

POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

DRC Date: December 2, 2023	Level of Review: 4
PC Date: February 7, 2024	Type: LDC Text Amendment
BoCC Date: March 5, 2024	Case Numbers: LDCT-2023-20
March 19, 2024	Case Name: Mining Inspection Text Amendment
Applicant: Polk County	Case Planner: JP Sims, Planner II

Request:	An LDC text amendment to Chapter 3, Section 303 – Criteria for Conditional Uses, to change the responsibility of inspecting non-phosphate mines from Codes Enforcement to the Land Development Division; providing for severability; providing an effective date, providing for a repeal date.
Location:	Unincorporated Polk County Sand Mines
Property Owners:	Varied
Future Land Use:	N/A
Development Area:	N/A
Nearest Municipality	N/A
DRC Recommendation:	Approval
Planning Commission Vote:	Pending Hearing
Public Comment:	Pending
Florida Commerce:	N/A

Summary:

This proposed text amendment is to change the responsibility of performing annual inspections on non-phosphate mines from Codes Enforcement to the Land Development Division.

Data and Analysis Summary

This change will apply to all non-phosphate mines within unincorporated Polk County: a review of Ordinance 83-03 and some neighboring jurisdictions. Codes Compliance maintained sand mine records historically. However, the Engineering Inspectors have become more involved with sand mine inspections and review. Codes Compliance has not performed an official sand mine inspection for at least 15 years.

Development Review Committee Recommendation:

The Land Development Division, based on the information provided with the proposed text amendment application, finds that the proposed text change request is **CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan. Staff recommends **APPROVAL of LDCT-2023-20**.

Findings of Fact:

- The first sand mining ordinance was Ordinance 83-3 titled as the “Polk County Sand Mining Ordinance”. It was repealed by the Ordinance that adopted the Land Development Code.
- Ordinance 83-3 required sand mining applications to be submitted to the building official and reviewed by the Board of County Commissioners.

- Ordinance 88-19 was adopted to address Phosphate Mining and is still in effect.
- The Comprehensive Plan includes Section 2,124-C which is the Mineral Resource Protection Overlay and includes the mining of lime rock, sand, peat, and clay.
- Non-phosphate mining is either a Conditional Use Level 3 or Level 4 in the land use districts that allow this use. Chapter 3 of the Land Development Code lists conditions for the approval and operation of a non-phosphate mine including the requirement for an Annual Report and inspection.
- Historically, Code Compliance maintained non-phosphate mining records and conducted needed inspections.
- The Engineering Inspectors have increasingly been more involved with sand mine inspections and issues related to nearby roadways.

Comparisons to other Jurisdictions:

Staff reviewed the annual mining inspection requirements of the counties abutting Polk, along the I-4 Corridor, and ones similar such as Alachua. The cities of Lakeland and Winter Haven were also reviewed since they are the two largest jurisdictions within Polk. The focus of the review was on the process of who was responsible for performing the annual inspection for mining within those jurisdictions. A brief summary of the results is displayed in Table 1 to follow.

Table 1

Jurisdiction <i>(code citation)</i>	Does this section define who is responsible for annual inspection?	Is there an Evaluation Criteria?
Alachua County <i>Chapter 404, Article XXIV, Section 404.104</i>	Yes, Codes Enforcement	Yes. <i>“The owner of each excavation and fill operation shall be responsible for notifying the codes enforcement department prior to October 1 of each fiscal year if an excavation and fill operation is inactive.”</i>
Hillsborough County <i>Article VIII, Part 8.01.03</i>	Yes, The Administrator	Yes. <i>The Administrator shall have the right to inspect the lands affected by this division. Permitted land excavations shall be inspected to ensure compliance with this division and all conditions of the permit. Inspections shall be performed at least quarterly. Advance notice of inspections shall not be required, however, upon arrival the inspector shall attempt to contact operating personnel</i>
Lake County <i>Chapter VI, Section 6.06.03</i>	Yes, Land Development Administrators	Yes. <i>Inspections of all new and existing Mining Activities Shall be conducted on a routine, periodic basis and as deemed appropriate by the County or as complaints arise concerning the mining activity. By seeking and obtaining a Mining Conditional Use Permit under the Land Development Regulations, the Operator and Owner Shall be deemed to have consented to inspections by the County and other appropriate regulatory agencies or departments upon presentation of proper identification by the representative(s) of the agency(ies) conducting the inspections.</i>
Orange County <i>Sec. 25-97</i>	No, there was nothing showing who performs annual inspections.	No information was found regarding annual mining inspections.
City of Lakeland <i>Article 2</i>	No, there was nothing showing who performs	No information was found regarding annual mining inspections.

Table 1

Jurisdiction <i>(code citation)</i>	Does this section define who is responsible for annual inspection?	Is there an Evaluation Criteria?
	annual inspections.	
City of Winter Haven <i>Sec. 21.255</i>	No, there was nothing showing who performs annual inspections.	No information was found regarding annual mining inspections.

