposed production withdrawal rates shall be that amount which can be shown not to cause any significant lowering of the potentiometric levels of the production aquifer beyond the project boundaries.
- e. The effects of production withdrawal shall be monitored during mining operations. Withdrawal rates shall be adjusted as required to maintain the permitted potentiometric levels at the project boundaries.

(02) Unreasonable changes of the natural hydraulic connections between the surficial water bearing material and the Floridian aquifer or the introduction of deleterious chemical or physical constituents into the local ground water or surface water shall not be permitted. The Board may order the Applicant/Operator to take whatever measures are necessary to alleviate adverse impacts due to lowering of the water level, or if water quality deterioration is occurring beyond the project boundaries. In the event that such measures do not appear to alleviate the water problem the Board may temporarily direct that all mining activities cease while a thorough investigation is made.

(03) The Applicant/Operator shall provide a complete inventory of all existing wells on the property under consideration including locations, potentiometric elevations complete chemical analysis, proposed disposition and in so far as possible; depths, diameters, casing schedules, types of pumps and logs. All wells not proposed for use in the mining operations may be plugged in accordance with accepted standard procedures, as specified by the Board. All free flowing wells shall be sealed immediately after obtaining the required measurement.

#### *3.14.02.07. Inspection and Reporting Requirements.*

- A. The Mining Coordinator or delegated mining staff may inspect the Applicant/Operator's property at any reasonable time. Prior to inspection, the Applicant/Operator shall be informed of the presence of county inspection personnel, and during the inspection the Applicant/Operator shall accompany and provide adequate protection for the safety of the inspection personnel.
- B. The Applicant/Operator shall perform the following:
  - (01) Inspection of all dams daily;
  - (02) Keep available at all time, any required records of inspection and the results of monitoring;
  - (03) Retain a representative of the company on site while operations are in progress;
  - (04) Retain on site a copy of the approved Master Mining and Reclamation Plan, and a copy of all approved Unit Plans.
- C. During the interval between the date of issuance of the Master Mining and Reclamation Plan and the date of commencement of mining operations the Operator shall submit to the County quarterly, one copy of a tabulation of readings, observations and measurements

obtained from all monitoring and inspections.

D. At quarterly intervals after the date of issuance of the Master Mining and Reclamation Plan until the date mining operations begin, and at quarterly intervals beginning within one week after mining operations begin, the Operator shall submit to the County one copy of the tabulation of readings observation and measurements obtained from all monitoring and inspections, along with a report, interpreting and analyzing the effects of the mining operation under the seal of a professional engineer or other qualified person.

E. Dam inspection reports, signed by each inspector making the inspection daily and counter-signed by a competent supervisor shall be submitted to the Mining Coordinator monthly.

F. In order to ensure that the County has a complete record relating to the project, the Operator shall immediately provide the County with copies of all permits, applications for permits, orders, reports, studies or other documents at any time submitted to or received from any Hardee County, state or federal agency relating to the projects unless such material duplicates information already submitted to the County in which case the Applicant/Operator shall be required only to notify the County of the submittal or receipt of such material to or from the agency and the purpose for which it is being used.

*3.14.02.08. Transfers, Amendments and Substantial Deviation.*

A. *Transfer of Permit:*

(01) Prior to the transfer of rights under any existing Development Orders or the Master Mining and Reclamation Plan or other permit, the Permittee and the prospective transferee must apply to the Board for a transfer permit. Such transfer shall apply to changes in ownership of land or transfer of rights under existing permits, but shall not involve or authorize any other changes to or deviation from the Development Order or Master Mining and Reclamation Plan. Any other change to or deviation from the terms of the Development Order or Master Mining and Reclamation Plan may be deemed an amendment, subject to other provisions of this Section;

(02) At the same time as the application for transfers, the prospective transferee must also furnish proof of financial responsibility as is required herein, covering all lands or rights to be transferred;

(03) If the Board finds adequate proof of responsibility by the prospective transferee, the transfer shall be approved by the Board;

(04) Upon acceptance of the transfer, the transferee becomes the Applicant/Operator under this Section and assumes the responsibility of compliance with all the terms of this Section and Code, regulations adopted hereunder, and of the Development Order and Master Mining and Reclamation Plan.

B. *Amendments:* Amendment to the Master Mining and Reclamation Plan or provisions thereunder may be sought from time to time by the Applicant/Operator.

(01) Any application for amendment shall follow the procedures outlined for the original application for Master Mining and Reclamation Plan approval.

