



## City of North Port

### ORDINANCE NO. 2016-20

**(Amendments to the City of North Port Unified Land Development Code, Chapter 14 Earthmoving, Dredge and Fill Regulations, Sections 14-1 through 14-21 and Chapter 61 Definitions, Section 61-3 Definitions and Word Usage)**

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE, CHAPTER 14 EARTHMOVING, DREDGE AND FILL REGULATIONS, SECTIONS 14-1 THROUGH 14-21; AMENDING CHAPTER 61 DEFINITIONS, SECTION 61-3 DEFINITIONS AND WORD USAGE; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Unified Land Development Code currently permits earthmoving activities only through the special exception process; and

**WHEREAS**, the current zoning regulations cause undue hardship when an approved development is required to go through the special exception process to remove excess dirt from the property or bring additional dirt onsite; and

**WHEREAS**, the City Commission desires to amend the Unified Land Development Code for earthmoving to allow for construction-related earthmoving to occur through the staff review process; and

**WHEREAS**, large-scale earthmoving activities, such as borrow pits and excavation, which have a greater impact on the neighboring areas and on City infrastructure, will still be required to go through the special exception process; and

**WHEREAS**, the City of North Port Planning and Zoning Advisory Board designated as the Local Planning Agency (LPA) has held a public hearing with due public notice to receive public comments on the revision of the Unified Land Development Code; and

**WHEREAS**, the North Port City Commission has held public hearings with due public notice to review the recommendations of the North Port Planning and Zoning Advisory Board, and to receive public comments on the revision of the Unified Land Development Code.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:**

**SECTION 1- FINDINGS:**

The City Commission hereby makes the following findings:

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

1.02 The City of North Port has broad home rule powers granted by the Florida Constitution to enact ordinances which are not inconsistent with general or special law for the purposes of protecting the public health, safety, and welfare of its citizens.

1.03 Reducing the requirements from a Special Exception to staff review for earthmoving activities related to approved developments would meet the additional needs and desire of the citizens, enhance economic development, and ensure the health, safety and welfare of the entire citizenry.

**SECTION 2 -ADOPTION:**

2.01 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code, attached hereto, and incorporated herein, as Exhibit "A."

**SECTION 3 – CONFLICTS:**

3.01 In the event of any conflict between the provisions of this Ordinance and any other Ordinance or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 4 – SEVERABILITY:**

4.01 If any section, subsection, sentence, clause, phase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5 – CODING OF AMENDMENTS:**

5.01 In this Ordinance, additions are shown as underlined and deletions as strikethrough. These editorial notations shall not appear in the codified text.

**SECTION 6 – EFFECTIVE DATE:**

6.01 This Ordinance shall take effect immediately after adoption by the City of North Port Commission. No development order or development permits dependent on this Ordinance may be issued nor may development commence before it has become effective.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session this\_\_\_\_\_day of \_\_\_\_\_, 2016.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this\_\_\_\_\_day of \_\_\_\_\_, 2016.

CITY OF NORTH PORT, FLORIDA

---

JACQUELINE MOORE  
MAYOR

ATTEST:

---

PATSY C. ADKINS, MMC  
CITY CLERK

APPROVED AS TO FORM AND  
CORRECTNESS:

---

MARK MORIARTY  
CITY ATTORNEY

## EXHIBIT A

### ARTICLE I. - GENERAL

#### Sec. 14-1. - Title.

This chapter shall be known and may be cited as the "Earthmoving, ~~Dredge~~ Dredging and Fill Regulations" of the City of North Port, Florida.

#### ~~Sec. 14-2. - Findings.~~

~~The City Commission of the City of North Port hereby finds that:~~

- ~~A. Earthmoving, dredge and fill activities provide a value service and positive economic benefit to the community.~~
- ~~B. It is important to ensure that earthmoving, dredge and fill activities are conducted in manners that promote public health, safety, and welfare.~~
- ~~C. Without appropriate regulation, earthmoving, dredge and fill activities may cause adverse impacts to watersheds, drainage patterns, native habitats, air and water quality, land use compatibility, historical resources, and roads.~~
- ~~D. The City of North Port adopts these regulations to protect public health, safety, and general welfare.~~
- ~~E. The waterways, wetlands and related hydrological and drainage systems function as a vital part of the waters of the City of North Port and constitute a productive and valuable public resource.~~
- ~~F. It has been determined that preservation and proper management of emergent and submergent aquatic vegetation is beneficial to the conservation of fish and wildlife.~~
- ~~G. It is in the best interest of public health, safety and welfare to pay particular attention to the location and general design of structures for recreational boats in order to preserve the navigability of the waterways.~~
- ~~H. Reasonable control and regulation of dredge and fill activities which cause or may be expected to cause pollution is necessary for the protection and preservation of water quality, as well as the public health, safety and welfare.~~

#### Sec. 14-~~3~~2. - Intent.

It is the intent of this regulation to preserve, protect, and improve the public health, safety, comfort, good order, appearance and general welfare, and to conserve and to protect the natural resources within the City of North Port while promoting opportunities for responsible development including associated earthmoving activities.