Few of the jurisdictions reviewed addressed the process of inspecting mines at all, while half had some form of evaluation criteria to perform the annual inspections. They were mostly broad.

Consistency with the Comprehensive Plan

This change is consistent with the Comprehensive Plan, as Section 2.124-C provides location and compatibility guidelines and states and mining activities shall be consistent with the Land Development Code. County staff are required to complete the annual inspection of mining operations per Chapter 3, Section 303 for Mining, Non-Phosphate. This change simply modifies which portion of County Staff is to complete the inspections. Since the County Engineer Inspectors have become increasingly more involved in inspections for sand mines since the adaptation of the LDC, this is a logical text amendment to codify the reality of who conducts the inspections.

Consistency with the Florida Statutes

Mining Activity in the state of Florida is handled by the Florida Department of Environmental Protection’s Mining and Mitigation Program. This program was created under Chapter 378 of Florida Statutes.

Comments from Other Agencies: None

Exhibits

Exhibit 1 – Section 2.124-C Mineral Resources Protection District

Exhibit 2 – Excerpt with changes from Land Development Code, Chapter, 3, Section 303.

SECTION 2.124-C - MINERAL-RESOURCE PROTECTION DISTRICT.

OBJECTIVE 2.124-C: The Polk County Plan shall protect and manage mineral resources for the purpose of insuring their continued availability of these resources by through:

- a. the establishment and mapping of a Mineral-Resource Protection District overlay; and
- b. the establishment of development criteria for protecting known deposits from encroachment by land uses incompatible with excavation and associated mining operations.

POLICY 2.124-C1: PURPOSE - The Mineral-Resource Protection District (MRPD) overlay is established for the purpose of protecting for future mining those known deposits of minerals and soils that are in appropriate locations so as not to have adverse impacts on existing development.

POLICY 2.124-C2: DESIGNATION AND MAPPING - The Future Land Use Map Series shall designate and map as the "Mineral-Resource Protection District" the general location of known commercially viable mineral and soil deposits, including:

- a. lime rock
- b. sand
- c. peat
- d. clay

The decision as to whether to protect a mineral deposit by inclusion in an MRPD overlay shall include, but not be limited to, an evaluation of:

- 1.the deposit's compatibility with existing land uses within, and surrounding, the MRPD designation; and,
- 2.the ability to mitigate adverse impacts from the mining of the deposit, including: noise, visual, airborne and waterborne pollutants, and traffic impacts.

POLICY 2.124-C3: DEVELOPMENT CRITERIA - Development within the MRPD shall conform to the following criteria:

- a. Land uses which are compatible with the extraction and processing of mineral resources shall be permitted as a use within Mineral Resource-Protection.
- b. Land uses which may not be compatible, or which may cause future conflicts, with mineral excavation activities may be permitted within the MRPD through the issuance of a special limited-use permit such as a temporary-use permit.
- c. Mineral extraction activities should be conducted in a manner which will minimize adverse effects to water quality, fish and wildlife, and adjacent land uses.
- d. any mining activities shall comply with Section 2.124-C and the Land Development Code.

POLICY 2.124-C4: ADJACENT DEVELOPMENT - Development on property adjacent to a designated MRPD shall be required to provide proper buffering, if applicable.

POLICY 2.124-C5: RECLASSIFICATION - Owners of property located within a Mineral Resource-Protection District may apply to the Board of County Commissioners for removal of the overlay classification once proper reclamation of the property is completed. Removal of the property from the MRPD would allow the property to be developed in accordance to the land use policies applicable to the underlying land use district(s) designated for the property by the Future Land Use Map Series, or those policies applicable to any new land use district(s), or those policies applicable to any new land use classification established as a result of an approval of a Plan amendment that is processed at the request of the property owner in conjunction with the Mineral Resource-Protection District designation removal.

Section 303 *Criteria for Conditional Uses (Revised 5/1/18 – Ord. 18-025; 03/21/17 – Ord. 17-013; 8/16/16 – Ord. 16-040; 04-19-16 – Ord. 16-022; 08/15/15 – Ord. 15-53; 03/18/14 – Ord. 14-015; 06/08/04 Ord. 03-95; 01/03/05 – Ord. 04-80)*

3. The Polk County ~~Codes Enforcement~~ Land Development Division shall be responsible for inspecting the mine site annually for consistency with the approved Mine Plan. Inspection of the mined area reclamation is the responsibility of the Department of Environmental Protection as per Chapters 62C-36 and 62C-39, F.A.C. Compliance with Polk County's minimum reclamation standards found in this Section shall be demonstrated through the annual mine reports. This Section shall not limit the authority of the BoCC or any County agency to enforce or monitor compliance with other applicable statutes, ordinances, resolutions, regulations, or permit conditions.