

CHAPTER 400. PERMIT TYPES AND APPLICATIONS

SECTION 404. OPERATING PERMITS

Generally, operating permits are required for the following uses, where an understanding of the method of operation of the proposed facility is essential to the evaluation of a conditional use application and to ensure compliance with the requirements of this Code.

404.2. Land Excavation Operating Permits

A. Intent and Purpose

The intent and purpose of this section is to protect the public health, safety, and general welfare by ensuring that the extraction of mineral and natural resources is conducted in a manner compatible with the overall development of the County and to ensure that land excavation, a temporary land use, is carried out in such a manner as to provide for the future productive use of such sites.

A Land Excavation Operating Permit is used to:

1. Evaluate in detail the proposed operating plans for a land excavation operation; and
2. Ensure that, if approved, a land excavation operation is conducted in a manner consistent with the requirements of this Code; the Comprehensive Plan; and in the best interest of the health, safety, and welfare of Pasco County and its citizens.

B. Applicability

This section shall apply to all land excavation within the unincorporated areas of Pasco County where excavation exceeds 30,000 cubic yards and does not breach the aquitard, except as provided below.

C. Exemption

The following activities are exempt from obtaining a Land Excavation Operating Permit:

1. Excavation which is moved from phase to phase within or between approved developments without using publicly dedicated rights-of-way, roadways, or easements. Crossing publicly dedicated rights-of-way, roadways, or easements is not considered as using same.
2. Excavation in connection with the construction, maintenance, or repair of a public facility, public improvement, or public roadway.

D. Application Requirements

The application for a Land Excavation Operating Permit shall be that as required for a Mining Operating Permit pursuant to Section 404.3.D.

E. Public Hearing Required

Prior to commencing land excavation operations, a Land Excavation Operating Permit application must be reviewed and approved by the Board of County Commissioners (BCC) after a public hearing held in conjunction with a Conditional Use Permit.

F. Notice

Notice shall be as required pursuant to Section 303.2.B, and the provisions of Chapter 125.66, Florida Statutes.

G. Standards of Approval

The standards of approval shall be as those required for a Mining Operating Permit pursuant to Section 404.3.G.

H. Operating Permit Review

The Land Excavation Operating Permit review shall be as those required for a Mining Operating Permit pursuant to Section 404.3.H.

I. Approval Form, Permit Time Limits, and Activities Required Prior to Commencement

1. The BCC approval shall be in written form and shall constitute a permit for operation of a land excavation subject to the requirements of this Code and the specific requirements, limitations, conditions, and prohibitions contained in the Operating Permit.
2. Permits for operation of a land excavation are not limited in duration and shall correspond to the permittee's approved disposal volume with an annual review for compliance.
3. The effective date of any Land Excavation Operating Permit shall be the date of issuance by the BCC.
4. A permit shall be valid for the volume capacity specified in the Land Excavation Operating Permit.
5. A permit may be issued only in the name of the applicant. Transfer of the permit requires notification to the County prior to the transfer. All terms, conditions, and financial responsibilities shall run with the permit as well as with the land.

6. The Scope of Operations to be permitted under any permit shall only be as specified in the permit (which may incorporate by reference the whole or any part of any plan of operations submitted as a portion of the application for the permit), or any recommendation thereon submitted to and accepted by the BCC by any County department, public or private agency, or individual. A copy of any incorporated recommendation or pertinent part thereof shall be attached to and considered a part thereof.
7. A permittee may seek an amendment of any permit in order to vary or expand the scope or method of its operations at any time by filing an application that follows the procedures outlined for the original application. An amendment deemed necessary in the public interest may be proposed by any member of the BCC; Development Review Committee; County Administrator or designee; or any applicable Federal, State, or local regulatory body.
8. Prior to the issuance of a permit, the applicant shall furnish financial security as required by this section.
9. Following approval of an application by the BCC, the County Administrator or designee shall, upon request, issue a permit to the applicant or his authorized agent, provided that of the required financial security has been submitted to the County.
10. Prior to the initiation of storage or disposal activities authorized by the permit, the applicant shall erect signs alerting motorists to the haul traffic entering the roadway. Such signs shall be erected to County or Florida Department of Transportation standards.
11. The applicant shall obtain all necessary permits from the Southwest Florida Water Management District (SWFWMD), the Florida Department of Environmental Protection (FDEP), and other regulatory agencies, as appropriate, prior to commencing operations. These agencies' permits shall be provided to the County. All applicable statutes, regulations, rules, and orders of Federal, State, and local agencies shall be made a part of the conditions of operations. Where an applicable statute or regulation of another agency is more stringent, that regulation shall apply.
12. A minimum of one (1) up-gradient and one (1) down-gradient monitoring well shall be installed prior to commencement of operations. Installation and sampling of this well will be in accordance with Chapter 62-701, F.A.C.
13. Background water quality for a disposal facility shall be determined by analysis, prior to any disposal of debris, of at least one (1) sample taken from each monitoring well that was installed and each surface water location. All surface water bodies which may be affected by a contaminant release from the disposal facility shall be monitored.

