

ORDINANCE NO. 2010- 10

**AN ORDINANCE ADDING SECTION 11.06.00 TO THE WALTON COUNTY LAND DEVELOPMENT CODE, ESTABLISHING THE DEFINITION OF MINING , EXISTING MINING AND BORROW PITS, ESTABLISHING THE REQUIREMENTS FOR LAND ALTERATION PRACTICES OF EXISTING MINES/PITS, PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Walton County Board of County Commissioners (the Board) has expressed a desire to protect the environment and natural surroundings throughout the county; and

**WHEREAS**, the Board has an expressed duty to protect the public safety, health, and welfare of the citizens of Walton County; and

**WHEREAS**, the State of Florida and the Northwest Florida Water Management District regulate and manage the location, operations, and renovation of land altering practices such as mines and borrow pits; and

**WHEREAS**, the Board finds that it is in the best interest of the health, safety, and welfare of citizens to establish regulations and best management practices for the location, operation, and reclamation of existing mines and borrow pits;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Walton County, that the Walton County Land Development Code be amended by adopting the following:

**Section 1. AUTHORITY, PURPOSE AND INTENT.**

This ordinance is adopted pursuant to Section 125.01 Florida Statutes, to regulate mining activities of existing mines in Walton County.

**Section 2. ADDED** to Chapter 11 of the Walton County Land Development Code (deletions are ~~strike through~~; additions are underlined):

11.06.00 MINING AND BORROW PIT OPERATIONS

11.06.01 Definitions

**Borrow Pit** as used in this section is synonymous with the term "Mine".

**County** means Walton County, a political subdivision of the State of Florida.

**Existing Mines** for the purposes of this section means any mine in existence prior to the effective date of this ordinance, permitted or not permitted.

**FDEP** means the Florida Department of Environmental Protection.

*Mine* means an area of land that is related to the removal from its location of solid substances of commercial value found in natural deposits on or in the earth, so as to make the substances suitable for commercial, industrial, or construction use, but does not include excavation solely in aid of on-site farming or on-site construction, nor the process of prospecting.

*Mining Activity/Operation* means the excavation or removal of earth and all activities on the mining site which are related to and incidental to the mining operation including but not limited to stockpiling, equipment operation and storage.

*Mining Area* means the area in which an excavation does or is proposed to occur.

*Mining Site* means the parcel or parcels on which the mining operation does or is proposed to occur.

*Non-Permitted Mines* for the purposes of this section means any mines in existence but not permitted by means of a Walton County development order.

*NFWFMD* means the Northwest Florida Water Management District.

#### **11.06.02 Registration.**

A. All existing mines, that do not have a valid Walton County Development Order, shall register with the County within ninety (90) days of the date of adoption of this Ordinance. Registration shall be accomplished by filing an application with the County which shall consist of the following:

1. Name, address, telephone number of current Owner and/or Operator.
2. Survey with a legal description of the entire mining site.
3. Current aerial map of the entire mining site delineating areas previously mined and reclaimed, areas of active mining and areas being requested to allow future mining.
4. Copies of all other permits for the mine, including site plans, operation plans and reclamation plans associated with permits issued, if applicable, by the FDEP, NFWFMD, U.S. Army Corps of Engineers, U.S Environmental Protection Agency, and any other state or federal agency.

B. Failure to Register: Any mine for which an application for registration has not been filed within the time period specified shall lose any vested rights for the operation of such mine. In order to operate such mine, the mine shall be required to comply with all provisions of the Walton County Code, including the provisions provided for in this section.

#### **11.06.03 Applicability and Categories of Mines**

A. Mines in existence prior to November 7, 1996 (implementation of the Comprehensive Plan) are subject to the standards of §11.06.04 sub-paragraph A.

B. Mines in existence prior to August 14, 2007 (Special Exception provision) but not prior to November 7, 1996 (Implementation of the Comprehensive Plan) are subject to the standards of § 11.06.04 sub-paragraph B.

C. Mines established after August 14, 2007 (Special Exception provision) are subject to the standards of §11.06.04 sub-paragraph C.