#### ~~Sec. 14-4. - Relationship to State and Federal regulations, and Comprehensive Plan.~~

~~Before any earthmoving, as defined herein, is to begin, appropriate State and/or Federal permits shall be obtained, when necessary, and presented to the City. In the case where a State and/or Federal permit is not necessary, a copy of an exemption letter shall be presented to the City. No other local government shall have jurisdiction over earthmoving and/or dredge and fill activities within the City of North Port, which are only allowed as a special exception pursuant to the City's Comprehensive Plan or by an approved earthmoving and/or dredge and fill permit.~~

~~The dredge and fill regulations in this chapter implement Policy 7.7 Objective 6, Stormwater Management Element Drainage Element of the Comprehensive Plan, which states that "The City shall revise and adopt a new dredge and fill ordinance consistent with adopted levels of service and applicable goals, objectives and policies."~~

~~The stormwater management regulations in this chapter implement the objectives and policies set forth in the drainage element and the conservation and Coastal Zone Management Elements of the City's adopted Comprehensive Plan.~~

~~Sec. 14-53. - General provisions Applicability.~~

- ~~A. These regulations shall apply to any new earthmoving and/or dredge, dredging and/or filling activities. Earthmoving, and/or dredging and/or fill activities (including but not limited to construction of seawalls, docks, piers and boat ramps, except for those activities specifically exempted under Chapter 13) shall be defined as land proposed for activities related to excavation, earthmoving, or dredging and/or filling, and any operation that pertains to moving earth products; or to the expansion of existing operations. These regulations shall not apply to the qualifying exemptions listed in Sec. 14-5(E).~~
- B. All activities proposed for earthmoving, and/or dredging and/or filling shall be suitable for the various purposes proposed in the request for approval. In addition to the standards contained herein, the applicant shall demonstrate to the satisfaction of the Planning and Zoning Advisory Board and City Commission, where applicable, that the proposed earthmoving, dredging and/or filling is specifically adapted and designed for the uses anticipated. The applicant shall also demonstrate that the proposed earthmoving, dredging and/or filling activity and closure plan benefits and complies with the City of North Port Comprehensive Plan, the zoning regulations and other sections of this Unified Land Development Code, and other laws, ordinances and regulations, as applicable.
- ~~C. All land approved for earthmoving and/or dredge and fill activities shall obtain an earthmoving and/or dredge and fill permit.~~
- ~~DC. All earthmoving, dredging and/or filling activities conducted within the Myakka River Protection Zone (MRPZ) shall be regulated by Chapter 57.~~
- ~~E. Exemptions.~~
  - ~~(1) A development which has incidental earthmoving and is governed by valid site development plan, subdivision plan, or building permit, and has no net increase or decrease of fill. The applicant shall show on a site balance worksheet, signed and sealed by a Florida licensed engineer, that the site remains balanced. Mining operations are not permitted.~~
  - ~~(2) Excavation for lakes and ponds no larger than three-fourth (¾) acres and authorized by Article IV of this chapter.~~
  - ~~(3) General development single family, residentially zoned platted lots.~~

~~Sec. 14-6. - Applicability.~~

~~These regulations shall apply to all earthmoving and dredging and filling activities in the City of North Port, including but not limited to construction of seawalls, docks, piers and boat ramps, except for those activities specifically exempted under Chapter 13.~~

~~Sec. 14-74. - Use of natural features.~~

The size, shape and orientation of earthmoving, dredging and/or filling and associated activities shall be designed to logically relate to trees, topography, ~~solar orientation~~ soil type, natural features, and adjacent land uses. All earthmoving, dredging and/or filling shall be designed to maximize the preservation of natural features, ~~listed~~ protected wildlife species, trees, tree masses, unusual rock formations, watercourses and sites which have historical significance, scenic views or similar assets. All

earthmoving, dredging and/or filling activities shall be designed to minimize the size of the excavation with respect to the volume of material proposed for excavation, dredging and/or filling so as to conserve land and natural resources.

Sec. 14-~~85~~. - Consideration of flood hazards and conservation restricted areas.

Earthmoving activities or portions thereof proposed to be located within any of the City's designated conservation restricted areas, as depicted on the City's Future Land Use Map, or in any designated flood hazard zone, as depicted on the latest FEMA/FIRM and SWFWMD governing board adopted floodplain maps, shall comply with all applicable City of North Port regulations governing land uses within such areas as set forth in Chapter 9, Conservation/Restricted Overlay Zone Regulations; Chapter 17, Flood Damage Prevention Regulations; and Chapter 18, Stormwater Regulations of this Unified Land Development Code, as well as State and Federal requirements.

Sec. 14-~~96~~. - Tree protection and wetland protection.