(02) In the case of non-substantive matters, the Board may elect to act upon any application for amendment without a public hearing.

C. *Substantial Deviation Determination:*

(01) With any Operator initiated amendment to or change in the Master Mining and Reclamation Plan or the Development Order, the Operator shall also submit a request for determination of substantial deviation from the development order as required by the approved Hardee County MMSE. The Board shall make such determination prior to review of and decision on the amendment. No amendment which is determined to be a substantial deviation shall become effective until the completion of all procedures relating to substantial deviations as set out in the approved Hardee County MMSE.

(02) The Board expressly reserves the right to find that the addition of property to any mining tract, by itself or together with any simultaneous or prior additions, is a substantial deviation, regardless of earlier approvals of additions of property to the tract.

3.14.02.09. *Fees.*

A. A schedule of nonrefundable fees is hereby established and may be revised periodically by resolution, by the Board. It is expressly recognized that these fees are reasonable and necessary to help offset the additional cost to Hardee County incurred in the adequate review of these ongoing projects, to ensure the health, safety and welfare of the citizens of Hardee County. Such costs are extraordinary and are more justly borne by the Applicant/Operator who will receive great financial benefit from mining and earth moving activities in Hardee County.

B. Hardee County Mining Fee Schedule:

(01) *Initial Application Fee:* \$1.20 per acre of land under consideration in the Master Mining and Reclamation Plan and shall be payable one time upon application.

(02) *Operating-Approval Fee:* This fee shall be paid in lieu of any impact review fee required by other ordinance: \$8.40 per acre of any land to be disturbed by mining, earth moving, and related activities as set out in the Master Mining and Reclamation Plan. This fee shall be paid within 30 days after the Development Order has been issued by the Board approving the Master Mining and Reclamation Plan.

(03) *Annual Review Fee:* After the initial mining unit, \$7.00 per acre disturbed and not reclaimed, and to be disturbed in the coming unit year by mining or related activities, excluding any acreage that has been reclaimed in accordance with the requirements of this Section and payable annually after the first year of operation. This fee shall be paid annually 60 days prior to the anniversary date of approval of the Master Mining and Reclamation Plan or the approved Annual Review date if different from the anniversary date.

(04) *Amendment Fee:* \$8.40 per acre of land not already being considered for mining activity or under permit for mining activity payable upon application, plus all costs of review payable upon invoice by Hardee County.

(05) *Annual Monitoring Fee:* \$1.20 per acre of land within the tract subject to the Master Mining and Reclamation Plan, payable annually 60 days prior to the anniversary date of

approval of the Master Mining and Reclamation Plan.

*3.14.02.10. Compliance.*

- A. Failure to comply with these regulations or any orders, stipulations or requirements of the Board, may constitute grounds for suspension or revocation of the permit by the Board.

(01) Notice of Violation: The Operator shall provide the County with copies of any notice of violation, noncompliance order, stop-work order or other written notification by any Hardee County, state or federal agency of any alleged violation or failure to comply with any law, ordinances, rules, regulations, standards or orders within 48 hours of receipt by the Operator. Failure to provide such copy shall be considered a violation of this Section, subject to all penalties provided hereunder.

(02) If at any time during the term of the permit the Operator fails to comply with these rules and regulations, approved development orders, the appropriate rules and regulations of other departments, regulatory agencies of the County, the State of Florida or the federal government, or with the terms of the permit, the Mining Coordinator/designee shall immediately notify the Operator in writing and order that the violative activity cease and appropriate corrective measures be instituted within a specified period of time.

(03) The Operator may appeal such orders to the Board no later than ten days following their receipt. The appeal shall be heard and decided by the Board at its next regularly scheduled meeting within two weeks from the date of the notice of appeal.

(04) Compliance with the orders shall be reported to the Board in writing and confirmed in writing by the Mining Coordinator.

(05) Should the Operator fail to comply with or appeal the notice of violation and corrective orders within the specified time period the Board may suspend the Master Mining and Reclamation Plan approval and permission to operate until such time as compliance is proven by the Applicant/Operator.

(06) A timely filed appeal shall stay the effect of the notice of violation unless the Mining Coordinator certifies to the Board, and the Board finds that there is an imminent peril to the public health, safety and welfare. In any event, once a timely filed appeal has been found in favor of the County, the Board may suspend the Master Mining and Reclamation Plan approval and permission to operate until such time as compliance is proven by the Applicant/Operator.