#### **11.06.04 Development Procedures**

A. Existing mines prior to November 7, 1996

1. Required Permits:

a. Existing mines in this category will be required to produce proof that they were in existence prior to November 7, 1996 and that they hold valid and current permits from the Department of Environmental Protection (DEP) and if required the Army Corps of Engineers (ACOE) and the NFWFMD. Failure to produce the necessary proof that the mine was active prior to November 7, 1996 and that they hold valid and current permits will make the application ineligible to be processed under this category.

b. No Walton County Development Order will be required for this process as long as the applicant properly registered the mine as required in §11.06.02.

2. Reclamation Plan/Hazard Mitigation

a. The reclamation plan required for this category will be the standards agreed upon with FDEP and/or the reclamation plan approved by and incorporated into the existing FDEP mining permit.

b. County staff will review the existing FDEP permit and reclamation plan to ensure that there exist no hazard or threat to the public health, safety and general welfare of the residents of Walton County due to the continued operation of the mine under the existing applicable conditions.

c. In the event that staff determines there is a hazard or threat to the public health, safety and general welfare of the residents of Walton County by operation of the mine, the staff shall request the owner or operator of the mine to make changes deemed necessary to eliminate any hazard or threat. In the event that staff and the owner or operator of the mine are not able to agree on the method of alleviating the perceived hazard or threat, or if the owner or operator is unable to comply with the new requirements, an Appeal may be brought to the Board of County Commissioners.

3. Continued Operation: Mining activities in this category, if properly registered with the County, may continue to operate in accordance with its state and federal permits; however, the mining activity may not be expanded, extended or otherwise modified unless the mining operation complies with the provisions of §11.06.04, sub-paragraph C.

B. Existing Mines after November 7, 1996 but prior to August 14, 2007

1. Required Permits:

a. Existing mines in this category will be required to produce valid and current permits, as applicable, from the FDEP and if required the Army Corps of Engineers (ACOE) and NFWFMD. Failure to produce the necessary state and federal permits that show the mine active prior to August 14, 2007 will make the application ineligible to be processed under this category.

b. Mines registered in this category will be required to obtain a Walton County Development Order.

2. Proper Future Land Use Category

a. Existing mines in this category that have a Future Land Use category that permits mining as an allowable use may apply for a development order, processed as a minor development, as long as they comply with the requirements of §11.06.04, A, 2 above; in addition to the following:

(1) Meet all buffer and setback requirements of the Walton County comprehensive plan.

(2) Comply with provisions of the Walton County comprehensive plan, including provisions concerning wetland, wildlife habitat, archaeological, and historical protection.

b. Existing mines in this category that allow mining as a “Special Exception” shall be required to go through the “Special Exception” process as outlined in §11.05 of this code prior to receiving a development order.

c. Existing mines in this category that do not have a Future Land Use category that allows mining as either an allowable use or as a special exception, shall be required to first obtain a Future Land Use Change that allows the mining activity prior to proceeding to the procedures outlined in either §11.06.04 B, (2)(a) or (2)(b), as appropriate. As long as the applicant has met the registration requirements of §11.06.02, the registration will be held in abeyance until the request for Future Land Use Change has been finalized.

3. Reclamation Plan/Hazard Mitigation

a. The reclamation plan required for this category will at least meet the minimum standards agreed upon with FDEP and/or the reclamation plan approved by and incorporated into the existing FDEP mining permit. The County reserves the right to add supplemental requirements to the reclamation plan as deemed appropriate on a case by case basis.

b. County staff will review the existing FDEP permit and reclamation plan to ensure that there exist no hazard or threat to the public health, safety and general welfare of

the residents of Walton County due to the continued operation of the mine under the existing applicable conditions.

c. In the event that staff determines there is a hazard or threat to the public health, safety and general welfare of the residents of Walton County by operation of the mine, the staff shall request the owner or operator of the mine to make changes deemed necessary to eliminate any hazard or threat. In the event that staff and the owner or operator of the mine are not able to agree on the method of alleviating the perceived hazard or threat, or if the owner or operator is unable to comply with the new requirements, an Appeal may be brought to the Board of County Commissioners.

4. Operational Plan: Mines in this category must provide, for review during the development order review process, a plan that details haul routes, access, hours of operation, security/fencing, and safety.

5. Surety

a. The applicant must post and maintain a surety as defined in section 11.01.07 B to ensure that reclamation of the mining site will be completed including, but not limited to, general clean-up, grading, re-vegetation, and re-vegetation maintenance as required by the county to ensure successful re-vegetation. Failure to maintain an adequate surety shall be grounds for revocation or suspension of the development order in addition to other remedies provided by this code.

b. The amount of the surety shall be \$1,500.00 per acre. The performance assurance for phased projects may be provided separately.

