



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

11
12 **WHEREAS**, the City of North Port uses its zoning authority to address various forms of excavation and
13 extraction activities; and

14
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

19
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

22
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

26
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

33

34 **WHEREAS**, Florida’s regulations do not preempt the City from regulating mining and other mineral
35 extraction techniques; and

36
37 **WHEREAS**, phosphate mining and processing requires the use of thousands of gallons of water during the
38 transmission and beneficiation processes; and

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

42
43 **WHEREAS**, the Commission has adopted resolutions opposing new mining operations, provided financial
44 support to neighboring jurisdictions to fight phosphate mining, and supported increased monitoring of
45 local water quality; and

46
47 **WHEREAS**, on October 18, 2018, the City of North Port Planning and Zoning Advisory Board designated as
48 the Local Planning Agency (LPA) held a property noticed public hearing to receive public comment on the
49 proposed revision to the Unified Land Development Code; and

50
51 **WHEREAS**, the Commission held properly noticed public hearings on November 13, 2018 and November
52 27, 2018, to review the recommendations of the Planning and Zoning Advisory Board, and to receive
53 public comment on the proposed revision to the Unified Land Development Code; and

54
55 **WHEREAS**, the Commission has determined that the proposed amendments are consistent with the City
56 of North Port Comprehensive Plan and serve the public health, safety, and welfare of the citizens of the
57 City of North Port, Florida.

58
59 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA,**
60 **AS FOLLOWS:**

61 **SECTION 1- FINDINGS:**

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63 1.01. The recitals outlined above are incorporated by reference as findings of fact as if expressly set
64 forth herein.

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66 **SECTION 2 -ADOPTION:**

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68 2.01 The City Commission hereby approves and adopts the following amendments to the City of North
69 Port Unified Land Development Code, as follows:

70
71 **“Chapter 14 – EARTHMOVING, DREDGING AND FILL REGULATIONS**

...

Sec. 14-9. – Prohibited Activities.

- 72 A. Oil or natural gas exploration or production.
73
74 (1) No person or entity may engage in any oil or natural gas exploration or production that utilizes
75 well stimulation within the corporate limits of the City of North Port.

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

80
81 (3) No person or entity may engage in phosphate mining within the corporate limits of the City
82 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:

83 **“ARTICLE V. – DEFINITIONS**

84
85 **Sec. 14-32. – Definitions.**

86
87 . . .

88
89 E. PHOSPHATE MINING – The extraction of phosphate ore from the earth by whatever process
90 including the removal of overburden for the purpose of reaching underlying ore, the
91 reclamation of previously mined land, the transporting, washing, sizing, flotation, storage,
92 drying, grinding and shipping of the phosphate, and all activities reasonably related thereto,
93 except chemical processing.”

94
95 E. F. PRODUCTION – The phase that occurs after successful exploration and development and
96 during which hydrocarbons are drained from an oil or gas field.

97
98 F. G. WELL STIMULATION – A well intervention, exploration, operation, or maintenance procedure
99 performed by injecting fluid into a rock formation in order to increase production at an oil or
100 gas well. This includes but is not limited to hydraulic fracturing or fracking and acid well
101 stimulation treatment or acidizing.”

102 **SECTION 3 – CONFLICTS:**

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104 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or
105 portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

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107 **SECTION 4 – SEVERABILITY:**

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109 4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason
110 held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be
111 deemed a separate, distinct, and independent provision and such holding shall not affect the
112 validity of the remaining portions hereof.

113
114 **SECTION 5 – CODING OF AMENDMENTS:**

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116 5.01 In this ordinance, additions are shown as underlined and deletions as ~~strikethrough~~. These
117 editorial notations shall not appear in the codified text.

118

119 **SECTION 6 – EFFECTIVE DATE:**

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121 6.01 This ordinance shall take effect immediately after adoption by the City of North Port City
122 Commission. No development order or development permits dependent on this ordinance may
123 be issued before it has become effective.
124

125 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public
126 session on _____ day of _____ 2018.

127 PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final
128 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