



City of North Port

ORDINANCE NO. 2018-40

1 **AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE UNIFIED LAND**
2 **DEVELOPMENT CODE OF THE CITY OF NORTH PORT, FLORIDA, RELATED TO PHOSPHATE**
3 **MINING BY AMENDING CHAPTER 14 - EARTHMOVING, DREDGING AND FILL**
4 **REGULATIONS, ARTICLE I - GENERAL, SECTION 14-9 - PROHIBITED ACTIVITIES, AND BY**
5 **AMENDING ARTICLE V – DEFINITIONS; PROVIDING FOR ADOPTION; PROVIDING FOR**
6 **CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING; AND PROVIDING**
7 **AN EFFECTIVE DATE.**

8 **WHEREAS**, Florida Statutes, Chapters 373 and 403 relate to the protection of the environment and water
9 resources and govern activities that may pollute Florida's ground and surface waters, including wetlands;
10 and

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12 **WHEREAS**, the City of North Port uses its zoning authority to address various forms of excavation and
13 extraction activities; and

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15 **WHEREAS**, phosphate mining involves land clearing, removal of overburden earth to a depth of 15 to 30
16 feet, removal of phosphate matrix, processing of that matrix to earthen slurry, transmission of that slurry,
17 treatment of that slurry in a beneficiation plant, separation processing, removal of the phosphate, and
18 further storage of waste byproduct operation; and

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20 **WHEREAS**, the City reviewed information from environmental and conservation resources regarding the
21 impacts such procedures have on the health, safety, and welfare to the residents of the City; and

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23 **WHEREAS**, phosphate mining and chemical treatment creates the chemical byproduct phosphogypsum,
24 which contains trace radioactivity and has been determined by the Environmental Protection Agency
25 (EPA) to have few uses, and which must be stockpiled to avoid risk to the public health; and

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27 **WHEREAS**, much of Florida's water supply comes from aquifers in highly-permeable limestone formations
28 which are vulnerable to contamination from mining activities and the storage of the phosphogypsum
29 byproduct; and

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31 **WHEREAS**, use of these mining and processing procedures pose a risk of contamination through spills and
32 accidents, open pit storage, truck transport on roadways, and activities during mine development; and
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WHEREAS, Florida’s regulations do not preempt the City from regulating mining and other mineral extraction techniques; and

WHEREAS, phosphate mining and processing requires the use of thousands of gallons of water during the transmission and beneficiation processes; and

WHEREAS, many parcels within the corporate boundaries of the City of North Port include a reservation of mineral rights; and

WHEREAS, the Commission has adopted resolutions opposing new mining operations, provided financial support to neighboring jurisdictions to fight phosphate mining, and supported increased monitoring of local water quality; and

WHEREAS, on October 18, 2018, the City of North Port Planning and Zoning Advisory Board designated as the Local Planning Agency (LPA) held a property noticed public hearing to receive public comment on the proposed revision to the Unified Land Development Code; and

WHEREAS, the Commission held properly noticed public hearings on November 13, 2018 and November 27, 2018, to review the recommendations of the Planning and Zoning Advisory Board, and to receive public comment on the proposed revision to the Unified Land Development Code; and

WHEREAS, the Commission has determined that the proposed amendments are consistent with the City of North Port Comprehensive Plan and serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

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

SECTION 1- FINDINGS:

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

SECTION 2 -ADOPTION:

- 2.01 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code, as follows:

“Chapter 14 – EARTHMOVING, DREDGING AND FILL REGULATIONS

...

Sec. 14-9. – Prohibited Activities.

- A. Oil or natural gas exploration or production.

- (1) No person or entity may engage in any oil or natural gas exploration or production that utilizes well stimulation within the corporate limits of the City of North Port.

(2) No person or entity may engage in oil or natural gas exploration or production that utilizes well stimulation techniques originating outside the corporate limits of the City of North Port that in any way enters onto, into, or under the ground within the corporate limits of the City of North Port.

(3) No person or entity may engage in phosphate mining within the corporate limits of the City of North Port."

2.02 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code, as follows:

"ARTICLE V. – DEFINITIONS

Sec. 14-32. – Definitions.

...

E. PHOSPHATE MINING – The extraction of phosphate ore from the earth by whatever process including the removal of overburden for the purpose of reaching underlying ore, the reclamation of previously mined land, the transporting, washing, sizing, flotation, storage, drying, grinding and shipping of the phosphate, and all activities reasonably related thereto, except chemical processing."

~~E. F.~~ F. PRODUCTION – The phase that occurs after successful exploration and development and during which hydrocarbons are drained from an oil or gas field.

~~F. G.~~ G. WELL STIMULATION – A well intervention, exploration, operation, or maintenance procedure performed by injecting fluid into a rock formation in order to increase production at an oil or gas well. This includes but is not limited to hydraulic fracturing or fracking and acid well stimulation treatment or acidizing."

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, phrase, 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 ~~striketrough~~. 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 City Commission. No development order or development permits dependent on this ordinance may be issued 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 on _____ day of _____ 2018.

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 _____ 2018.

CITY OF NORTH PORT, FLORIDA

VANESSA CARUSONE
MAYOR

ATTEST:

KATHRYN PETO
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY