



FLORIDA DEPARTMENT OF STATE
George Firestone
Secretary of State

November 6, 1981

The Honorable Richard B. Shore
Clerk of Circuit Court
Manatee County Courthouse
Room 234
Bradenton, Florida 33505

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge:

- ✓ 1. Receipt of your letter/s of November 2
and certified copy/ies of Manatee
County Ordinance/s No./s 81-22
2. Receipt of _____ County Ordinance/s
relative to:
(a) _____
which we have numbered _____
(b) _____
which we have numbered. _____
- ✓ 3. We have filed this/~~these~~ Ordinance/s in this office
November 6, 1981.
one
- ✓ 4. The ~~original~~/duplicate copy/ies showing the filing date
is/~~are~~ being returned for your records.

Cordially,

Nancy Kavanaugh
(Mrs.) Nancy Kavanaugh
Chief, Bureau of Laws

250

NK/b

ORDINANCE NO. 81-22

An ordinance of the County of Manatee, Florida, relating to the regulation of mining and reclamation activities in Manatee County; making certain findings of fact; providing a legislative purpose; providing definitions; providing for the requirement of best possible technology for mining in the watershed of the Lake Manatee reservoir; providing for Master Mining Plans; providing minimum setback requirements; providing for operating permits before mining activities may begin; providing terms for operating permits; providing criteria for mining activities; providing financial responsibility requirements; providing for permitting procedures, amendment, transfer, new permits and annual progress reports; providing for notice and public hearings; providing reclamation requirements; providing for fees; providing for waiver of requirements; providing standards for radiation; providing for enforcement of the ordinance; providing for severability; and providing an effective date.

WHEREAS, mining in Manatee County without regulation constitutes a danger to the health, safety, and welfare of persons, plants, and animals in Manatee County, Florida, and to the beneficial enjoyment thereof in said County, and

WHEREAS, it has become of general knowledge within Manatee County, Florida, that the Board of County Commissioners has been considering adoption of a revised mining and reclamation ordinance; and there have been numerous workshops, work sessions, and meetings of the Board of County Commissioners dealing with the regulation of mining and reclamation in Manatee County, Florida, with public participation and presentations by industry and environmental organizations; and numerous drafts of such ordinance have been disseminated for review and public comment, with announcements and coverage of said mining and reclamation proposals by the news media, and

WHEREAS, the County of Manatee, Florida, owns and operates a drinking water reservoir known as Lake Manatee in connection with the maintenance and operation of a potable water treatment and distribution system, serving as the primary source of drinking water for about 250,000 people in a region comprising most of the urbanized areas of Manatee County, Florida, including the cities of Bradenton, Holmes Beach, Anna Maria, Bradenton Beach, and Palmetto,

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CLERK OF COUNTY OF MANATEE

the Town of Longboat Key, and a substantial portion of the northern part of Sarasota County, Florida, and

WHEREAS, unregulated mining in the watershed of the Lake Manatee reservoir presents a danger to the public health, safety, and welfare, and would endanger the Manatee County potable water system, and

WHEREAS, the regulation of mining activities is consistent with the Manatee County Comprehensive Plan, and

WHEREAS, more stringent measures are necessary to protect the watershed of the Lake Manatee reservoir.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, as follows:

TABLE OF CONTENTS

<u>TOPIC</u>	<u>PAGE</u>
<u>I. GENERAL REQUIREMENTS</u>	5
<u>A. INCORPORATION OF FOREGOING</u>	5
<u>B. SHORT TITLE</u>	5
<u>C. PURPOSE</u>	5
<u>D. DEFINITIONS</u>	5
<u>1. Annual Progress Report</u>	5
<u>2. Applicant</u>	5
<u>3. Best Management Practices</u>	5
<u>4. Best Possible Technology</u>	5
<u>5. Board</u>	6
<u>6. Coordinator</u>	6
<u>7. County</u>	6
<u>8. Disturbed Lands</u>	6
<u>9. Exotic Nuisance Species</u>	6
<u>10. Manatee County Comprehensive Plan</u>	6
<u>11. Master Mining Plan</u>	6
<u>12. Matrix</u>	7
<u>13. Mining Activities</u>	7
<u>14. Notice</u>	7
<u>15. Operating Permit</u>	7
<u>16. Overburden</u>	7
<u>17. Person</u>	7
<u>18. Reclamation</u>	7
<u>19. Sand/Clay Reclamation Site</u>	7

20. <u>Slimes</u>	7
21. <u>Slime Pond</u>	8
22. <u>Spoil</u>	8
23. <u>Tailings</u>	8
24. <u>Watershed of the Lake Manatee Reservoir</u>	8
25. <u>Water Recirculation Facilities</u>	8
26. <u>Wetlands</u>	8
<u>E. APPLICABILITY</u>	8
<u>F. EXEMPTIONS</u>	8
<u>G. ADMINISTRATION OF THE ORDINANCE</u>	9
<u>H. APPROVALS AND PERMITS REQUIRED</u>	9
<u>II. MASTER MINING PLAN</u>	9
<u>A. APPLICATION FOR APPROVAL</u>	9
<u>B. CONTENT OF MASTER MINING PLAN</u>	10
<u>C. STANDARDS FOR MASTER MINING PLAN APPROVAL</u>	18
<u>D. EFFECT OF MASTER MINING PLAN APPROVAL</u>	18
<u>III. OPERATING PERMIT REQUIRED</u>	20
<u>A. APPLICATION FOR AN OPERATING PERMIT</u>	20
<u>B. CONTENTS OF OPERATING PERMIT APPLICATION</u>	20
<u>C. CRITERIA FOR OPERATING PERMIT ISSUANCE</u>	21
1. <u>Minimum Protection</u>	21
2. <u>Setback Requirements</u>	22
a. <u>Setback for Excavation Activities</u>	22
b. <u>Setback for Slime Ponds and Beneficiation Facilities</u>	22
c. <u>Setback for Stockpiles</u>	22
d. <u>Reduction to Setbacks Authorized</u>	22
3. <u>Environmental Monitoring Program</u>	23
4. <u>Radiation</u>	25
5. <u>Reclamation</u>	26
6. <u>Non-Point Source Pollution Control</u>	27
7. <u>Slime Disposal</u>	27
8. <u>Slime Ponds</u>	27
9. <u>Pipelines</u>	28
10. <u>Roadway Impacts, Improvements, and Repairs</u>	28
11. <u>Roadway Crossings</u>	28
12. <u>Sale of Borrow Material</u>	29
13. <u>Noise</u>	29
14. <u>Blasting</u>	29
15. <u>Vibrations</u>	29
16. <u>Financial Responsibility</u>	29
17. <u>More Stringent Protection for Mining Activities Conducted in the Watershed</u>	32
<u>D. STANDARDS FOR OPERATING PERMIT ISSUANCE</u>	32
<u>E. EFFECT OF OPERATING PERMIT ISSUANCE; TERM</u>	32

<u>TOPIC</u>	<u>PAGE</u>
<u>IV. PROCEDURES FOR PROCESSING APPLICATIONS</u>	33
<u>A. INITIAL APPLICATION</u>	33
<u>B. AMENDMENT</u>	34
<u>C. TRANSFER OF PERMIT</u>	35
<u>D. SUBSEQUENT PERMIT PROCEDURES</u>	36
<u>E. ANNUAL PROGRESS REPORTS AND RECLAMATION</u> <u>APPROVAL</u>	36
<u>V. WAIVER OF REQUIREMENTS</u>	38
<u>VI. ENFORCEMENT OF THE ORDINANCE</u>	38
<u>A. ABSOLUTE LIABILITY</u>	38
<u>B. INSPECTION</u>	39
<u>C. VIOLATIONS</u>	39
<u>D. ADMINISTRATIVE ENFORCEMENT PROCEDURES</u>	40
<u>E. SUSPENSION OR REVOCATION OF APPROVALS AND</u> <u>PERMITS</u>	40
<u>F. JUDICIAL ENFORCEMENT PROCEDURES</u>	41
<u>1. Criminal Penalties</u>	41
<u>2. Civil Remedies</u>	41
<u>3. Manatee County Environmental</u> <u>Restoration Fund</u>	43
<u>VII. SEVERABILITY</u>	43
<u>VIII. EFFECTIVE DATE</u>	44

I. GENERAL REQUIREMENTS

A. INCORPORATION OF FOREGOING. The foregoing recitations of fact are hereby incorporated into this Ordinance.

B. SHORT TITLE. This Ordinance shall be known and may be cited as "The Manatee County Mining and Reclamation Ordinance."

C. PURPOSE. The purpose of this Ordinance is to protect the health, safety, and general welfare of the citizens of Manatee County; to implement the policies and goals of the Manatee County Comprehensive Plan; to ensure the orderly development of mineral resources in a manner compatible with the overall development of the County; to ensure consideration of the cumulative effects of mining activities; to protect and conserve natural resources and the environment; to assure the use of best management practices and the development of technology for maximum control of the adverse consequences of mining activities; to ensure that mining activities and reclamation will not preclude future normal uses of mined-out lands; and to require the utilization of best possible technology for mining in the watershed of the Lake Manatee reservoir, and to otherwise maximize protection of the Lake Manatee reservoir.