All proposed earthmoving, dredging and/or filling to be located within the City shall comply, as may be deemed appropriate, with the wetland protection regulations and tree protection regulations set forth in Chapter 49, Wetland Protection Regulations, and Chapter 45, Tree Protection Regulations, of this Unified Land Development Code.

Sec. 14-~~107~~. - Land clearing debris.

- A. ~~The~~ On-site burying of any land clearing material generated as a result of the earthmoving, dredging and/or fill shall be prohibited, except where the felled trees are mulched in with Sec. 37-23 of these regulations.
- B. All land clearing material generated as a result of earthmoving, dredging and/or filling activities shall be removed from the site prior to the completion of earthmoving, dredging and/or filling activities and the final closure plan.
- C. Land clearing debris may be burned in accordance with Sec. 33-7(D)(1)(e).

Sec. 14-~~118~~. - Stormwater management standards.

- A. *General provisions.* A complete stormwater management system shall be provided for the adequate control of stormwater runoff and water quality treatment that originates within the earthmoving, dredging and/or fill site and development parcel that flows onto or across the property from adjacent lands. Said stormwater management system shall be designed in accordance with the standards given in Chapter 18.
- B. *Relationship to other stormwater management requirements.* In addition to meeting the requirements of this chapter, the design and performance of all stormwater management systems shall comply with applicable State regulations or rules of the Southwest Florida Water Management District (SWFWMD). In all cases, the strictest of the applicable standards shall apply.
- C. *Performance standards.* All earthmoving, dredging and/or fill facilities must be designed, constructed and maintained to meet the following standards:
  - (1) While earthmoving, dredging and/or filling activity is underway and after it is completed, the characteristics of stormwater runoff shall approximate the rate, volume, quality and timing of stormwater runoff that occurred under the site's natural unimproved or existing state, except that the first inch of stormwater runoff shall be treated in a retention/detention system or according to other best management practices as described elsewhere in this chapter.
  - (2) The proposed earthmoving, dredging and/or filling activity shall not violate the State water quality standards, ~~as set forth in Chapter 17-3, Florida Administrative Code.~~

- D. *Design standards.* To comply with the foregoing performance standards, the proposed stormwater management system shall conform to the following design standards:
- (1) Detention and retention systems shall be in compliance with Chapter 18, ~~of these zoning regulations.~~
  - (2) To the maximum extent practicable, natural systems shall be used to accommodate stormwater.
  - (3) The proposed stormwater management system shall be designed to accommodate the stormwater that originates within the earthmoving development parcel and stormwater that flows onto or across the earthmoving development parcel from adjacent lands.
  - (4) The proposed stormwater management system shall be designed to function properly for the life of the system.
  - (5) A professional engineer registered in the State of Florida shall certify the design and construction of the proposed stormwater management system as meeting the requirements of this chapter.
  - (6) No surface water may be channeled or directed into a sanitary sewer.
  - (7) The proposed stormwater management system shall be compatible with the stormwater management facilities on surrounding properties or streets, taking into account the possibility that substandard systems may be improved in the future.
  - (8) The banks of retention and detention areas shall be sloped at a ratio of no greater than four (4) to one (1) in order to accommodate vegetation, and shown on the closure plan.
  - (9) Dredging, filling, clearing of vegetation, deepening, widening, straightening, stabilizing or otherwise altering natural surface waters shall be prohibited unless the activity is in compliance with the regulations set forth in Chapter 49, Wetlands Protection Regulations, Chapter 9, where deemed appropriate, Conservation/Restricted Overlay Zone Regulations and Chapter 13, Dredge and Fill Docks, Seawalls, Other Structures and Marine Vessels Regulations, and State and Federal regulations.
  - (10) Natural surface waters shall not be used as sediment traps during or after earthmoving.
  - (11) For aesthetic reasons and to increase shoreline habitat, the shoreline of retention and detention areas shall be sinuous rather than straight where practical and shown on the closure plan.
  - (12) Vegetated buffers of sufficient width to prevent erosion shall be retained or created along the shores, banks, or edges of all natural or man-made surface waters, ~~as shown on the special exception site plan and the closure plan.~~
  - (13) Retention and detention areas shall not be located in a floodplain area as delineated on the latest FEMA/FIRM and SWFWMD governing board adopted floodplain maps", except as approved by the designated City Engineer. Any loss of floodplain volume as a result of development within the floodplain shall be mitigated elsewhere on the site, the location of which must be approved by the City.
  - (14) Stormwater discharge facilities which directly discharge to the Myakkahatchee Creek shall include an additional level of treatment equal to fifty percent (50%) of the treatment criteria specified in Sec. 37-24 herein.
  - (15) Drainage plans shall provide that stormwater be conveyed to an ultimate positive outfall beyond the outer edge of the development or at the nearest natural outfall.

Sec. 14-~~129~~. - Enforcement.



The provisions of Chapter 17, Code Enforcement, of the Code of the City of North Port and the enforcement procedures and penalties contained therein are hereby adopted and incorporated into and made a part hereof by reference.

Sec. 14-130. - Interpretations.

Interpretations of this chapter shall be made by the designated Public Works Director or City Engineer or City Manager's designee.

Sec. 14-141. - Conflicts.

Whenever the requirements of these earthmoving, dredge and fill regulations differ from those imposed by the Federal or State regulation, law or statute, the most restrictive regulation or the regulation imposing the higher standards shall apply.

Sec. 14-152. - Appeals.

- A. Any person aggrieved by the designated Public Works Director/City Engineer/City Manager designee's interpretation may appeal to the Zoning Board of Appeals. The criteria for granting an appeal shall be based upon substantial competent evidence proving that the interpretation renders the property without reasonable use. The granting of any appeal shall not be in conflict with State law. Applications for an appeal shall be filed pursuant to Sec. 1-10 and Sec. 1-28.

Sec. 14-163. - Severability.

If any section, subsection, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Sec. 14-14. – Sec. 14-16. Reserved.

ARTICLE II. - EARTHMOVING AND STOCKPILING

~~Sec. 14-17. – Procedure for securing earthmoving plan approval.~~

- ~~A. Earthmoving is only allowed after the approval of a Special Exception Permit. Prior to the submission of an application, the applicant shall schedule a pre-application meeting with City staff to discuss the development, and representatives of any other agencies in the State of Florida, as may be required.~~
- ~~B. The special exceptions application shall be submitted pursuant to Article XXII of this Unified Land Development Code. The City Commission may vary the requirements of these regulations pursuant to subsection C below.~~
- ~~C. The City Commission may grant a modification from the earthmoving regulations after consideration and recommendation by the Planning and Zoning Advisory Board and from the terms of this chapter when such modification will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. Such modification shall not be granted if it has the effect of nullifying the intent and purposed of this chapter. Furthermore, such modification shall not be granted by the City Commission unless and until:
  - ~~(1) A written application for a modification is submitted to the Planning and Zoning Department demonstrating that:~~~~

- ~~(a) Special conditions and circumstances exist which are peculiar to the land, structures or required earthmoving improvements involved and which are not applicable to other lands, structures, or required earthmoving improvements.~~
  - ~~(b) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties with similar conditions.~~
  - ~~(c) The special conditions and circumstances do not result from the actions of the applicant.~~
  - ~~(d) The granting of the modification requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or required earthmoving improvements under similar conditions. No preexisting conditions on neighboring lands, which are contrary to this chapter, shall be considered grounds for the issuance of a modification.~~
  - ~~(e) The Planning and Zoning Advisory Board and City Commission shall make findings that the requirements of this section have been met.~~
- ~~D. Fees. Upon filing all required application materials, an application fee pursuant to the City Commission adopted fee schedule as may be amended from time to time shall be paid. Any expenses incurred by the City above the application fee shall be reimbursed to the City by the applicant within thirty (30) days of issuance of an invoice. Checks shall be made payable to the City of North Port.~~
- ~~E. Once the special exception has been approved and fees paid, the applicant will be required to apply for an earthmoving and/or dredge and fill permit. The approved special exception package shall accompany the permit application.~~

~~Sec. 14-18. Earthmoving plans.~~

~~The following shall be the requirements for earthmoving plans:~~

- ~~A. The number of copies deemed necessary for an adequate review of a topographic and boundary survey signed and sealed by a registered land surveyor in the State of Florida.~~
- ~~B. The number of copies deemed necessary for an adequate review of site and drainage stormwater plan, signed and sealed by a registered engineer in the State of Florida.~~
- ~~C. A tree location survey, which may be combined as part of the required site and drainage plan or topographic and boundary survey. See Chapter 45, Tree Protection Regulations, of this Unified Land Development Code for further details.~~
- ~~D. Any additional data, maps, plans, surveys or statements as determined by the City to be necessary, depending on the particular use or activity proposed.~~
- ~~E. The number of copies deemed necessary for an adequate review of an earthmoving plan showing all areas of proposed excavation, stockpiling, or processing, volume of all excavations type(s) of earth products to be removed, proposed slopes, setbacks, and methods of dewatering.~~
- ~~F. Drainage submittal pursuant to Sec. 18-7.~~
- ~~G. Copies of approved permits for all required State and Federal permits, e.g., Southwest Florida Water Management District (SWFWMD), etc.~~
- ~~H. Environmental study performed within one (1) year from the date of application. The study must be completed by an environmental professional reflecting the utilization of the project by State or Federal listed species and/or presence of wetland or other valuable native habitats; and how these resources will be protected or conserved as a result of the proposed earthmoving.~~
- ~~I. Test borings to a depth five (5) feet below any proposed excavations.~~

