

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: (Second Reading 1-24-17)
November 15, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to zoning;
amending sections 33-13 and
33-16 of the Code; regulating
removal of fill from lake
excavation in zoning districts
outside the urban development
boundary that authorize
residential uses; prohibiting off-
site transfer of such fill;
providing for variances

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Dennis C. Moss and Commissioner Daniella Levine Cava.



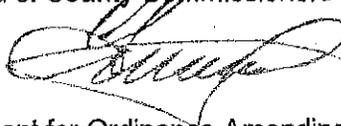
Abigail Price-Williams
County Attorney



APW/cp

Memorandum



Date: January 24, 2017
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
From: Carlos A. Glmenez 
Mayor
Subject: Fiscal Impact Statement for Ordinance Amending Code Related to Regulation of Fill
from Lake Excavation in Zoning Districts outside of the Urban Development
Boundary that Authorize Residential Uses and Prohibiting Off-Site Transfer of Fill

The proposed ordinance amends Sections 33-13 and 33-16 of the Code of Miami-Dade County to explicitly prohibit the off-site transfer of any fill or aggregate material generated as a result of a lake excavation on properties in zoning districts authorizing residential uses outside of the Urban Development Boundary. Furthermore, the proposed ordinance further clarifies that such excavated material shall be retained on site or used as fill for uses on the site, but does offer a non-use variance, subject to a public hearing before the Board, in order to transfer the fill. Lastly, the proposed ordinance exempts properties located in the Rock Mining Overlay Zoning District from these restrictions.

The proposed ordinance does not require additional staff resources for implementation and will therefore not have a fiscal impact on the County.

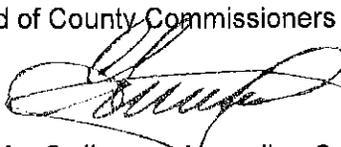


Jack Osterholt
Deputy Mayor

FIS01217 162513

Memorandum



Date: January 24, 2017
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
From: Carlos A. Gimenez
Mayor 
Subject: Social Equity Impact for Ordinance Amending Code Related to Regulation of Fill from
Lake Excavation in Zoning Districts outside of the Urban Development Boundary that
Authorize Residential Uses and Prohibiting Off-Site Transfer of Fill

The proposed ordinance amends Sections 33-13 and 33-16 of the Code to explicitly prohibit the off-site transfer of any fill or aggregate material generated as a result of a lake excavation on properties in zoning districts authorizing residential uses outside of the Urban Development Boundary. Furthermore, the proposed ordinance further clarifies that such excavated material shall be retained on site or used as fill for uses on the site, but does offer a non-use variance, subject to a public hearing before the Board, in order to transfer the fill. Lastly, the proposed ordinance exempts properties located in the Rock Mining Overlay Zoning District from these restrictions.

Currently, Section 33-16 of the Code defines which lake excavations based on location and type are subject to or are exempt from a public hearing in order to obtain approval, but the prohibition on transferring the fill off-site is not in the Code. Properties that do not require a public hearing go through an Administrative Site Plan Review to obtain approval to excavate, contingent on the fill not being transferred. This proposed ordinance codifies the prohibition of transferring the fill.

Under the current regulations, a property owner west of the salt barrier line that wants to obtain approval to excavate a pond can do so subject to an Administrative Site Plan Review with the condition that the fill not be transferred. With the approval of this proposed ordinance, the same property owner can either: 1) go through the Administrative Site Plan Review if they wish to keep the fill on their property, or 2) go through a public hearing process in order to obtain approval to excavate and transfer the fill, which takes longer than the Administrative Site Plan Review process. The time and cost required to comply with the Code are borne by the property owners.

The purpose of this proposed ordinance is to limit the number of property owners in areas zoned for agricultural and residential uses that are engaging in unregulated lake excavation activities in order to sell the fill. Such unregulated excavation activities can have an environmental impact on surrounding areas by affecting drinking water resources and permanently depleting available land resources in these areas.



Jack Osterholt
Deputy Mayor

162513

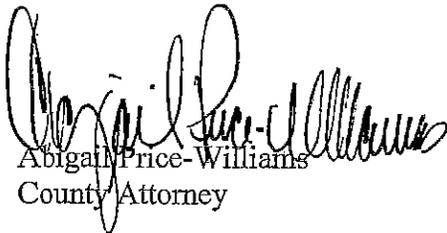


MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: January 24, 2017

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
1-24-17

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING SECTIONS 33-13 AND 33-16 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REGULATING REMOVAL OF FILL FROM LAKE EXCAVATION IN ZONING DISTRICTS OUTSIDE THE URBAN DEVELOPMENT BOUNDARY THAT AUTHORIZE RESIDENTIAL USES; PROHIBITING OFF-SITE TRANSFER OF SUCH FILL; PROVIDING FOR VARIANCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Comprehensive Development Master Plan's Land Use Element seeks to protect the rural character of land outside the Urban Development Boundary, and restricts the density of rural residential development to protect the viability of non-urban uses; and

WHEREAS, as set forth in Policy LU-8C of the Comprehensive Development Master Plan's Land Use Element, among others, this Board particularly wishes to protect and promote the viability of agriculture as an industry in Miami-Dade County; and

WHEREAS, the County is experiencing the loss of viable agricultural land, as properties that are not approved for rock mining operations are nevertheless excavated to sell the fill or aggregate material; and

WHEREAS, this Board wishes to discourage inappropriate excavation in zoning districts outside the Urban Development Boundary which authorize residential uses,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-13. - Unusual uses.