D. DEFINITIONS. The following terms in this Ordinance are defined to have the following meanings, unless the context clearly indicates otherwise.

1. Annual Progress Report: An annual review in which the Coordinator determines whether the applicant has followed its Master Mining Plan and Operating Permit for the preceding year and whether the applicant's plans for the coming year vary from those approved in the Master Mining Plan and Operating Permit.

2. Applicant: The person(s) or entity engaged or seeking to be engaged in mining activities.

3. Best Management Practices: Practices that are technologically and economically practicable and most beneficial in preventing or reducing adverse impacts from mining activities.

4. Best Possible Technology: The most advanced technology which provides the maximum protection possible for the public health, safety, and welfare, and which minimizes to the greatest

degree possible any adverse impacts of mining on the watershed of the Lake Manatee reservoir. Best possible technology may include, but is not limited to: innovative reclamation techniques; augmentation of public water supplies that could be adversely affected by mining activities; construction of secondary containment structures or other measures to ensure against catastrophic failure of primary containment structures; below-grade slime ponds; elimination of mine site rock dryers; and zero point discharge; provided, however, such requirements shall not be required if the applicant demonstrates they are technologically infeasible. In ascertaining the best possible technology, economic disadvantages shall only be considered relevant when analyzed in relation to other applicants conducting mining activities in the watershed of the Lake Manatee reservoir under the requirements of this Ordinance.

5. Board: The Board of County Commissioners of Manatee County, Florida.

6. Coordinator: That person designated by the Board as the Phosphate Mining Coordinator, who shall coordinate implementation of this Ordinance and enforce its requirements.

7. County: The County of Manatee, a political subdivision of the State of Florida.

8. Disturbed Lands: The surface area of the land that is mined and all other land area in which the natural land surface has been disturbed as a result of or incidental to mining activities.

9. Exotic Nuisance Species: Those species not native to Florida and which have been scientifically shown to have an undesirable ecological value, including but not limited to Brazilian Pepper (*Schinus terebinthifolius*), Cajeput (*Melaleuca quinquenvia*), and Australian Pine (*Casaurina* spp.).

10. Manatee County Comprehensive Plan: The comprehensive plan adopted by the County under the provisions of the "Local Government Comprehensive Planning Act of 1975," section 163.3161 et seq., Florida Statutes.

11. Master Mining Plan: A description of proposed mining activities over the life of the mine, so as to allow overall review of applicant's mining activities.

12. Matrix: The combination of gangue and/or minerals in which the ultimate product of mining activities is contained.

13. Mining Activities: All functions, work, facilities, and activities in connection with the development, extraction, drying, or processing of mineral deposits and all uses reasonably incidental thereto. The definition of mining activities also includes reclamation. Site surveying, prospecting, coring, mapping, and other functions necessary solely for proper preparation of permit applications, are excluded.

14. Notice: Unless the context of this Ordinance provides otherwise, notice of public hearing shall be by publication in a local newspaper of general circulation for two (2) consecutive weeks and at least fifteen (15) working days in advance; shall include the purpose, time, and place of the hearing and such other information required hereunder; and shall comply with the size and format provisions of section 125.66, Florida Statutes.

15. Operating Permit: Written authorization to commence specified mining activities for a specified period of time, and generally requiring information and analysis more detailed than that available or existing at the time of Master Mining Plan and DRI review.

16. Overburden: The natural covering of any solid mineral sought to be mined, including but not limited to soil, sand, shell, rock, gravel, limestone, clay, or peat.

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

18. Reclamation: The reshaping and revegetation of land and waterbodies disturbed or affected by mining activities.

19. Sand/Clay Reclamation Site: Locations where sand/clay mixtures are deposited and settled within dams constructed over excavated areas as part of a final reclamation effort.

20. Slimes: The clay-water mixture and associated chemicals resulting from processing the matrix.

21. Slime Pond: That area lying behind earthen dams or within excavated areas that is used primarily for impounding slimes or other wastes, sometimes referred to as an initial or waste-clay settling area. Specifically excluded from this definition are sand/clay reclamation sites.

22. Spoil: Displaced overburden.

23. Tailings: Sands that have been separated from overburden and matrix through beneficiation.

24. Watershed of the Lake Manatee Reservoir: The geographical limits of the watershed of the Lake Manatee reservoir shall be as shown on the zoning atlas of the Manatee County Comprehensive Zoning and Land Development Code.

25. Water Recirculation Facilities: Those structures used for storing, routing, and treating mine and process waters, including but not limited to reservoirs, slime ponds, canals, ditches, and their associated dams and dikes.

26. Wetlands: Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

E. APPLICABILITY. This Ordinance shall apply to all applications for Master Mining Plans or Operating Permits for mining activities conducted within the boundaries of Manatee County, Florida, filed on or after its effective date. All requirements of this Ordinance shall apply to applications for amendments or transfers, whether or not such amendments or transfers apply to a Master Mining Plan or Operating Permit issued before the effective date hereof. To the extent allowed by law, the requirements of this Ordinance shall apply to mining activities conducted by applicants under valid Operating Permits issued before the effective date hereof.

F. EXEMPTIONS. The following earthmoving activities shall not be deemed mining activities and shall not be subject to the

provisions of this Ordinance: (1) Earthmoving that is incidental to agricultural activities. (2) Earthmoving that is part of a construction project, such as a subdivision, dredge and fill project, drainage facility, excavation for a structure, and so forth, that has received all prior, necessary County permits and approvals. (3) The excavation of materials such as rock, shell, sand, and gravel, where less than fifty (50) acres will be mined on an annual basis and where no more than one thousand (1,000) acres will be mined over the life of the mine and which activities are otherwise regulated as major earthmoving activities.

G. ADMINISTRATION OF THE ORDINANCE. Except as hereinafter provided, this Ordinance shall be administered, implemented, and enforced by the Coordinator, who shall coordinate the activities of all appropriate County agencies concerning the processing, review, monitoring, and inspection of mining activities within the boundaries of the County. This section shall not limit the authority of the Board or any County agency to enforce or monitor compliance with other applicable statutes, ordinances, resolutions, regulations, or permit conditions.

H. APPROVALS AND PERMITS REQUIRED. An applicant shall obtain separate approvals for a Master Mining Plan and an Operating Permit from the Board prior to commencement of mining activities. An Operating Permit may not be issued until approval of a Master Mining Plan and all other necessary federal, state, and appropriate local development approvals. No mining activities may be conducted within the County except those for which Master Mining Plan and Operating Permit approvals have been issued by the Board, except as provided in Section II.D.2. of this Ordinance.

II. MASTER MINING PLAN

A. APPLICATION FOR APPROVAL. An applicant shall submit fifteen copies of a Master Mining Plan application to the Coordinator. In preparing the Master Mining Plan application, the applicant shall be mindful that a final decision on the Operating Permit will be

based upon the information contained in the Master Mining Plan, and the criteria for Operating Permits in Section III.C. of this Ordinance should be referred to in preparing the Master Mining Plan application.

B. CONTENT OF MASTER MINING PLAN. The Master Mining Plan shall include the following information:

1. The name, address, and telephone number of the applicant and, if different, of the owner of the property within the area of the Master Mining Plan. If the applicant and/or property owner are not individual natural persons or individual business entities, the application shall fully identify each person or entity having any interest in the mining activities or ownership of the land, and shall specifically identify the nature of such interests;

2. The name, address, and telephone number of the applicant's agent residing in Manatee County upon whom service of legal papers may be made and who may be contacted in case of need;

3. The legal description of all lands in or contiguous to the mine site upon which any mining activities are proposed, indicating whether owned, leased, or under option by the applicant;

4. The materials to be mined; estimated yearly production of ore, product, and by-product; and a map of the locations of the proposed units to be mined, the sequence of mining, and the estimated periods of time involved. The applicant shall identify on suitable maps or charts, to the extent practicable, all reductions from the setback requirements of Section III.C.2. of this Ordinance that the applicant intends to request over the life of the mine. The applicant shall forecast impacts of the proposed mining activities both with and without said reductions. However, the mere inclusion of said proposed reductions in the Master Mining Plan shall not entitle the applicant to rely thereupon, nor shall it relieve the applicant of fulfilling the requirements of Section III.C.2. of this Ordinance;

5. An abstract and interpretation of the results of exploratory drilling showing the elevation of the top and base of

the ore zone, the geologic nature of the confining bed and overlying materials, and the pre-operational water levels encountered in the drilling of auger holes;

6. A description of the beneficiation process used in the mine, including a schematic description of the process and process reagents to be used, along with their chemical composition and estimated application rate;

7. The purpose of any physical plant, structure, permanent pipeline, or any other non-mobile object constructed as part of the proposed mining activities;

8. The location and dimension of proposed slime ponds, water recirculation facilities, and other impoundments, including the heights of dams and minimum freeboard;

9. An inventory of all existing wells on the property, including locations, estimated annual extraction rates, water use, and proposed disposition of wells;