14. All laboratory analyses done in connection with the facility's Water Quality Monitoring Plan shall be conducted by laboratories holding certification from the Department of Health Environmental Laboratory Program under Chapter 64E-1, F.A.C., as referenced in Rule 62-160.300(1), F.A.C. Such certification shall be for the matrix, test method, and analyte(s) being measured to comply with this permit. The Standard Operating Procedures utilized and the laboratory's list of certified test methods and analytes must specifically address the types of sampling and analytical work that are being performed related to this facility.

J. Terms of Permit and Effect of Approval

The terms of the Land Excavation Operating Permit and the effect of the approval of that permit shall be as that for a Mining Operating Permit pursuant to Section 404.3.J.

K. Prior to Excavation Activity and On-Going Monitoring

1. Prior to the initiation of land excavation activities authorized by the Operating Permit, the applicant shall erect signs alerting motorists to the haul traffic entering the roadway. Such signs shall be erected to County standards.
2. The applicant shall obtain all necessary permits from the SWFWMD, the FDEP, and other regulatory agencies, as appropriate, prior to commencing operations under this permit. These agencies' permits shall be provided to the County. All regulations, rules, and orders of Federal, State, and local agencies shall be made a part of these conditions of operations.
3. All required premining monitoring shall be undertaken and copies of all reports shall be forwarded to the County Administrator or designee.
4. The applicants shall engage, at their sole expense, the services of an independent testing lab to monitor groundwater quality on a quarterly basis.
5. Prior to any land excavation activity, the applicants shall provide a hydrogeological report to the County prepared by a qualified professional licensed by the State of Florida. The report is to assess the potential for groundwater contamination, including the Floridan aquifer. The allowable depth of excavation will be contingent upon a finding to be determined according to the following criteria that no adverse groundwater effects will be caused by the proposed depth of excavation. Excavation shall not proceed to a depth that breaches an aquitard such that it would allow for lesser quality water to pass either way between the two (2) systems. In those geographical areas of the County where there is not an aquitard present, excavation shall not proceed to within four (4) feet of the underlying limestone which is part of a drinking water aquifer. It shall be assumed that excavation which exceeds either of these criteria shall constitute adverse groundwater effects.

L. Site Standards

Site standards for a land excavation operation shall be as those for a mining operation pursuant to Section 404.3.L.

M. Operational Standards

Operational standards for a land excavation operation shall be as those for a mining operation pursuant to Section 404.3.M.

N. Financial Responsibility

The financial responsibility and owners'/operators' responsibilities for a land excavation operation shall be as those for a mining operation pursuant to Section 404.3.N.

O. Prohibitions

1. The disposal or discharge of any material other than that approved as a part of the reclamation plan into the excavated pit is prohibited.
2. No excavation shall be conducted within the County, except within the scope of a valid Operating Permit issued by the BCC.

P. Suspension or Revocation of Permit

A suspension of operations for a period of two (2) years or more by a permittee shall be cause for revocation of the permit. Any subsequent application for permission to commence excavation shall be treated as an initial application.

Failure to comply with the County, State, or Federal statutes, rules, or regulations governing land excavation may constitute grounds for suspension or revocation of the Land Excavation Operating Permit. Upon a determination of noncompliance, the County Administrator or designee shall notify the owner and operator/permittee of the nature of the noncompliance and may order corrective action. If the owner and operator fail to comply or take the ordered corrective action, the County Administrator or designee may notify the BCC, who may schedule a public hearing to consider suspension or revocation of the Operating Permit. After due public notice of the said hearing, the BCC shall conduct the said hearing giving all interested persons the opportunity to be heard, present testimony and evidence, and cross-examine witnesses. If, after consideration of the testimony and evidence, the BCC determines that grounds for suspension exist, the BCC may take one (1) or more of the following steps:

1. Order appropriate corrective action.
2. Modify the existing conditions or impose additional, more stringent conditions on the permit.
3. Suspend the permit until appropriate, corrective action is taken or additional or modified conditions are complied with. Any Land Excavation Operating Permit shall be subject to suspension or revocation in whole or in part upon a finding of noncompliance with

the terms of the said permit, this Code, or applicable statutes, rules, and regulations. A suspension may be terminated in whole or in part upon a finding that the noncompliance has been corrected. While a permit or any part of a permit is suspended, no operations authorized by the suspended portion of the Operating Permit shall be carried out. A suspension may be terminated in whole or in part upon a finding that the noncompliance has been corrected.

4. Revoke the permit. Copies of all notices and orders sent to the permittee by the County Administrator or designee as well as reports of compliance or appeals to the BCC from the permittee shall be sent by the County Administrator or designee to any agency involved in the permit process.
- Q. Failure of a permittee to have completed reclamation of any lands as required at the conclusion of any reporting year may subject the permittee(s) 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 in addition to any other fines and penalties that may apply.
- R. Enforcement/Violations

In addition to suspension, modification, or revocation of the Operating Permit, violation of this section may be addressed through any of the enforcement methods in this Code, Section 108.

It shall not be a defense to or grounds for dismissal of any action 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. The failure of the County to enforce any requirements of this Code shall not constitute a waiver of the County's right to enforce this Code with respect to that violation or subsequent violations of the same type or to pursue other remedies.