- ~~J. A Closure Plan reflecting the proposed condition of the project following completion of the earthmoving, including but not limited to the following:
  - ~~(1) Location and type of land uses (including recreation area, preservation, stormwater, reservoir, etc.).~~
  - ~~(2) Schedule for reclamation by geographic area.~~
  - ~~(3) Access to the property.~~
  - ~~(4) Costs associated with maintenance of the property after closure.~~~~
- ~~K. Identification of a designated Haul Route(s), if applicable, and evidence of existing road conditions.~~
- ~~L. A bond in the amount of at least ten cents (\$0.10) per cubic yard of material proposed to leave the site and/or a minimum of fifty thousand dollars (\$50,000.00), to insure maintenance of the public roads being utilized by the proposed excavation and insure the completion of the closure plan shall be required. The bond may be for the length of the phase of the excavation activity permitted. Alternatively, the bond may be renewed annually based on closure cost and the volume of remaining material to be transported offsite with the approval of the Finance Director.~~
- ~~M. Where appropriate, a study showing the amount of water storage upon completion that may be permitted for use as a public water supply, improvements necessary to maximize the public water supply and estimated costs of said supply as determined by the Utility Department Director.~~

~~Sec. 14-19. Submission requirements for earthmoving permit approval.~~

- ~~A. The developer shall submit one (1) copy of a building permit application to the Building Department. Permit application forms are available from the building Department and shall be prepared as specified below and shall include all applicable documents and required fees.~~
- ~~B. The special exception permit shall accompany the application for a building permit.~~
- ~~C. Upon receipt of a completed application, the application shall be reviewed by the City for conformance with applicable regulations set forth in this Unified Land Development Code, Standard Building Codes and all other City regulations.~~
- ~~D. Upon issuance of the earthmoving permit, the developer shall pay all fees pursuant to the City Commission adopted fee schedule as may be amended from time to time.~~
- ~~E. Approval of an earthmoving permit shall only be construed as authority for the developer to commence earthmoving on the proposed development.
  - ~~(1) In addition to an earthmoving permit, a building permit may be required.~~
  - ~~(2) A certificate of completion shall not be issued until the development has been completed in accordance with all of the details and specifications set forth in the approved building permit application.~~~~
- ~~F. Time limit on approval. Approved earthmoving permits shall be voided if substantial work, as determined by the City Engineer, has not been accomplished within two (2) years. Plans so voided shall be resubmitted in compliance with the regulations that are in effect at the time of resubmission.~~
- ~~G. Maximum excavation depth. Excavation permitted under this section shall not exceed twelve (12) feet in depth.
  - ~~(1) Excavation may be permitted deeper than twelve (12) feet if soil boring data is provided that shows no confining layers and excavation does not penetrate existing aquifers.~~~~

~~(2) Approval from the appropriate State agencies such as Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP) shall be obtained.~~

~~(3) Signed and sealed as-builts will be required to prove the maximum depth is maintained.~~

~~H. Setbacks for excavation site.~~

~~(1) From street right-of-way or easement a minimum of fifty (50) feet.~~

~~(2) From property line a minimum of fifty (50) feet.~~

~~(3) All required excavation setbacks shall be measured from the highest level on the excavated bank.~~

~~Sec. 14-20. Submission requirements for earthmoving.~~

~~A. A building permit application shall be submitted to the Building Department, which shall contain the following information and documents:~~

~~B. Identification of a designated haul route(s), if applicable, and evidence of existing road conditions. Hauling operations shall comply with all applicable limits and restrictions including those pertaining to vehicle registration, safety, and wheel and axle loads. Operations authorized by an earthmoving approval hereunder may be suspended or prohibited by the City, upon a determination that any such operations are not in compliance with the provisions of the permit.~~

~~(1) It shall be the responsibility of the applicant to mitigate those impacts on the haul route arising from activities authorized under any earthmoving operation. Required mitigation measures shall be determined by the City Manager or designee on a case-by-case basis and may include any or all of the following:~~

~~(a) Clean-up of material overspills;~~

~~(b) Shoulder grading;~~

~~(c) Pavement patching;~~

~~(d) Pavement and roadway base reconstruction;~~

~~(e) Moving dirt away from the site;~~

~~(f) Pavement maintenance, including resurfacing;~~

~~(g) Traffic safety improvements such as signing, stripping, barrier rails, turn/or acceleration lanes with tapers, all meeting American Association of State Highway and Transportation Officials standards, including adding lane capacity; and~~

~~(h) Watering and other dust control measures.~~

~~(2) Earthmoving plan.~~

~~(3) State and/or Federal permits. Copies of approved permits for all required State and Federal permits, e.g., Southwest Florida Water Management District (SWFWMD), etc.~~

~~(4) Closure plan. A closure plan reflecting the proposed condition of the project following completion of the activity, including but not limited to the following:~~

~~(a) Location and type of land uses, including recreation area, preservation, stormwater, reservoir, etc.~~