10. Engineering estimates of the monthly water balance for the projected highest, lowest, and average annual rainfall sequence for the operating life of the mine, accounting for (a) all sources of water input to water recirculation facilities and ore processing steps, including water contained in overburden and matrix, pump seal water, and deep well and surface makeup; and (b) all water outputs and losses from the system, including but not limited to water contained in overburden, product, clay, reject materials, tailings, evaporation, seepage, and discharges to ground and surface waters. The applicant shall also provide an explanation of computational methods and assumptions;

11. An assessment of the impact of the proposed mining activities on surface and groundwater hydrology, including effects on peak and average stream base flow;

12. Engineering estimates certified by a registered professional engineer of the quantity, frequency, and duration of any discharges or disposal of water, liquid waste, or sewage, or of any solid wastes produced by the proposed mining activities. The

applicant shall also specify the physical, chemical, and radiological properties; the points and methods of disposal (whether on or off the applicant's property); the proposed time schedule for such disposal; and estimates of the flow rates in receiving streams at the times of wastewater discharges. Such estimates shall separately and specifically identify and quantify discharges of all substances that could be generated by mining activities for which the State of Florida has promulgated water quality standards;

13. A copy of all applications to the appropriate water management authority(s) for permits and, if issued, a copy of the permit(s);

14. Engineering estimates certified by a registered professional engineer of all air pollutants that could be emitted, including fluoride, and all emissions for which the State of Florida has promulgated air quality standards;

15. An effective program for controlling non-point sources of water pollution that may originate from any areas disturbed by mining activities, the runoff from which is external to catchment areas of the water recirculation facilities;

16. An environmental monitoring program, to be developed by the applicant in accordance with Section III.C.3. of this Ordinance, which shall include baseline data for at least one year preceding application for Master Mining Plan approval. The applicant shall develop the monitoring program in conjunction with the Coordinator and the Manatee County Health Department;

17. A transportation analysis, to include estimates of vehicular and rail traffic and any other mode of transportation of materials and products leaving the applicant's property, and of raw materials entering the applicant's property, with emphasis given to any disruption of normal traffic movements caused by, and any increase in rail movements, vehicular traffic, and road deterioration resulting from, the proposed mining activities;

18. Composite aerial photographs of the Master Mining Plan area that, through overlays or other graphical depictions,

clearly show: (a) ownership limits; (b) any designated Special Treatment Overlay Districts; (c) locations of units to be mined; (d) locations of slime ponds and other impoundments and their construction schedules; (e) locations of permanent pipelines, beneficiation plants, and other permanent structures; (f) the name, location, and limits of all existing wetlands, lakes, rivers, reservoirs, streams, creeks, and other waterbodies within the Master Mining Plan area up to the 100 year flood plain created by those flood plains, including a general delineation of all waters of the state as defined under chapter 403, Florida Statutes, and all navigable waters as defined under chapter 253, Florida Statutes; (g) the location of drainage and flood control features, including topographic contours at 2 foot intervals before, during and after mining activities; (h) the location of all proposed storage and transportation facilities, including permanent roads, railroads, or other permanent transportation means, for products and raw materials shipped to and from the site; and (i) a depiction of the final land use upon completion of reclamation. Such composites and all overlays shall be provided at a scale of one inch equals 400 feet with a minimum 800 foot overlap and extending at least 1200 feet beyond the property boundary;

19. A reclamation plan for all disturbed lands, including a tabulation of all lands to be mined or otherwise disturbed, the sequence of such disturbance, and a proposed reclamation schedule on suitable maps and charts. Such reclamation plan shall be in accordance with the following:

a. Schedule. For purposes of this Ordinance, reclamation shall be divided into the following stages:

i. Stage One commences when removal of ore in a mining unit is completed or when the useful life of any mining or beneficiation facility ceases, and ends when the approved seed or seedlings have been planted after final grading and contouring. Stage One of reclamation shall be completed within two (2) years, except that the Coordinator may extend the time for completion of Stage One if the applicant affirmatively demonstrates that said time

extension would facilitate innovative technology or result in improved quality of the reclaimed land.

ii. Stage Two commences with the completion of Stage One and extends through the number of growing seasons or end of the vegetation protection period specified in Section II.B.19.f. of this Ordinance, whichever is applicable. Criteria for the diversity and density of ground cover shall be met at the appropriate time intervals specified in Section II.B.19.f.

iii. The Coordinator may allow changes in an approved schedule of up to ninety (90) days for good cause shown by the applicant in writing. Changes in the approved schedule beyond ninety (90) days shall be processed as amendments to the Master Mining Plan.

b. Agricultural Lands. Land reclaimed for agricultural use shall meet the following standards:

i. Topography. The land shall be sufficiently level and free of holes, gullies, and wash-outs to permit safe operation of conventional farm and agricultural equipment.

ii. Stability. The land shall have settled and firmed to the extent that it will support conventional farm and agricultural equipment and that livestock will be able to walk on the surface of the land.

iii. Slope. The land surface shall be returned to not less than original grade elevation and the slope of all land, except dikes and low profile berms, shall not be steeper than 7:1. Any variation from this slope or elevation may be approved by the Coordinator for good reason.

c. South Florida Flatwoods. South Florida Flatwoods areas disturbed by mining shall be reclaimed with native species to reestablish the general distribution of native flora necessary to ensure suitable wildlife habitat, giving consideration to plant diversity, edge-effect and escape cover. The goal will be to achieve suitable livestock carrying capacity by utilization of low management native forages while secondary benefits such as wildlife, timber and aesthetics are maintained.

d. Wetlands. Existing wetlands subject to mining shall be reclaimed at a minimum on an acre for acre basis and additional land may be reclaimed to a wetland area, where deemed appropriate by the Coordinator. Reclamation or creation of a wetland shall be in accordance with the following:

i. Soil Moisture. The land area designated as recreated wetlands shall maintain the necessary soil moisture, frequency and duration of saturation as correlated to water year, rainfall occurrence, and antecedent conditions without the artificial manipulation of available water quantities.

ii. Soil Stability. All banks and slopes shall be stabilized with self-sustaining vegetation. No evidence of excessive erosion shall exist. No evidence of unplanned channel development shall exist.

iii. Native Species. The applicant shall demonstrate, using generally accepted scientific methodology, that healthy and self-propagating native wetland grasses and forbs within the recreated wetland can be established and that the reforestation of native wetland trees can be accomplished.

e. Lakes and Other Waterbodies. Lands reclaimed as lakes and other waterbodies shall meet the following standards, in addition to Sections II.B.19.d.ii. and iii. of this Ordinance:

i. Littoral Zones. For the purposes of establishing an area that will sustain fish and wildlife, and to provide a measure of nonstructural water quality maintenance, the applicant shall establish a littoral zone below the mean water level along the shoreline and within a central area of the lake. The applicant may provide for alternative littoral zone placement for meeting requirements herein which would result in more beneficial environmental and wildlife impacts than strict adherence to the requirements of Section III.C.5.c.i. would provide. Such alternative methodology shall follow generally accepted scientific principles and must be approved in writing by the Coordinator.

ii. Perimeter Berms and Swales. For the purposes of ensuring water quality control and to provide for a measure of long-term water quality maintenance, the applicant shall construct a low profile perimeter berm and swale system designed to intercept and filter overland runoff before allowing it to discharge into the lake. In lieu of this requirement, applicant may provide alternative nonstructural means for meeting requirements herein which would result in more beneficial environmental and wildlife impacts than strict adherence to the requirements of Section III.C.5.c.ii. would provide. Such alternative methodology shall follow generally accepted practices and must be approved by the Coordinator.

iii. Lake Depth. No portion of any lake shall exceed thirty-five (35) feet in depth below the mean water level, and 90% of the surface of the lake shall not exceed an average depth of twenty-five (25) feet.

f. Revegetation. To ensure timely and successful establishment of ground cover and suitable habitat diversity, the applicant shall comply with the following criteria:

	<u>Improved Pasture</u>	<u>So. Fla. Flatwoods</u>	<u>Wooded Wetlands</u>	<u>Marsh</u>
<u>DIVERSITY</u>	Not Applicable.	Timber species should consist of longleaf pine, slash pine and oak. No more than 90% of these tree species should be planted to pines. Emphasis shall be directed toward restoration of native grasses, legumes and forbs conducive to the site for maximum soil stability with food and fiber production.	Minimum of three species of trees. No more than 80% of the total planted density in one species.	Not Applicable (with mulch or other approved techniques).
<u>DENSITY/COVER</u>	80% ground cover of perennial vegetation following one complete	20 trees per acre with adequate native vegetative ground	200 trees per acre after one complete growing season.*	50% ground cover of herbaceous wetland

*Growing seasons shall be species specific.