C. Mines established after August 14, 2007

1. Required Permits

a. As a condition of approval and prior to the development order being issued, mines in this category must obtain all required state and federal permits to conduct the mining operation.

b. Applications for mining operations in this category will be required to obtain a Walton County Development Order, processed as a Major Development.

2. Proper Future Land Use Category

a. Request for mining operations in this category must first have the proper Future Land Use Category that will allow mining activity. A Future Land Use change, if required, must be accomplished prior to application for a development order.

b. Request for mining operations in a Future Land Use Category that allow mining as a "special exception" must include the "Special Exception" process, as outlined in §11.05 of this code, as part of the development order review.

3. Development Standards and Reclamation Plan: The development standards and reclamation plan shall be in accordance with the Interim "Best Management Practices" for Borrow Pits approved by the Board of County Commissioners on July 22, 2008.

4. Surety

a. The applicant must post and maintain a surety as defined in section 11.01.07 B to ensure that reclamation of the mining site will be completed including, but not limited to, general clean-up, grading, re-vegetation, and re-vegetation maintenance as required by the county to ensure successful re-vegetation. Failure to maintain an adequate surety shall be grounds for revocation or suspension of the development order in addition to other remedies provided by this code.

b. The amount of the surety shall be \$1,500.00 per acre. The performance assurance for phased projects may be provided separately.

11.06.05. Nothing in this Section shall be deemed to supersede or replace any other state or federal laws governing any existing mines. All mines must abide by all other state or federal laws and the failure to do so will subject any owner in violation of those laws to suspension and/or revocation of the development order and any other remedies provided for in this code.

11.06.06. Exemptions: Existing mines that have a valid Walton County Development Order as of the date of the enactment of this Section are governed by the terms of their Development Order and are exempt from the requirements of this Section. The following activities are also exempt from the requirements of this Section, and shall not be considered mining operations. Exemption from the application of this Section does not relieve the applicant from compliance with all applicable county, state and federal regulations including all permit requirements for such activities.

A. The installation of utilities provided a valid underground utility permit or right-of-way utilization permit has been issued;

B. The construction of foundations for any building or structure provided that a building permit has been issued;

C. Excavations relating to the accessory use of land and designed to be filled upon completion (e.g., graves, septic tanks, etc.);

D. The installation of swimming pools;

E. Maintenance dredging of lakes or canals;

F. Borrow Pits where extractable material is only used on-site as long as the materials are not offered for sale and no processing is involved, except for the use of a scalping screen to remove large rocks, wood and other debris. For the purposes of this exemption, "on-site" means, "within the contiguous limits of an area of land under one ownership or control, and upon which agricultural or construction activities are taking place. Areas of land that are divided by public or private roads are considered contiguous if such areas are under one ownership or control.

G. Insignificant excavations directly related to agricultural uses (e.g., ditches, livestock water holes,



fish and alligator ponds, etc.); provided that:

1. The land is zoned General Agricultural or Large Scale Agriculture
2. The property has received a qualified agricultural classification pursuant to F.S. Section 193/461;
3. For all excavations other than ditches, but inclusive of all previous excavations on the site, the surface area of the excavation does not exceed twenty (20) percent of the property or five (5) acres, whichever is less, and the depth does not exceed twelve (12) feet;
4. All excavated material remains on site; and

H. Storm water retention/detention ponds otherwise approved by the county in connection with a development.

**Section 3. CONFLICT.**

Those portions of ordinances, whose subject matter is the Land Development Code, which are in conflict, are hereby repealed.

**Section 4. SEVERABILITY.**

In the event that any portion of this Ordinance 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 of this Ordinance.

**Section 5. EFFECTIVE DATE.**

This ordinance shall become effective when filed with the Secretary of State.

Adopted by the Board of County Commissioners of Walton County, Florida, at a duly advertised public hearing this 8<sup>th</sup> day of June, 2010.

BOARD OF COUNTY COMMISSIONERS  
WALTON COUNTY, FLORIDA

By: Scott G. Brannon  
Scott Brannon, Chair

ATTEST:

Capit Walker, Deputy Clerk  
for Martha Ingle  
Clerk of Court