~~(b) Schedule for reclamation by geographic area.~~

~~(c) Access to the property.~~

- ~~(d) Costs associated with maintenance of the property after closure.~~
- ~~(5) Haul routes. Identification of a designated haul route(s), if applicable, and evidence of existing road conditions.~~
- ~~(6) Maintenance of traffic plan. When construction activities impact the City's right-of-way, the applicant shall submit a maintenance of traffic plan in accordance with Florida Department of Transportation (FDOT) Index Standards.~~
- ~~(7) Best management plan. Provide a plan that identifies the appropriate erosion and sediment controls and storm water best management practices to reduce erosion, sedimentations and storm water pollution.~~
- ~~(8) Proof of property ownership. Applicant shall provide proof of property ownership for all land that will be effected by the proposed activity. If not owned by the applicant, an affidavit giving permission for the proposed activity on the site shall be submitted with the application.~~
- ~~(9) Land clearing permit. Land clearing permits can be obtained at the Building Department.~~
- ~~(10) Right-of-way use permit.~~
  - ~~(a) A right-of-way use permit from the City of North Port Public Works Department shall be obtained for all work proposed to be done in the City rights-of-way and easements.~~
  - ~~(b) A right-of-way use permit shall also be obtained in conjunction with a building permit, and/or an earthmoving permit, where the City rights-of-way and easements will be traversed during construction on the lot.~~
  - ~~(c) Completed permit applications shall be filed at the city of North Port Building Department concurrent with the completed application for a building permit.~~

~~Sec. 14-21. -- Criteria for earthmoving excavations.~~

- ~~A. Borrow pits, and other excavations designed to be left open upon completion shall not be excavated within one hundred (100) feet of any abutting property. This setback requirement does not apply to stormwater retention/detention ponds.~~
- ~~B. Structural and vegetative buffers may be required as necessary to prevent adverse visual, noise, vibration, dust, and safety impacts between potentially incompatible land uses.~~
- ~~C. All excavated areas shall have side slopes no steeper than one (1) foot vertical for each four (4) feet of horizontal distance to a minimum depth of two (2) feet below normal water level (NWL). Below this depth, the side slopes shall be no steeper than one (1) foot vertical for each two (2) feet of horizontal distance.~~
- ~~D. All excavations shall be maintained so as to prevent the creation of sanitary or health nuisances or hazards including mosquitoes, vermin, and the dumping of garbage, trash, hazardous waste, or other refuse.~~
- ~~E. Upon completion of the excavation, and as a requirement of the closure plan, the excavation shall be left in a free form configuration. Straight-line geometrical excavation designs are not permissible. Excavation shall be of irregular type shape form which enhances the natural environment. As a part of the closure plan for all excavations, a littoral zone supporting emergent, aquatic vegetation must be established. The extent of littoral zone required will be subject to a case-by-case evaluation and each dredge and fill application approval shall provide a detailed narrative indicating how the proposed littoral zone will provide for a healthy aquatic environment and provide to the satisfaction of all applicable State water quality standards.~~
- ~~F. Where appropriate, a developer's agreement or other agreement addressing long-term use of the earthmoving site shall be executed.~~

Sec. 14-17. - Procedure for securing earthmoving plan approval.

- A. Except as specified below, earthmoving, such as borrow pits or excavation, is only allowed after the approval of a special exception.
- B. The following activities are exempt from obtaining a special exception:
  - (1) A development which has incidental earthmoving and is governed by a valid Subdivision Plan, Infrastructure Plan, Minor Site Development Plan, or Major Site Development Plan, in accordance with the requirements of Sec. 14-18.
  - (2) Excavation for ponds no larger than three-fourth (¾) acres and authorized by Article IV of this chapter.
  - (3) Single-family, residentially zoned platted lots.
  - (4) Any similar activity as deemed appropriate by the City Manager or designee.
- C. Prior to the submission of a special exception petition, the petitioner shall schedule a pre-application meeting with City staff and representatives of any other agencies in the State of Florida, as may be required, to discuss the development. The special exception petition shall be submitted pursuant to Chapter 53, Article XXII of the Unified Land Development Code. This process shall be completed prior to an application for an earthmoving permit.
- D. The developer shall submit one (1) copy of a building permit application to the Building Department along with the Earthmoving Plan as outline in Sec. 14-18. Permit application forms are available from the Building Department and shall be prepared as specified below and shall include all required fees and applicable documents, including, but not limited to:
  - (1) The special exception permit;
  - (2) Land clearing/earthmoving permit;
  - (3) Right-of-way use permit;
  - (4) Proof of property ownership and/or affidavit providing permission for proposed activity;
  - (5) Developer's agreement or other agreement addressing long-term use of the earthmoving site.
- E. Approval of an earthmoving permit shall only be construed as authority for the developer to commence earthmoving on the proposed development.
  - (1) In addition to an earthmoving permit, a building permit may be required.
  - (2) A certificate of completion shall not be issued until the development has been completed in accordance with all of the details and specifications set forth in the approved building permit application.
- F. Time limit for approved permits. Approved earthmoving permits shall be voided if substantial work, as determined by the City Engineer, has not been accomplished within two (2) years. The resubmission of a voided permit shall comply with the regulations that are in effect at the time of resubmission.