	<u>Improved Pasture</u>	<u>So. Fla. Flatwoods</u>	<u>Wooded Wetlands</u>	<u>Marsh</u>
	growing season.* Bare areas shall not exceed ¼ acre.	cover to prevent erosion, after one complete growing season.* 15 trees per acre with a minimum height of one meter after five years. 50% ground cover of herbaceous flatwoods species after one growing season shall be established.	100 trees per acre with a minimum height of one meter after five years.	species after one growing season.*
<u>OTHER PRO-TECTIONS</u>	Not Applicable.	Protection from grazing, mowing, or other land uses to allow establishment for a minimum of three years following planting.	Protection from grazing, mowing, or other land uses to allow establishment for a minimum of five years following planting.	Protection from grazing, mowing, or other adverse land uses for a minimum of three years after planting.
<u>MEASURE-MENT</u>	Point intercept method on ten acre units with total number of points submitted to Coordinator for prior review and approval.	Point intercept method according to acceptable practices.	Point quarter method. Shall not be planted in rows, but rather randomly.	Point intercept method according to acceptable practices.

*Growing seasons shall be species specific.

20. The signature and seal of a registered professional engineer(s) responsible for the preparation of the Master Mining Plan and an express certification by said engineer(s) that he or she is personally familiar with the proposed mining activities, that he or she has personally reviewed all elements of the Master Mining Plan or such elements which said engineer is certifying, and that all engineering methods, estimates, or computations comport with generally accepted engineering practices;

21. The fee required for review of a Master Mining Plan application, as prescribed in a schedule of fees established by the Board; and

22. Each item of information in the Master Mining Plan that the applicant is unable to furnish in detail and upon which

287

greater detail will be available at a later date, shall be identified by the applicant and may at the discretion of the Board and for good cause shown be furnished later in accordance with the requirements of this Ordinance.

C. STANDARDS FOR MASTER MINING PLAN APPROVAL. Prior to issuance of Master Mining Plan approval, the Board must determine that the mining activities reflected in the Master Mining Plan application: (1) are consistent with the Manatee County Comprehensive Plan; (2) would provide for the orderly development of mineral resources in a manner compatible with the overall development of the County; considering the cumulative effects of other mining activities; (3) would provide reasonable protection and conservation of natural and environmental resources; (4) would provide for the use of best management practices and the development of technology for maximum control of adverse effects of mining activities; (5) would not preclude future normal uses of mined-out lands; and (6) would be consistent with the use of best possible technology for mining activities conducted in the watershed of the Lake Manatee reservoir, if said proposed mining activity is to occur within the watershed of Lake Manatee.

D. EFFECT OF MASTER MINING PLAN APPROVAL. Upon approval of a Master Mining Plan, the applicant may apply for an Operating Permit. Approval of the Master Mining Plan constitutes notice that the applicant has provided reasonable assurance that the major concerns have been resolved and that an Operating Permit may subsequently be issued if (a) the approved Master Mining Plan has not been significantly changed, and (b) the applicant satisfies all requirements of the Operating Permit section of the then-applicable Ordinance. Approval of the Master Mining Plan shall not vest the applicant with any rights to issuance of said Operating Permit, nor shall it entitle him to initiate mining activities except as hereinafter provided.

1. Expiration of Master Mining Plan. The applicant shall have a period of three (3) years from the date of the approval of

the Master Mining Plan to submit an application for an Operating Permit. The Board may, at its discretion, extend the time limit for one year. If an Operating Permit application has not been submitted after a three (3) year period or within any authorized period, the Master Mining Plan approval shall automatically terminate.

2. No Premining Construction Activities. No premining construction activities preparatory to actual mining may be undertaken prior to the issuance of an Operating Permit, unless specifically reviewed by the Coordinator and expressly approved by the Board as a part of Master Mining Plan approval.

a. An applicant desiring to undertake premining construction activities prior to the issuance of an Operating Permit must submit, in conjunction with the Master Mining Plan application, engineering design drawings and specifications for all proposed activities, and must include applicable final site plan requirements of Section 403, Manatee County Comprehensive Zoning and Land Development Code. Said drawings and specifications and any supporting computations shall be submitted in accordance with Section III.B.3. of this Ordinance. If, after reviewing the required above materials, the Coordinator determines that (i) the work is in fact necessary before overburden removal or mineral extraction can be undertaken and (ii) the plans as submitted are in accordance with generally accepted engineering practices; he or she shall recommend to the Board in writing that such activities be approved.

b. If the applicant requests to undertake construction of a beneficiation plant or water recirculation facility, the applicant shall also provide a conceptual flow diagram of beneficiation plant processes illustrating the type and quantities of material flow between major equipment components, the functional size of such components, and a conceptual site plan and flow diagram showing the relationship between the beneficiation plant and water recirculation facilities.

c. Any premining activities that the Board may approve shall be consistent with applicable Operating Permit criteria, and shall be conducted at applicant's risk should applicant subsequently fail to comply with Operating Permit criteria in effect at the time of Operating Permit application. Approval of such premining construction activities authorizes the applicant to submit all information needed to obtain building permits for approved activities.

III. OPERATING PERMIT REQUIRED

A. APPLICATION FOR AN OPERATING PERMIT. Any person contemplating mining activities in Manatee County shall submit fifteen (15) copies of an Operating Permit application to the Coordinator.

B. CONTENTS OF OPERATING PERMIT APPLICATION. An application for an Operating Permit shall consist of:

1. All new or additional information obtained by the applicant since submission of the Master Mining Plan application that is reasonably necessary for the evaluation of an Operating Permit application under the provisions of this Ordinance. In addition, if an applicant's Master Mining Plan was approved pursuant to the requirements of an earlier Ordinance, the applicant shall furnish any additional information that may be required for Master Mining Plans under the currently effective Ordinance.

2. Copies of necessary applications to, and all legally required permits and approvals from, federal and state agencies, unless such items have already been submitted to the Coordinator.

3. Engineering specifications and design drawings at a suitable scale of all aspects of mining activities for the life of the Operating Permit for which specifications and drawings have not been previously approved in the Master Mining Plan. Prior to construction of said facilities, the applicant or his engineer shall submit to the Coordinator, for written approval, construction drawings of said facilities. Prior to using said facilities, the applicant shall furnish as-built drawings and specifications of said

facilities which reflect any changes made to the original plans. All specifications and drawings shall be signed and under seal by a Florida registered professional engineer(s), who shall certify that he or she is personally familiar with and has reviewed said drawings and specifications and that they are consistent with generally accepted, professional engineering practices.

4. A detailed description of changes, if any, to the environmental monitoring program of the approved Master Mining Plan submitted in accordance with Section III.C.3. of this Ordinance.

5. Effective plans for a Spill Notification, Containment, and Safety Plan for the slime ponds, water recirculation systems, and reagent storage areas addressing such issues as inspection schedules, spill notification procedures, maintenance of warning systems, auxiliary water supply sources, water treatment procedures, and clean-up responsibilities. A site security plan including necessary access restrictions shall also be provided.

6. Evidence of financial responsibility meeting the requirements of Section III.C.16. of this Ordinance.

7. Information, documentation, or studies necessary to affirmatively show compliance with the Operating Permit criteria of this Ordinance.

8. The fee required for review of an Operating Permit application, as prescribed in a schedule of fees established by the Board.

9. The applicant shall have a continuing obligation to supplement its permit application with all new pertinent information until permit issuance.

C. CRITERIA FOR OPERATING PERMIT ISSUANCE.

1. Minimum Protection. The applicant shall use best management practices and shall conduct mining activities in a manner that will minimize undesirable effects of mining activities and maximize protection of public facilities, natural resources, and the environment.

2. Setback Requirements. All mining activities shall be subject to the following setback limitations. Reductions to these setback restrictions may be requested by the applicant under Subsection III.C.2.d. below.

a. Setback for Excavation Activities -- No excavation activities, except as hereinafter provided, shall be performed within (i) one thousand (1,000) feet of any church, school, or habitable structure existing at the time of application for Master Mining Plan approval, (ii) 500 feet of applicant's property line in areas not controlled by part a.(i) above; (iii) 200 feet of any public right-of-way in areas not controlled by part a.(i); and (iv) 1,000 feet of any wetlands or groves on adjoining property not owned by the applicant.

b. Setback for Slime Ponds and Beneficiation Facilities -- No slime pond or beneficiation facility shall be constructed or operated within: (i) two thousand five hundred (2,500) feet of any church, school, or habitable structure existing at the time of application for Master Mining Plan approval; and (ii) five hundred (500) feet from the applicant's property line or any public right-of-way in areas not controlled by part b(i) above.

c. Setback for Stockpiles -- No excavated material or stockpile shall be left on applicant's property longer than fourteen (14) days within: (i) Five hundred (500) feet of any church, school, or habitable structure existing at the time of application for Master Mining Plan approval; and (ii) One hundred (100) feet from applicant's property line or a public right-of-way or in areas not controlled by part (c)(i) above.

d. Reduction to Setbacks Authorized.

i. Consent of Adjoining Owners. The above setback requirements shall not apply where owners of the land protected by said restrictions have expressly consented to a reduction thereof by written instrument executed with the formality of a deed and recorded in the public records of Manatee County, Florida. Such consent and recordation must occur prior to any mining activities by

applicant in areas protected by this setback provision. Certified copies of said recorded instrument shall be furnished to the Coordinator, who shall acknowledge receipt in writing.

ii. Lesser Setbacks. If the applicant demonstrates that a reduction of the setback requirements of sections III.C.2.a.ii. through a.iv. and Section III.C.2.c. above would not reduce groundwater levels on the adjoining private property by more than three feet, or will not otherwise result in a nuisance at the property line, a lesser setback may be authorized by the Coordinator. This reduction may be requested at any time prior to the issuance of an Operating Permit. Any such authorized reduction shall be in writing and shall be conditioned upon mitigative measures and monitoring as deemed necessary by the Coordinator.

iii. Variance. If the applicant affirmatively demonstrates that any applicable setback requirement is unreasonable under the circumstances and would create undue hardship, and that a lesser requirement would not adversely affect the public health, safety, and welfare in the particular circumstances, the Board may allow a lesser setback requirement after notice and public hearing. Such notice and hearing may be held as part of the public hearing for Operating Permit or Master Mining Plan approval. Notices for such combined public hearings shall be by individual and separate publication.