* * *

(e) *Unusual and new uses.*

- >>(i)<< Unless approved upon public hearing, the following unusual uses or uses similar thereto shall not be permitted in any district save and except in those districts that permit such uses without a public hearing:
 - >>(1)<< Airport;
 - >>(2)<< airplane crop dusting field;
 - >>(3)<< all zoning applications by State and municipal entities and agencies;
 - >>(4)<< amusement rides and enterprises;
 - >>(5)<< amusement center (except in BU-1A Zone in which such use is permitted);
 - >>(6)<< archery ranges;
 - >>(7)<< art galleries and museums (educational and philanthropic) in districts more restrictive than RU-4;
 - >>(8)<< auction sales;
 - >>(9)<< auto, truck, machinery salvage yards;
 - >>(10)<< bathing beach;
 - >>(11)<< boat salvage;
 - >>(12)<< bombing field,
 - >>(13)<< canal excavation, where not a part of C. & S. F. F. C. D. and County secondary canal system;
 - >>(14)<< carnivals, circuses;
 - >>(15)<< convalescent homes;
 - >>(16)<< day camp,

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- >>(17)<< day nursery in zone more restrictive than RU-3;
- >>(18)<< dog kennel, in district more restrictive than BU-3 or IU-1,
- >>(19)<< dog training track;
- >>(20)<< electric substation;
- >>(21)<< electric power plant;
- >>(22)<< frog farm;
- >>(23)<< garbage and waste dumps;
- >>(24)<< gas distribution system and plant;
- >>(25)<< golf course except in RU-1 and other Districts where the same is a permitted use; golf course clubhouse and incidental uses in all districts more restrictive than the BU-1 District; golf driving range;
- >>(26)<< gypsy camp;
- >>(27)<< heliports;
- >>(28)<< homes of the aged (except group homes and community residential homes where same is a permitted use);
- >>(29)<< homes for dependent children (except group homes and community residential homes where same is a permitted use);
- >>(30)<< hospitals (not animal hospital) in district more restrictive than RU-4;
- >>(31)<< incinerators;
- >>(32)<< Indian village;
- >>(33)<< institutions for handicapped persons (except group homes and community residential homes where same is a permitted use), including, but not limited to, incidental related facilities such as workshops, sales of products fabricated therein, residential quarters, educational training facilities;
- >>(34)<< infirmary, commissary, or any one [(1)] or combination of such related incidental facilities;
- >>(35)<< junkyard;
- >>(36)<< kindergarten in zones more restrictive than RU-3;

- >>(37)<< lake excavation and asphalt plant, concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection with lake excavation(s), excluding those uses expressly allowed in the "Rockmining Overlay Zoning Area" as defined in Section 33-152;
- >>(38)<< landing field;
- >>(39)<< movie (open air) except as provided in BU-1A Zone;
- >>(40)<< nightclub in BU-2 or more liberal districts;
- >>(41)<< nursing homes;
- >>(42)<< oil and gas well drilling and essential, incidental uses thereto, such as minimum storage facilities; in AU and GU Districts subject to conformance to all applicable Florida State statutes and rules and regulations of the State Board of Conservation and other applicable state rules and regulations;
- >>(43)<< outdoor display;
- >>(44)<< outdoor paint testing laboratory;
- >>(45)<< outdoor patios and table service in connection with restaurants in zones more restrictive than BU-1 and IU-1;
- >>(46)<< palmist and psychic readers;
- >>(47)<< parking (noncommercial parking in zones more restrictive than in which the use it serves is located);
- >>(48)<< pistol ranges;
- >>(49)<< pony rings;
- >>(50)<< private club in RU-3B and RU-3 and more restrictive districts, including, but not limited to, AU and GU Districts;
- >>(51)<< private playgrounds and recreational area; except for those allowed pursuant to Section 33-199;
- >>(52)<< public and private utility facilities such as electricity, gas, water, telephone, telegraph, cable TV., and including work centers (repair and storage areas for trucks, heavy equipment, pipe, meters, valves, cable,

poles) as accessory uses, and including sewage treatment plants and lift stations and water treatment plants and pumping stations, excluding temporary package water and sewage treatment plants approved by the Environmental Quality Control Board and until December 31, 2008, excluding any telecommunications antenna owned and operated by a telecommunications company providing services to the public for hire attached to any pole or H-frame or lattice structure owned by a utility which is used in and is part of the utility's network for the provision of electric services, provided that (a) equipment appurtenant to the antenna is maintained on the utility pole or structure, (b) the utility pole or structure does not exceed 125 feet in height above ground unless the utility pole or structure is located in an easement or right-of-way which is greater than fifty (50) feet in width or, if less than fifty (50) feet in width, such easement or right-of-way is adjacent to and parallel with road right-of-way which is one hundred (100) feet or greater in width, and (c) the antenna was attached to the utility pole or structure prior to January 1, 1997;