Sec. 14-18 – Exemption submittal requirements.

- A. Where Sec. 14-17(B)(1) exempts earthmoving activities, the following information shall be provided along with the submittal for the Subdivision Plan, Infrastructure Plan, Minor Site Development Plan, or Major Site Development Plan:
- (1) The amount of earth that will be moved onto the site or removed from the site;
  - (2) The estimated number of truck loads required, the hauling route(s) and maintenance of traffic plan (if activity impacts the City's right-of-way). The hauling route should identify where the material will be deposited;
  - (3) A site plan showing stockpiling locations that meet the requirements of Sec. 14-20;
  - (4) A Best Management Plan (BMP) that identifies the appropriate erosion and sediment controls and storm water best management practices to reduce erosion, sedimentations and storm water pollution. The BMP shall be provided for the excavation site and for the excavated material recipient site; and
  - (5) An Environmental Report completed by an environmental professional, shall be submitted for both the proposed excavation site and for the site receiving the excavated material. The report shall show how wildlife and other environmental resources will be protected or mitigated as a result of the proposed earthmoving. The Environmental Report shall include a wildlife survey conducted per the Florida Fish and Wildlife Conservation Commission (FFWCC) criteria, to indicate whether there are any endangered or protected wildlife species such as but not limited to gopher tortoise. The wildlife survey should be no older than one year from the date of submittal to the City. The Environmental Report shall also include any wetland(s) and other surface waters on site and if present, provide an approved Wetland Jurisdictional survey approved by the appropriate regulatory agency (SWFWMD/FDEP/USACOE). An updated wildlife survey shall be provided if, at the time earthmoving is set to commence, the date on the wildlife survey is older than (1) year.
- B. Exempt earthmoving activities shall be governed by an associated development order for both the excavation site and for the excavated material recipient site. Any changes to the submission requirements of Sec. 14-18(A) shall require a written request to amend the development order.
- C. Exempt earthmoving activities shall be construed as a component of the infrastructure covered by the required bond of Sec. 33-9(A)(20) and Sec. 37-7(A)(7).

Sec. 14-19. – Special exception earthmoving plan.

The earthmoving plan must include the following information, with as many copies as deemed necessary for an adequate review:

- A. A topographic and boundary survey signed and sealed by a registered land surveyor in the State of Florida;
- B. A site and drainage stormwater plan, signed and sealed by a registered engineer in the State of Florida;
- C. A tree location survey, which may be combined as part of the required site and drainage plan or topographic and boundary survey. See Chapter 45, Tree Protection Regulations, of this Unified Land Development Code for further details;
- D. A site plan showing all areas of proposed excavation, stockpiling, or processing, volume of all excavations, type(s) of earth products to be removed, proposed slopes, contours, setbacks, and methods of dewatering;

- E. Any additional data, maps, plans, surveys or statements as determined by the City to be necessary, depending on the particular use or activity proposed;
- F. Drainage submittal pursuant to Chapter 18, Stormwater Regulations;
- G. Copies of approved permits for all required State and Federal permits, e.g., Southwest Florida Water Management District (SWFWMD), US Army Corp of Engineers, Florida Department of Environmental Protection, US Fish and Wildlife, Florida Fish and Wildlife Conservation Commission, etc.;
- H. An Environmental Report completed by an environmental professional, shall be submitted for both the proposed excavation site and for the site receiving the excavated material. The report shall show how wildlife and other environmental resources will be protected or mitigated as a result of the proposed earthmoving. The Environmental Report shall include a wildlife survey conducted per the Florida Fish and Wildlife Conservation Commission (FFWCC) criteria, to indicate whether there are any endangered or protected wildlife species such as but not limited to gopher tortoise. The wildlife survey should be no older than one year from the date of submittal to the City. The Environmental Report shall also include any wetland(s) and other surface waters on site and if present, provide an approved Wetland Jurisdictional survey approved by the appropriate regulatory agency (SWFWMD/FDEP/USACOE). An updated wildlife survey shall be provided if, at the time earthmoving is set to commence, the date on the wildlife survey is older than (1) year:
  - (1) Structural and vegetative buffers may be required as necessary to prevent adverse visual, noise, vibration, dust, and safety impacts between potentially incompatible land uses;
  - (2) All excavations shall be maintained so as to prevent the creation of sanitary or health nuisances or hazards including mosquitoes, vermin, and the dumping of garbage, trash, hazardous waste, or other refuse;
- I. Test borings in a ratio of one (1) for every twenty thousand (20,000) square feet of surface area to a depth five (5) feet below any proposed excavations;
- J. Closure plan. A closure plan reflecting the proposed condition of the project following completion of the activity, including but not limited to the following:
  - (1) Location and type of land uses, including recreation area, preservation, stormwater, reservoir, etc.;
  - (2) Schedule for reclamation by geographic area;
  - (3) Access to the property;
  - (4) Costs associated with maintenance of the property after closure;
  - (5) Maintenance entity information; and
  - (6) Upon completion of the excavation, and as a requirement of the closure plan, the excavation shall be left in a free form configuration. Straight-line geometrical excavation designs are not permissible. Excavation shall be of irregular type shape form which enhances the natural environment. As a part of the closure plan for all excavations, a littoral zone meeting the Chapter 18 requirements shall be included;
- K. Identification of a designated haul route(s), if applicable, and evidence of existing road conditions. The haul route should include identification of where the material will be deposited and an estimate of the number of truck loads required. Hauling operations shall comply with all applicable limits and restrictions including those pertaining to vehicle registration, safety, and wheel and axle loads. Operations authorized by an earthmoving permit may be suspended or prohibited by the City, upon a determination that any such operations are not in compliance with