3. Environmental Monitoring Program. The monitoring program shall be developed in accordance with the following:

a. Monitoring programs for mining activities in Manatee County shall be used to establish baseline conditions prior to mining activities, and subsequently shall be used to continually evaluate compliance with applicable standards established by local, regional, state, and federal agencies over the life of the mine until reclamation approval has been received from the Coordinator. The program shall consist of monitoring the following areas: (i) surface water quality; (ii) surface water quantity; (iii) ground

water quality; (iv) ground water quantity; (v) rainfall; (vi) radiation in soils by gamma and radium 226 measurements, and radiation in water; and (vii) air quality. Specific requirements of the above-mentioned components of the monitoring program shall be developed by the applicant, and approved by the Coordinator in conjunction with the Manatee County Health Department, on a site-specific basis according to the features of the site and the projected environmental impacts of mining activities.

b. Each component of the environmental monitoring program shall consist of the following descriptive elements: (i) sampling location; (ii) parameters and standards; (iii) sampling schedule; (iv) sampling and analysis methods; (v) quality assurance; and (vi) data reduction and reporting. The program shall additionally contain an introductory section describing the site and the proposed activities.

c. The applicant shall submit copies of all environmental monitoring reports and data required by outside agencies for its mining activities in the County and in contiguous areas outside the County having demonstrable hydrologic or airshed linkages to the County. The data reports shall be submitted concurrently with the submission to the requiring agency.

d. Modification of monitoring requirements may be made during the annual progress report process. The purpose of such modification is to add or delete sampling to reflect new developments in mining and sampling technology which may improve both sampling and environmental quality.

i. Requests by the applicant for changes in the monitoring program shall be submitted to the Coordinator not less than ninety (90) days prior to the twelve (12) month period to which they apply. Proposed changes must be approved or denied by the Coordinator in conjunction with the Manatee County Health Department within thirty (30) days from the date of submission.

ii. Changes in the monitoring program may be proposed by the County not less than ninety (90) days prior to the

twelve (12) month period to which they apply. The applicant shall comment on said changes in writing within thirty (30) days after receipt of said proposed changes. Final decision on proposed changes shall be made by the Coordinator in conjunction with the Manatee County Health Department within thirty (30) days of receiving the comments. If written comments are not received on time, the proposed changes will automatically take effect at the beginning of the next monitoring year.

iii. Changes in the monitoring program as required by state or federal agencies shall be implemented according to schedules prescribed by law or agency permit.

4. Radiation.

a. Standards. The applicant shall conduct mining and reclamation activities in such a manner as to ensure that upon completion of reclamation, all disturbed lands within the Operating Permit area have radiation levels that do not exceed the following criteria:

i. The soil Radium 226 concentration (total mean of six-foot cores) shall not exceed three (3) picocuries per gram above the natural unenhanced background.

ii. The total mean soil Radium 226 concentration shall not exceed five (5.0) picocuries per gram except where natural unenhanced background conditions as determined through the County-approved environmental monitoring program exceed this level, in which case Paragraph 4(a)(i) shall apply.

b. The above Radium 226 standards shall apply to all disturbed land with the exception of: (i) land reclaimed over slime ponds; and (ii) land underlying disturbed areas reclaimed as lakes or wetlands.

c. Radiation levels of all surface waters in areas reclaimed as lakes or wetlands shall not exceed applicable standards in Chapter 17-3, Florida Administrative Code, regardless of whether such waters constitute "waters of the state" as defined therein.

5. Reclamation. The applicant shall affirmatively demonstrate by generally accepted scientific methodology that reclamation will proceed in accordance with the approved Master Mining Plan and the following criteria:

a. Revegetation Site Plans. A revegetation plan shall be provided identifying the planting density, species, general planting site plan, and maintenance provisions required to ensure successful revegetation of disturbed lands in accordance with the requirements of Section II.B.19.f. of this Ordinance.

b. Revegetation Monitoring. The applicant shall be responsible for monitoring the reclamation program for the period of time specified within this Ordinance for successful establishment of vegetation by land use type. This monitoring shall ensure that at the end of the specified time period the diversity, density, and other protections for the revegetated plant species are at least as proposed in the approved reclamation plan. If after the specified time period the density and/or diversity are not as proposed, additional plantings will be required and a monitoring program shall be reinstated so that the reclaimed land will meet the minimum standards set forth in the revegetation program. Deviations from the approved revegetation plan which are the result of natural disasters or catastrophic events not resulting from the action or negligence of the applicant, will not re-trigger a planting and monitoring program.

c. Lake Design.

i. Littoral Zones. Littoral zones provided to meet the requirements of Section II.B.19.e.i. shall meet the following design criteria: (A) The total area of the zones shall be equivalent to a minimum of fifteen percent (15%) of the total surface area at the mean water level. Not more than sixty percent (60%) of the total area requirement shall be met along the shoreline. (B) The littoral zone along the shoreline shall be clustered over areas not exceeding fifty percent (50%) of the shoreline perimeter to ensure adequate access for maintenance and other land use

purposes. The littoral zone(s) shall be sloped at a 7:1 ratio or greater below the water line to a depth not to exceed four (4) feet. (C) The littoral zones within a central area of the lake, not connected to any shoreline littoral area, shall be constructed at depths below the mean low water line not to exceed three (3) feet with side slopes at the perimeter of the littoral zone of approximately 3:1. (D) All other portions of the lake perimeter not sloped to meet littoral zone requirements shall be shaped to 2:1 slope from water edge to a minimum depth of six (6) feet.

ii. Perimeter Berms and Swales. Perimeter berms and swales provided to meet the requirements of Section II.B.19.e.ii. shall be constructed to meet the following requirements: (A) The perimeter swale shall have a minimum slope of .3%. (B) Side slopes on the swale shall be no less than 4:1. (C) Spreader spillways to the lake from the berm and swale system shall be provided at regular intervals not to exceed two hundred (200) feet and shall be protected against erosion. (D) Perimeter berm and swale systems need not be required along shorelines where such lake systems adjoin wetland areas and where the unrestricted water movement from one waterbody to another is necessary to promote proper hydroperiods and biological integrity.

6. Non-Point Source Pollution Control. The applicant shall control non-point sources of pollution of air and water resources in accordance with applicable state and local requirements.

7. Slime Disposal. Slimes, waste materials, or other materials with high contents of clay shall be disposed of only within slime ponds or sand/clay reclamation sites.

8. Slime Ponds. All dams and dikes constructed to impound or channel slimes, spoil, tailings, clear water, process water, wastewater, or sand/clay mixtures shall be located, designed, constructed, and maintained in compliance with applicable state and local requirements and in accordance with generally accepted, sound engineering practices.

9. Pipelines. The applicant shall provide positive protection, such as alarms and containment systems, against any significant discharge, leak, or other release of materials from pipelines that are external to the rainfall catchment area of the water recirculation system.

10. Roadway Impacts, Improvements, and Repairs. Where the transportation analysis of the applicant's approved Master Mining Plan indicates that the safety, circulation capacity, or stability of County maintained roads or rights-of-way must be improved to allow utilization of such roads or rights-of-way by an Operating Permit applicant or applicants, such applicant(s) shall reimburse the County for the actual cost of the improvements necessary to allow utilization of such roads or rights-of-way by the applicant. Such reimbursement shall not exceed the applicant's proportionate part of the improvement necessary to allow utilization by the applicant. An applicant shall not be required to pay for improvements relating to pre-existing conditions as established in said transportation analysis or conditions unrelated to its activities, except when such improvements are an integral part of the work necessary to ensure the safety, circulation capacity, or stability of the affected roads or rights-of-way. The County Transportation Department shall administer any construction required under this section of the Ordinance. The applicant shall reimburse the County for the actual cost of all necessary improvements as said improvements are constructed. Prior to any construction required under this section, the applicant shall furnish a performance bond sufficient to indemnify the County against failure of the applicant to reimburse the County. All monies received by the County under this provision shall be segregated in separate accounts and disbursed only for improvements necessitated by the particular applicant's utilization of County maintained roads or rights-of-way.

11. Roadway Crossings. No crossings of County roads, easements, or rights-of-way by mining equipment, which by crossing could damage same, shall be permitted without the prior written approval of the Coordinator.

12. Sale of Borrow Material. If any material other than that proposed to be mined in the Master Mining Plan is excavated on the property and is to be marketed for use off the mine site, the applicant shall apply for approval of all required earthmoving or mining permits prior to the hauling of any such material on County rights-of-way.