- B. Failure on the part of the Applicant/Operator to begin operations within a period of three years from approval of the Master Mining and Reclamation Plan may be cause for revocation of the Master Mining and Reclamation Plan approval and the permission to operate. Any subsequent application for permission to commence mining will be treated as an initial application.

### 3.14.02.11. Penalties.

A. *Criminal Penalty.* Violation of this Section and rules and regulations adopted hereunder, may, at the discretion of the Board of County Commissioners be subject to the penalties and procedures established by Section 125.69 Florida Statutes, including approved mining operation and completion schedule of each mining unit and/or approved reclamation operation and completion schedule of each reclamation unit. Under Section 125.69, such violations shall be prosecuted in the same manner as misdemeanors in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction and shall be punishable by fines not to exceed \$500.00 or by imprisonment in the county jail not to exceed six months or both such fine and imprisonment. Each day on which a violation of a continuing nature occurs shall be a separate violation. Procedures include notice of an apparent violation by the County to the Owner/Operator and an opportunity to correct such violation.

B. *Civil and Injunctive Relief.* In addition, the County may institute a civil action in the Circuit Court to seek injunctive relief to enforce compliance with this Section, including approved mining operation and completion schedule of each mining unit and/or approved reclamation operation and completion schedule of each reclamation unit, and may also seek the imposition and recovery of damages and a civil penalty for each violation in an amount not less than \$2,500.00 nor to exceed \$5,000.00 per violation. Each day during any portion of which a continuing violation occurs shall be a separate violation. It shall not be a defense to any judicial remedy for injunction, damages or civil penalty that the County has failed to serve a notice of violation or to pursue any administrative remedy, or that criminal proceedings or other enforcement proceedings are pending, except that remedies to recover damages are alternative and shall preclude recovery of damages more than once by the County.

C. In addition, failure of any dam, spillway or other outlet structure or settling pond, sand clay settling area, or thickening pond or any other cause attributable to the Operator's mining operation resulting in degradation of the quality of any waters outside the Operator's property, shall subject the Operator to a civil penalty to be paid to the County in an amount equal to the cost of restoration of water quality in the affected area plus all costs of cleanup and administrative costs to the County.

D. In addition, failure of an Operator to have completed reclamation of lands as required at the conclusion of any unit year may subject the Operator to a civil penalty to be paid to the County in an amount equal to the evidence of financial responsibility required to be maintained on account of the lands involved.

E. In addition, the Board may require the Operator to provide evidence of financial responsibility in the manner provided in paragraph 3.14.02.05(C)(03)(a) to ensure that a violation of this Section, the rules and regulations adopted hereunder, including approved mining operations and completion schedule of each mining unit and/or approved reclamation operation and completion schedule of each reclamation unit, is corrected or cured. The Board may, at any time take such actions as it deems necessary to cure a violation. The Operator shall be liable for all cost of the County in curing a violation or completing reclamation, and the County shall have the right to proceed against any financial responsibility in order to recover such cost. The remedies provided for in this paragraph (E) are cumulative to remedies and penalties set forth in paragraphs (A) through (D).

*3.14.02.12. Waiver.*

Upon application by the Operator the Board may waive any portion of these regulations as to the Operator's project, upon a showing that the Operator shall suffer undue hardship if required to comply or if Applicant/Operator demonstrates good cause, and upon a finding by the Board that such waiver will not result in increased adverse impacts nor be harmful to the health, safety and welfare of the citizens of Hardee County.

*3.14.02.13. Expert Certification.*

When any drawing, document or other information are required by the terms of this Section to be certified, signed and/or sealed by a Florida Registered Professional Engineer or other qualified professional person the certification shall state that person executing the document is personally familiar with and has reviewed the document in question and that the information reflected therein meets generally accepted professional practices in the field in which they are an expert.

*3.14.02.14. Duplication of Information.*

Whenever any information is required to be submitted by the terms of this Section and such information has previously been submitted or exists within the County's records, in lieu of submitting duplicate or redundant information, the Applicant/Operator may notify the County in writing by letter to the Mining Coordinator specifying the information previously submitted, and stating where such information already exists within the County records.

*3.14.02.15. Computation of times.*

Whenever an act is required or allowed to be done within a specified time by the terms of Section 3.14.02.05, such times shall be computed in accordance with the Florida Rules of Procedure. If such time periods conflict with any scheduling mandated by applicable state or federal laws then the time periods in question shall be adjusted to comply with such state or federal laws but shall be kept as close to the time periods set out herein as possible. All time periods may be extended by the Board for good cause.