

AN ACT TO BE ENTITLED

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA, AMENDING THE PASCO COUNTY LAND DEVELOPMENT CODE ORDINANCE NO. 89-21, AS AMENDED, BY CREATING SECTION 703 FILL, AND REQUIRING A PERMIT FOR FILLS OF MORE THAN FIVE CUBIC YARDS, AND FOR CERTAIN FILLS OF LESS THAN FIVE CUBIC YARDS, PROVIDING FOR AMENDMENT OF ARTICLE 200 (DEFINITIONS) TO ADD A DEFINITION FOR THE WORD "FILL", PROVIDING FOR REPEALER, SEVERABILITY, INCLUSION INTO THE LAND DEVELOPMENT CODE, MODIFICATION THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the legislature of the State of Florida has in Chapter 125, 163, and 166, Florida Statutes, delegated to local government units the responsibility to adopt regulations designed to provide the public health, safety and general welfare of its citizenry; and

WHEREAS, fill activity may cause adverse impacts to watersheds, drainage patterns, native habitats, air and water quality, and may create erosion and sedimentation problems; and

WHEREAS, unauthorized changes in topography, including filling of drainageways and relocating conveyances, could increase the flood potential and the impact of a destructive storm on human life, private structures, and public facilities; and

WHEREAS, regulations governing fills of land promote the public health, safety and general welfare of its citizenry.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida as follows:

SECTION 1. CREATION OF SECTION 703.

Section 703 of the Pasco County Land Development Code is hereby created as follows:

703. FILL

703.1 Permit Required.

A. A development permit shall be required for any fill that is more than five cubic yards, or for any cumulative fills that, cumulatively, total more than five cubic yards. Prior to issuance of such permit, a plan shall be submitted for review and approval in accordance with Section 306 of the Land Development Code. Such plan shall show the following:

- (1) Legal description and boundaries of the property, or, a parcel ID or address.
- (2) Location of all trees of four inches diameter breast height (dbh) or larger within the proposed fill area.

(3) Sketch or drawing showing the location of proposed fill and location and depth of any drainage improvements (pond, pipe, swale, etc.).

(4) Flow arrows showing direction of existing drainage flow.

(5) Proposed fill volume.

(6) All plans shall be scale drawings or accurately-dimensioned.

B. No development permit is required for any fill of less than five cubic yards provided that cumulative fills do not exceed five cubic yards.

C. Prior to the issuance of any development permit for a fill, the county shall examine the plan for such fill and shall determine whether the proposed fill will be compatible with the surrounding area and ultimate county drainage plan or existing patterns. In addition to meeting the requirements for all plans as set out above, if required by the county, or if a permit is sought after placement of fill for which a permit was required (known as an “after-the-fact” permit”), plans shall:

(1) show existing and proposed grades, including proposed fill volume;

(2) show existing and proposed drainage improvements and their depth (pond, pipe, swale, etc.)

(3) show existing and proposed topography, including surface water areas and existing and proposed direction of drainage flow;

(4) be scale drawings; and/or

(5) bear the seal and signature of an engineer registered and licensed by the State and shall show a positive outfall of overflow into the county drainage system.

The plan, once approved, shall become a condition upon which the fill is permitted, and any change or addition shall constitute a violation of this ordinance unless such change or addition is examined by the county, according to the same criteria required for original issuance of the permit, and approved in writing.

703.2 Violations and penalties.

A. Any person, firm, corporation, or partnership that violates any provision of this ordinance shall be punished by a fine of not more than \$500.00, or 60 days in jail, or both. Enforcement of this ordinance shall be through the issuance of a citation, in accordance with sec. 1-6 and 1-11 of the Pasco County Code of Ordinances.

B. The owner, tenant, or occupant of any land or part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and be subject to the penalties and remedies provided for in this ordinance and/or by the Land Development Code.

C. In addition to enforcement of this ordinance through issuance of a citation pursuant to sections 1-6 and 1-11 of the Pasco County Code of Ordinances, Pasco County may bring suit to restrain, enjoin, or otherwise prevent violation of this section in any court of competent jurisdiction, or to recover costs incurred by the county in whole or in part because of violation of this division.

D. Failure to obtain a permit required by this section a violation that is continuous with respect to time, and each day the violation continues is hereby declared to be a separate offense.

703.3 Exemptions.

The following activity is exempt from the permit requirements of this Section:

- (1) Filling incidental to agricultural operations, on a parcel of land that is classified by the Pasco County Property Appraiser as bona fide agricultural land under the agricultural assessment provisions of F.S. § 193.461. Fills that are not incidental to agricultural operations require a permit under Section 703 under the same conditions as any other permit, even if proposed on a parcel that is classified by the Pasco County Property Appraiser as bona fide agricultural land under the agricultural assessment provisions of F.S. § 193.461. Failure to obtain such a permit when required by this Section is a violation of this code.
- (2) Fills of any size on parcels that are five acres or larger.
- (3) Fills of any size within a structure, for which a building permit has been issued, that is used to house horses.

703.4 Appeals.

The denial of a development permit under Section 703 may be appealed to the Development Review Committee in the same manner as "Appeals of County Staff Determinations for Class I and IIIR Development," which is described in Section 317.5 of the Land Development Code. A final order of the Development Review Committee regarding the denial of a development permit under Section 703 may be appealed to the Board of County

Commissioners in accordance with the provisions of Chapter 317 of the Land Development Code.

703.5 Cost of Permit.

The application fee for a permit pursuant to this ordinance shall be no more than \$20.00. The application fee for a permit sought after the placement of fill for which a permit was required by this section (known as an “after-the-fact” permit) shall be no more than \$100.00. These fees may be amended by resolution.

SECTION 2. AMENDMENT TO ARTICLE 200.

Article 200 of the Pasco County Land Development Code is hereby amended to read:

201. DEFINITIONS

Fill

Off-site, imported material deposited in or on real property by artificial means. “Fill” does not include material composed entirely of clean organic mulch.

SECTION 3. MODIFICATION.

It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk of the Board.

SECTION 4. REPEALER.

Any ordinance, or part of any ordinance, in conflict herewith is hereby repealed to the extent of any conflict.

SECTION 5. SEVERABILITY.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision, and shall not be affected by such holding.

SECTION 6. INCLUSION IN THE CODE.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of Pasco County Code, and that the Sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phase in order to accomplish such intentions.

SECTION 7. EFFECTIVE DATE.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk to the Board within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon filing with the Department of State.

DONE AND ADOPTED this __8th__ day of _March_, 2005.

(S E A L)

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

BY: _____
JED PITTMAN, CLERK

BY: _____
PAT MULIERI, ED.D., CHAIRMAN

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
OFFICE OF THE COUNTY ATTORNEY

BY: _____
Attorney