13. Noise. Increases to ambient noise resulting from mining activities shall not result in nuisances as measured at the applicant's property line, nor shall mining activities generate noise in excess of that allowed by regulations of federal, state, or local agencies.

14. Blasting. No blasting or other use of explosives shall be performed without the prior written approval of the Coordinator, who may issue appropriate orders for the public safety and control of nuisances.

15. Vibrations. All mining activities shall be performed in a manner that will prevent vibrations of the soil from reaching a magnitude sufficient to cause damage to persons or property outside the applicant's property.

16. Financial Responsibility. The applicant shall demonstrate financial responsibility by the following methods.

a. Financial Statement. The applicant shall provide financial statements, audited and certified by a certified public accountant, that demonstrate ability to respond to liability in an amount determined according to the following schedules: (i) \$2,500.00 for each acre of land to be disturbed by mining activities during the term of the Operating Permit; and (ii) \$4,000.00 for each acre-foot of above grade storage in proposed slime ponds. A qualified opinion shall render any financial statement inadequate to fulfill the requirements of this section.

b. Insurance. The applicant shall provide certificates of insurance showing that the applicant has liability insurance policies issued by an insurance company authorized to do business in the State of Florida, covering: (i) Personal injury,

including death, in an amount not less than \$500,000.00; (ii) Property damage in an amount not less than \$300,000.00; and (iii) Environmental damage, for the removal, neutralizing, or cleaning up outside the mine site of any substance released or escaped which caused environmental impairment or which could cause environmental impairment if not removed, neutralized, or cleaned up, in an amount not less than \$10,000,000.00. Such coverages shall be applicable over the term of the Operating Permit.

c. General Surety Bond.

i. Conditions of the Bond. The applicant shall file with the Board a surety bond or bonds payable to Manatee County with a principal amount equal to \$250.00 for each acre of land to be disturbed during the term of the Operating Permit. Such bond(s) shall be conditioned upon the following: (A) faithful performance of all the requirements of this Ordinance and the Operating Permit and satisfaction of all claims and demands incurred for the same; (B) full indemnification of the County from all costs and damages that the County might suffer by failure to do so; (C) full reimbursement and repayment to the County for outlays and expenses and costs, including reasonable attorney's fees, the County may incur in making good any noncompliance or nonperformance, which shall include any judicial or administrative proceeding undertaken by the County because of violation of the terms of this Ordinance or of a particular Operating Permit, or of the approved Master Mining Plan; and (D) the applicant protecting, defending, indemnifying, and holding harmless the County from any suits, actions, claims, losses, or damage of any character (and from all expenses incidental thereto) based upon or arising out of any damage to person or property caused by or arising from any act, omission, performance, or nonperformance of the applicant, its officers, agents, servants, employees, or others under the applicant's direction and control, but not including the sole negligence of the County.

ii. Proceedings Against the Bond. If at any time the applicant has failed to satisfactorily undertake corrective

action in response to a notice of violation, the Board may initiate proceedings against the bond in any court of competent jurisdiction. Such proceedings shall not be commenced until the surety has been given sixty (60) days to require commencement of corrective action. In such proceedings, the recoverable damages and costs shall not be limited to the reasonable value of the land prior to the mining activities, and shall include the award of reasonable attorney's fees.

d. Reclamation Bond. All applicants shall annually post a reclamation surety bond(s) equal to one hundred ten percent (110%) of the reclamation cost per mining and reclamation unit for each acre of land to be disturbed during the ensuing year and all land previously disturbed by mining activities for which reclamation compliance has not been acknowledged by the Coordinator. The accuracy of the bond areas and the costs of reclamation set forth by the applicant shall be certified by a professional retained by the applicant and shall be subject to the review and the express written approval of the Coordinator. An action on this bond may be brought by the Board or any other person entitled to the benefits of the bond at any time prior to reclamation approval by the Coordinator. The applicant and surety shall be jointly and severally liable under the provisions of the bond, and actions against either or both may proceed without prior action against the other and both may be joined in one action. The County shall be entitled to the award of reasonable attorney's fees if it prevails in proceedings against the bond.

e. Sureties; Cancellation. The surety or reclamation bond(s) may be secured by a corporate surety licensed to do business in the state and approved by the Board, or by deposit in state banking institutions, or by real property. The bond shall be conditioned so that the surety cannot cancel the bond with less than ninety (90) days written notice to the Board. If the bond is cancelled, the applicant shall provide a substitute bond on or before the effective date of cancellation. Said substitution bond must be

submitted to the Coordinator at least thirty (30) days before the effective date of cancellation and must be approved prior to cancellation. Failure of the applicant to make an approved substitution shall result in automatic suspension of the Operating Permit and immediate cessation of mining activities.

17. More Stringent Protection for Mining Activities Conducted in the Watershed. Because the watershed of the Lake Manatee reservoir occupies such a critical role in maintaining the health, safety, and welfare of the people of the County, the region, and the state, applicants seeking to conduct mining activities therein shall employ the best possible technology. The geographical limits of the watershed of the Lake Manatee reservoir shall be as shown on the official zoning atlas of the Manatee County Comprehensive Zoning and Land Development Code.

D. STANDARDS FOR OPERATING PERMIT ISSUANCE. If review of the Operating Permit application shows that the proposed mining activities will result in substantial, adverse environmental impacts, the applicant shall affirmatively demonstrate that it has met all requirements for Operating Permits, and that the proposed mining activities are consistent with the purposes of this Ordinance and with the approved Master Mining Plan.

E. EFFECT OF OPERATING PERMIT ISSUANCE; TERM. Issuance of an Operating Permit shall entitle the applicant to begin mining activities. An applicant shall have one (1) year from the date the Operating Permit is issued to commence mining activities; if mining activities are not commenced within said time, the Operating Permit shall be void and of no effect and shall not be subject to waiver by the Board, County staff, or Section V. of this Ordinance. All initial Operating Permits issued pursuant to the requirements of this Ordinance shall be valid for a term of five (5) years, unless suspended or revoked prior to that time.

IV. PROCEDURES FOR PROCESSING APPLICATIONS

A. INITIAL APPLICATION.

1. **Completeness.** Within thirty (30) days after receipt of an application, the Coordinator shall examine the application and notify the applicant in writing that the application is complete or alternatively notify the applicant in writing of any apparent errors or omissions, and request any required additional information. If additional information is required, the applicant shall provide it within thirty (30) days, except that additional time may be allowed in writing if the applicant demonstrates that such extension is necessary to prepare the requested information. The Coordinator shall have fifteen (15) days to review the additional information to determine completeness and shall advise the applicant in writing of such determination. If an applicant decides that the additional information cannot be furnished, the applicant shall advise the Coordinator of its position and reasons therefor in writing; and the application shall then be processed as if it were complete. The Board may, by resolution, deny an application if the applicant, after receiving timely notice, fails to correct errors or omissions or to supply additional information, if such failure results in the requirements of this Ordinance not being met. Applications that are denied shall be returned to the applicant, who may reapply ninety (90) days thereafter.

2. **Compliance.**

a. After the Coordinator has determined the application is complete, the applicant shall be notified of such in writing. The application shall be reviewed by appropriate County departments and shall be referred to the Board as expeditiously as possible. The compliance review shall be completed, and notice of public hearing regarding the application shall be issued, within ninety (90) days after notification of application completeness, except that a larger period of time may be allowed upon written agreement of the applicant and the Coordinator.

b. Because of the extensive time requirements for reviewing mining permits, if two or more applications for permits or approvals have been submitted to the County so that simultaneous processing and review are necessary, the Board may enlarge the time limits set for compliance determination by a reasonable period of time, not to exceed ninety (90) days.

3. Notice and Public Hearing. Upon completion of the compliance review, the applicant shall cause notice of a public hearing concerning the application to be issued. The public hearing shall be completed within fifteen (15) days after the hearing is commenced, unless the applicant and the Board stipulate to a longer period.

4. Final Decision. Final decision shall be rendered by the Board within fifteen (15) days of termination of the public hearing. Said final decision shall be supported by specific factual findings and shall be in one of the following forms: (i) Approval of the application as filed; (ii) Approval of the application with conditions; or (iii) Denial of the application, which denial shall include the factual and legal bases for such denial. No permit shall be issued by the Board if there is found: (a) information set forth in the application or otherwise that the applicant cannot comply with the requirements of this Ordinance; or (b) that the applicant has had any other permit issued hereunder revoked, or any bond posted to comply with this Ordinance forfeited, and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the Board; provided, however, the Board may for good cause make an exception to this subsection.

B. AMENDMENT.

1. If an applicant proposes to change, or actually changes, its mining activities from those approved in a Master Mining Plan or Operating Permit, it shall promptly file with the Coordinator a written request for an amendment thereto, signed by the applicant's authorized agent. Upon receipt of a request for

amendment, the Coordinator shall determine whether or not the requested amendment is significant. Significant changes require notice and a public hearing before the Board. Significant changes include, but are not limited to, any change in the location or manner of construction of a slime pond, water recirculation structures, or discharge points; permanent roads or other transportation facilities; and any other change that might reasonably result in substantially increased adverse impacts.