the provisions of the permit. It shall be the applicant's responsibility to mitigate those impacts on the haul route arising from activities authorized under any earthmoving operation. The City Manager or designee shall determine required mitigation measures on a case-by-case basis and may include any or all of the following:

- (1) Clean-up of material overfills;
  - (2) Shoulder grading;
  - (3) Pavement patching;
  - (4) Pavement and roadway base reconstruction;
  - (5) Moving dirt away from the site;
  - (6) Pavement maintenance, including resurfacing;
  - (7) Traffic safety improvements such as signing, striping, barrier rails, turn or acceleration lanes with tapers, all meeting American Association of State Highway and Transportation Officials standards, including adding lane capacity;
  - (8) Watering and other dust control measures; and
  - (9) Maintenance of traffic plan. When construction activities impact the City's right-of-way, the applicant shall submit a maintenance of traffic plan in accordance with Florida Department of Transportation (FDOT) Design Index Standards;
- L. A bond in the amount of at least ten cents (\$0.10) per cubic yard of material proposed to leave or enter the site and/or a minimum of fifty thousand dollars (\$50,000.00), to insure maintenance of the public roads being utilized by the proposed excavation and insure the completion of the closure plan shall be required. The bond may be for the length of the phase of the excavation activity permitted. Alternatively, the bond may be renewed annually based on closure cost and the volume of remaining material to be transported offsite with the approval of the Finance Director;
- M. Where appropriate, a study showing the amount of water storage upon completion that may be permitted for use as a public water supply, improvements necessary to maximize the public water supply, and estimated costs of said supply, as determined by the Utility Department Director;
- N. Maximum excavation depth. Excavation permitted under this section shall not exceed twelve (12) feet in depth, but may be permitted deeper than twelve (12) feet if soil boring data is provided that shows no confining layers and excavation does not penetrate existing aquifers;
- (1) Approval from the appropriate State agencies such as Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP) shall be obtained;
  - (2) Signed and sealed as-built drawings will be required to prove the maximum depth is maintained; and
  - (3) All excavated areas shall have side slopes no steeper than one (1) foot vertical for each four (4) feet of horizontal distance to a minimum depth of two (2) feet below normal water level (NWL). Below this depth, the side slopes shall be no steeper than one (1) foot vertical for each two (2) feet of horizontal distance;
- O. Setbacks for excavation site.
- (1) Minimum setback requirements shall be as follows:
    - (a) From street right-of-way or easement: Fifty (50) feet.
    - (b) From property line: Fifty (50) feet.

- (2) All required excavation setbacks shall be measured from the highest level on the excavated bank.
  - (3) Borrow pits, and other excavations designed to be left open upon completion shall not be excavated within one hundred (100) feet of any abutting property. This setback requirement does not apply to stormwater retention/detention ponds.
- P. Best Management Plan (BMP). Provide a plan that identifies the appropriate erosion and sediment controls and storm water best management practices to reduce erosion, sedimentations and storm water pollution.

Sec. 14-20. – Stockpiling.

Stockpiling is intended to allow for temporary storage of materials for future use in a construction project to be located on the same property and shall be monitored for compliance with the following criteria through an approved development order:

- A. Stockpiles must be placed to minimize nuisance to the public, with consideration given to storm water drainage routing, dust control, safety, and aesthetic appearance.
- B. Stockpile material shall consist of clean earth fill (Type A), free of construction debris, vegetation, and other deleterious materials not suitable for fills.
- C. BMPs must be in place around all stock piles to prevent silt runoff and erosion control.
- D. Maximum side slope for stockpiles four (4) feet or less will be 1.5(horizontal):1(vertical) and 2(horizontal):1(vertical) for stockpiles higher than four (4) feet.
- E. Final disposition of an allowable stockpile must occur within twelve (12) months from the date of the Development Order.
  - (1) The property must be constructed to a completed condition within three (3) months of stockpile removal.
  - (2) If an extension is needed, a written request to amend the development order or Special Exception shall be required.

Sec. 14-21. Reserved.

\* \* \*

Chapter 61 – Definitions

\*\*\*

Sec. 61-3. – Definitions and word usage.

\*\*\*

STOCKPILING – The temporary collection, accumulation, or storage of any type of excavated material upon a parcel of land.