2. Any request for approval of a significant amendment shall comply with the procedures outlined for the original application as to the specific item(s) to be amended.

C. TRANSFER OF PERMIT.

1. Prior to sale or transfer of rights in or relating to a Master Mining Plan or Operating Permit, the applicant and the prospective transferee must apply in writing to the Coordinator for approval by the Board. The prospective transferee of a Master Mining Plan must demonstrate that it can comply with the terms and conditions of said Master Mining Permit. The prospective transferee of an Operating Permit must furnish proof of financial responsibility as required under the then-effective Ordinance. Upon the Board's written approval of a transfer, the transferee becomes the applicant under this Ordinance and assumes the responsibility of compliance with all requirements of this Ordinance effective on the date of transfer, all terms and conditions of the approved Master Mining Plan, and, if applicable, the Operating Permit.

2. An application for transfer shall be approved by the Board, unless it determines that the prospective transferee has not fulfilled the above requirements. Failure to comply with the terms of this section shall be grounds for suspension or revocation of the Master Mining Plan and/or Operating Permit and will result in both the original applicant and the transferee being liable for performance in accordance with this Ordinance until full compliance is established.

D. SUBSEQUENT PERMIT PROCEDURES. At least six (6) months prior to the expiration of the Operating Permit, the applicant shall apply for a new Operating Permit under the provisions of the then-existing Ordinance. The procedures for processing an application for a new Operating Permit shall follow those prescribed for obtaining an original Operating Permit. The then-current Operating Permit shall continue in existence until final decision on the new permit is rendered by the Board. Upon issuance, new permits shall be valid for a period of five (5) years; except that the Board may prescribe a shorter permit term if a previous permit was revoked or suspended. The application for obtaining new Operating Permits shall be accompanied by an appropriate fee, as prescribed in a schedule of fees established by the Board.

E. ANNUAL PROGRESS REPORTS AND RECLAMATION APPROVAL.

1. Progress Report. Operators holding an approved Master Mining Plan shall file with the Board within forty-five (45) days after each anniversary date of Master Mining Plan approval, a written report, in ten (10) copies, which shall include the following information:

a. Identification of lands mined during the preceding year and lands expected to be mined during the current year;

b. Discussion of the reclamation progress in each previously mined parcel except those for which reclamation has been approved, and discussion of reclamation planned for the current year in said parcels;

c. Aerial photographs at a scale of 1 inch equals 400 feet of all areas disturbed by mining activities throughout the life of the mine. Photographs of reclaimed areas which have been approved in accordance with Section IV.E.4. of this Ordinance may be excluded;

d. Detailed engineering plans and specifications of all mining activities scheduled for the current year that were not previously provided in the approved Master Mining Plan or Operating Permit or amendments to those documents. Results of the most recent

prospecting defining the ore body and leach zone in the parcels to be mined during the current year shall also be provided;

e. A summary of results of the previous year's environmental monitoring program indicating the magnitude and frequency with which air and water quality parameters and mass loadings of same exceeded applicable ambient or effluent emissions standards. Any significant trends in degradation of ambient air and water quality shall also be discussed along with any measures being taken to correct or improve the performance of pollution control systems;

f. A review and update of the applicant's financial responsibility in accordance with the provisions of Section III.C.16. of this Ordinance; and

g. The applicant shall also furnish the Coordinator with copies of all inspection reports not previously furnished which are required by state or federal regulatory agencies.

2. Certification by Engineer. A Florida registered professional engineer, commissioned by the applicant and familiar with the applicant's mining activities, shall certify in the Annual Progress Report that the project is being developed and operated in strict accordance with the conditions set forth in the approved Master Mining Plan and Operating Permit and in accordance with generally accepted engineering practices.

3. Failure to File. Failure to file the required Annual Progress Report shall be grounds for suspension of the Operating Permit. An extension of time for filing may be granted by the Coordinator upon request and for good cause shown.

4. Reclamation Approval. Approval of reclaimed areas shall be requested in the annual progress report by identifying the specific parcels for which approval is sought. Reclamation of disturbed lands shall be deemed completed after a showing that the specific parcels have been reclaimed in accordance with the approved Master Mining Plan and Operating Permit. Specific parcels shall be approved or denied in writing by the Coordinator within sixty (60) days of receipt of the annual progress report. Specific reasons

shall be cited for denial of any parcels. Upon approval of reclaimed parcels by the Coordinator, the reclamation bond(s) shall be released or applied to parcels to be disturbed in the ensuing year, as appropriate.

5. Fees. Submission of the annual progress report shall be accompanied by an appropriate fee, as prescribed in a schedule of fees established by the Board.

V. WAIVER OF REQUIREMENTS

Except where this Ordinance expressly provides otherwise, the Board may, by express written instrument, waive any of the requirements of this Ordinance if the applicant demonstrates that the strict enforcement of such requirement or requirements would impose an unreasonable restriction on the use of the property, and that such waiver will not adversely affect the health, safety, and welfare of the public and is consistent with the Manatee County Comprehensive Plan. In order to obtain such a waiver, the applicant shall apply in writing to the Coordinator, describing the requirement sought to be waived, the environmental impacts of the requested waiver, and any proposed innovative techniques or alternative procedures. The Board's decision on the application for waiver shall be made after receiving recommendations from appropriate County departments, and after notice and public hearing.

VI. ENFORCEMENT OF THE ORDINANCE

A. ABSOLUTE LIABILITY. As a condition of the issuance of any Operating Permit under this Ordinance, the applicant shall be subject to absolute liability, without necessity of proof of negligence in any form or manner, to any injured party for damages resulting from failure of any dam, spillway, or other outlet structure of a slime pond, or from failure of the applicant to complete any reclamation of lands as required.

B. INSPECTION. A representative of the Board is authorized to enter and remain upon the premises of the applicant's mine for the purpose of inspection at any reasonable time in accordance with applicable safety guidelines, to ensure compliance with the terms and conditions of the Operating Permit, this Ordinance, and the approved Master Mining Plan. Inspectors shall give the applicant reasonable notice of the proposed inspection and shall allow the applicant an opportunity to provide appropriate personnel to accompany the inspector while on the applicant's premises. A copy of the inspection report will be provided to the applicant at its request.

C. VIOLATIONS. In addition to those violations otherwise enumerated in prior sections of this Ordinance, it shall be a violation of this Ordinance, and it shall be prohibited:

1. To fail to fulfill any of the terms, criteria, standards, or requirements of this Ordinance;

2. To fail to obtain any permit or approval required by this Ordinance, or to violate or fail to comply with the terms of any approved Master Mining Plan or any Operating Permit condition, or any other approval adopted or issued by the Board or Coordinator pursuant to lawful authority;

3. To fail or refuse to comply with a Notice of Violation as described in Section VI.D. of this Ordinance, unless an appeal is filed and the Board withdraws such Notice of Violation pursuant to Section VI.D.2. Each day of continuing violation shall constitute a separate violation;

4. To knowingly make any false statement, representation, or certification in any application, record, report, plan, map, or other document filed or required to be maintained under this Ordinance, or to falsify, tamper with, or knowingly render inaccurate any monitoring device required to be maintained by this Ordinance or by any permit or approval issued under this Ordinance;

5. To fail to timely notify the Coordinator of any changes from the approved Master Mining Plan or Operating Permit, or changes ordered or required by federal or state agencies;

6. To fail to provide the Coordinator with copies of any notice of violation, noncompliance order, stop-work order, or other written notification by any state or federal agency of any alleged violation of or failure to comply with any law, ordinance, regulation, or order, within forty-eight (48) hours of receipt of such notification by the applicant; and

7. All otherwise applicable statutes or regulatory requirements of federal, state, and local agencies are made a part of this Ordinance, and a violation of any such requirement relating to the regulation of mining shall constitute a violation of this Ordinance.

D. ADMINISTRATIVE ENFORCEMENT PROCEDURES.

1. Notice of Violation. If at any time the applicant violates this Ordinance, the Coordinator shall immediately issue a written Order notifying the applicant of a violation by certified mail. Such notice shall describe the violation. Upon receipt of a Notice of Violation, the applicant shall cease all violative activities.

2. Appeal. The applicant may request the Board to review and withdraw a Notice of Violation not later than ten (10) days after receipt thereof. An appeal does not authorize the noticed activities to continue or recommence and does not stay the effect of the Notice of Violation.

3. Compliance. Compliance with a Notice of Violation shall be reported to the Board by written confirmation of the Coordinator. Should the violative activity not be corrected or an appeal is unsuccessful or not filed within the prescribed time, the Operating Permit shall be suspended pending proof of compliance by the applicant. Under appropriate circumstances threatening the public health, safety, or welfare, the Operating Permit may be revoked.

E. SUSPENSION OR REVOCATION OF APPROVALS AND PERMITS.

1. The Board, by resolution, may suspend a previously issued mining approval or permit as herein provided if it determines

that the applicant is in violation of the terms of this Ordinance, the Master Mining Plan, or the Operating Permit.

2. The Board, by resolution, may revoke a previously issued mining approval or permit as provided herein only if it determines that the permitted activity has become a present, immediate danger to the public health, safety, or welfare.

3. Prior to any suspension or revocation, the Board shall give not less than fifteen (15) days written notification thereof by certified mail to the applicant. Such notification shall contain a statement of the reasons why the approval or permit may be suspended or revoked and references to applicable Ordinance provisions or permit conditions.

4. The applicant may file a written explanation no later than ten (10) days after notice of the proposed suspension or revocation is served upon it, and in such submission may request a public hearing before the Board.

5. No permit shall be suspended or revoked before the applicant is afforded notice and an opportunity for hearing before the Board, unless the Board determines that danger to the public is imminent, in which case it may order temporary suspension of specifically described activities until such time as a hearing is held.

F. JUDICIAL ENFORCEMENT PROCEDURES. In addition to any other remedies for violations of this Ordinance, the Board shall have the following judicial remedies available to it. These judicial remedies shall be cumulative and independent.

1. Criminal Penalties. Willful violation of this Ordinance shall constitute a criminal misdemeanor offense and shall be punishable as provided by general law for misdemeanors. Each day of continued violation shall be considered a separate offense.

2. Civil Remedies. In its discretion, the Board is authorized to commence the following actions:

a. The Board may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property,

e. In addition, failure of any dam, spillway, or other outlet structure or slime pond or any other cause attributable to the applicant's mining activities resulting in degradation of the quality of any waters outside the applicant's property, shall subject the applicant 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, all costs of clean up, and administrative costs, legal costs, and reasonable attorney's fees.

3. Manatee County Environmental Restoration Fund. Any monies recovered by the Board in an action against any person who has caused damage to natural resources or the environment of the County in violation of this Ordinance, shall be used to restore the damaged area which was the subject of suit to its former condition. There is hereby created the Manatee County Environmental Restoration Fund, which is to be supervised and used by the Board to restore damaged areas of the County. This fund shall consist of all monies recovered as described above. The monies shall be disbursed first to pay all amounts necessary to restore the respective damaged areas that were the subjects of County actions. Any monies remaining in the fund shall then be used by the Board, as it deems appropriate, to pay for any work needed to restore areas that required more money than the County was able to obtain by court action or otherwise, or to restore areas in which the County brought suit but was unable to recover any monies from the alleged violators.

VII. SEVERABILITY

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative, or void, such holding or invalidity shall not affect the remaining portions of this Ordinance; and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid, or inoperative part therein; and the remainder of this Ordinance, after the exclusion of such

including animal, plant, and aquatic life of the County caused by such violation. If it prevails, the County shall be entitled to the award of costs and attorney's fees.

b. The Board may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation in an amount not to exceed \$10,000.00 per offense. Each day of continuing violation shall be deemed a separate offense for purposes of penalty assessment. In determining the severity of the penalty, the court should consider the applicant's history of permit violations; the appropriateness of such penalty to the business of the applicant; the seriousness of the violation, including any irreparable injury to the environment and any hazards to the health or safety of the public; whether the violation was willful; and the demonstrated good faith of the applicant in attempting to achieve rapid compliance after notice of the violation. If it prevails, the County shall be entitled to the award of costs and reasonable attorney's fees.

c. The Board may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Ordinance or any regulation, permit, or approval thereunder, to enjoin any violation of this Ordinance, and to seek injunctive relief to prevent irreparable injury to the air, waters, and property of the County and to protect human health, safety, and welfare caused or threatened by any violation. If it prevails, the County shall be entitled to the award of costs and reasonable attorney's fees.

d. It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the County has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action, 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.

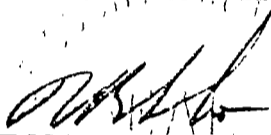
part or parts, shall be deemed and held to be valid as if such parts had not been included herein.

VIII. EFFECTIVE DATE

This Ordinance shall take effect immediately upon receipt of the official acknowledgement from the office of the Secretary of State of the State of Florida that this Ordinance has been filed with that office.

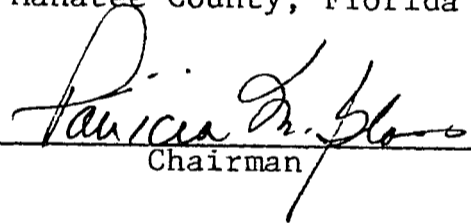
PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida, this the 22nd day of October, 1981.

ATTEST: R. B. Shore
as Clerk of the Circuit Court



Board of County Commissioners
of Manatee County, Florida

By


Chairman

COMPETENT

ALL COMMS:

ENGINEER

ATTORNEY

DEPUTY

CLERK

2 Cert. - Mr. Eckenrod

DATE

6/9/83

del

copy August 7 1983

Manatee County 1
CLERK OF THE CIRCUIT COURT

Richard B. "Chips" Shore

ROOM 234 - MANATEE COUNTY COURTHOUSE - BRADENTON, FLORIDA 33505 - TELEPHONE (813) 748-4501

November 2, 1981

Nancy Kavanaugh, Chief
Bureau of Laws
Department of State
The Capitol, Room 1802G
Tallahassee, Florida 32301

Dear Ms. Kavanaugh:

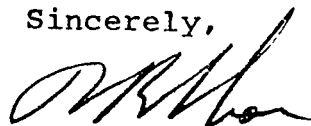
Enclosed are two certified copies of an Ordinance adopted by the Board of County Commissioners, Manatee County, Florida, in open session October 22, 1981:

Manatee County Ordinance No. 81-22

- AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, RELATING TO THE REGULATION OF MINING AND RECLAMATION ACTIVITIES IN MANATEE COUNTY; MAKING CERTAIN FINDINGS OF FACT; PROVIDING A LEGISLATIVE PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR THE REQUIREMENT OF BEST POSSIBLE TECHNOLOGY FOR MINING IN THE WATERSHED OF LAKE MANATEE RESERVOIR; PROVIDING FOR MASTERMINING PLANS; PROVIDING MINIMUM SETBACK REQUIREMENTS; PROVIDING FOR OPERATING PERMITS BEFORE MINING ACTIVITIES MAY BEGIN; PROVIDING TERMS FOR OPERATING PERMITS; PROVIDING CRITERIA FOR MINING ACTIVITIES; PROVIDING FINANCIAL RESPONSIBILITY REQUIREMENTS; PROVIDING FOR PERMITTING PROCEDURES, AMENDMENT, TRANSFER, NEW PERMITS AND ANNUAL PROGRESS REPORTS; PROVIDING FOR NOTICE AND PUBLIC HEARINGS; PROVIDING RECLAMATION REQUIREMENTS; PROVIDING FOR FEES; PROVIDING FOR WAIVER OF REQUIREMENTS; PROVIDING STANDARDS FOR RADIATION; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Please stamp all copies with the date filed by the Office of the Secretary of State, retain one copy of the Ordinance for your file and return the other copy to my office.

Sincerely,



R. B. Shore

RBS/mm
encl.
cc: Board Records

295

CLERK CIRCUIT AND COUNTY COURT · CLERK BOARD OF COUNTY COMMISSIONERS - COUNTY COMPTROLLER, AUDITOR AND RECORDER

STATE OF FLORIDA

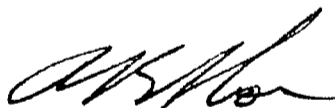
COUNTY OF MANATEE

I, R. B. Shore, Clerk of Circuit Court, in and for the County of Manatee, State of Florida, do hereby certify that the foregoing is a true copy of a RESOLUTION adopted by the Board of County Commissioners of said County in session on the 22nd of October 1981.

SUBJECT: Manatee County Ordinance No. 81-22

- AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, RELATING TO THE REGULATION OF MINING AND RECLAMATION ACTIVITIES IN MANATEE COUNTY; MAKING CERTAIN FINDINGS OF FACT; PROVIDING A LEGISLATIVE PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR THE REQUIREMENT OF BEST POSSIBLE TECHNOLOGY FOR MINING IN THE WATERSHED OF LAKE MANATEE RESERVOIR; PROVIDING FOR MASTERMINING PLANS; PROVIDING MINIMUM SETBACK REQUIREMENTS; PROVIDING FOR OPERATING PERMITS BEFORE MINING ACTIVITIES MAY BEGIN; PROVIDING TERMS FOR OPERATING PERMITS; PROVIDING CRITERIA FOR MINING ACTIVITIES; PROVIDING FINANCIAL RESPONSIBILITY REQUIREMENTS; PROVIDING FOR PERMITTING PROCEDURES, AMENDMENT, TRANSFER, NEW PERMITS AND ANNUAL PROGRESS REPORTS; PROVIDING FOR NOTICE AND PUBLIC HEARINGS; PROVIDING RECLAMATION REQUIREMENTS; PROVIDING FOR FEES; PROVIDING FOR WAIVER OF REQUIREMENTS; PROVIDING STANDARDS FOR RADIATION; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WITNESS My Hand and Official Seal this 2nd day
of November 1981, in Bradenton, Florida.



R. B. Shore, Clerk of Circuit Court
Manatee County, Florida