- >>(53)<< race tracks;
- >>(54)<< retirement villages, including as an accessory use commercial facilities of the BU-1 type;
- >>(55)<< rifle range;
- >>(56)<< rock pits (filling of);
- >>(57)<< rock quarries;
- >>(58)<< shopping center promotional activities;
- >>(59)<< skeet range;
- >>(60)<< subdivision entrance gates and entrance features not conforming to regulations;
- >>(61)<< testing laboratory or plant;
- >>(62)<< tourist attractions;
- >>(63)<< radio and TV transmitting stations;
- >>(64)<< trailer as watchman's quarters;
- >>(65)<< trailers or tourist camp;
- >>(66)<< trap range;
- >>(67)<< water tank and tower;

- >>(68)<< water treatment plant;
- >>(69)<< water use facilities;
- >>(70)<< Wireless Supported Service Facilities except as provided for in Section 33-63.2 and 33-63.3; wood burning barbecue (commercial); zoo (except in public park).
- >>(ii) Residential complex.<< A complex of buildings used or intended to be used as one (1) private home and residence containing the usual sleeping quarters, cooking, living, sanitary, ventilating, lighting and heating facilities where there is but one (1) kitchen and dining facility, both contained in the same building, although other residential rooms may be in separate buildings but so planned and situated as to be used only as a residence by one (1) family and not as separate rental units, may be permitted if approved after public hearing; and if so approved, an exception may be granted to the requirements for the spacing between the buildings of the complex, and to the setbacks from the property lines where the same abuts a waterway, body of water, park, playground, golf course, railroad right-of-way and similar open spaces.
- >>(iii) New uses. Those<< ~~[[New uses: That are those]]~~ uses or enterprises similar to those enumerated in the Business (BU) or Industrial (IU) Districts will be permitted in the BU or IU Districts which permits one (1) or more similar uses; provided the Director finds that such new use is not more objectionable than the enumerated uses in such district, is similar thereto and will be compatible therewith. No use that is enumerated in any BU or IU District will be permitted in a more restrictive district.
- >>(iv) Excavation accompanied by class I or class IV permit.<< A public hearing for the following unusual uses or uses similar thereto within coastal or freshwater wetlands, as defined in Section 24-3 of the Code of Miami-Dade County, shall be held by the Community Zoning Appeals Board and shall include a simultaneous public hearing for class I or class IV permit applications as provided pursuant to Section 24-58.2 of the Code of Miami-Dade County:

- (1) Canal excavation;
- (2) Lake excavation, including the following ancillary uses (if requested): Concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection therewith;
- (3) Rock pits (filling of);
- (4) Rock quarries and other lake excavations.

>>(v) Amendments or modifications to previously approved excavations accompanied by class I or class IV permit.<< The permit applicant may, at his or her option, obtain a public hearing before the Community Zoning Appeals Board for amendments or modifications to the following previously approved unusual uses or uses similar thereto, said public hearing to be held simultaneously to the public hearing required for a class I or class IV permit application, as provided pursuant to Section 24-58.2 of the Code of Miami-Dade County:

- (1) Canal excavation;
- (2) Lake excavation, including the following ancillary uses (if requested): Concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection therewith;
- (3) Rock pits (filling of);
- (4) Rock quarries and other lake excavations.

>>(vi) Lake excavation outside the Urban Development Boundary for zoning districts authorizing residential uses. Notwithstanding any other provisions of this section, section 33-16, or other provision to the contrary, for a lake excavation outside of the Urban Development Boundary in a zoning district authorizing residential uses, the off-site transfer of any fill or aggregate material produced or gained as a result of the lake excavation shall be prohibited. All such excavated material shall be retained on site or used as fill for uses on the site. Relief from these requirements shall be permitted only pursuant to the standards and requirements for non-use variances set forth in section 33-311(A)(4)(b). This subsection shall not apply to properties located within the Rock Mining

Overlay Zoning Area (ROZA) as defined in article XLI or that are otherwise approved for a bona fide rock mining use.<<

* * *

Section 2. Section 33-16 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-16. - Excavations; public hearing required; exceptions.

- (a) Public hearing required for certain excavations; exception. No excavations below the level of any street, highway or right-of-way shall be made except upon approval after public hearing; provided, no public hearing is required for excavations for the following purposes:

* * *

- >>(c) Notwithstanding any other provision of this section to the contrary, where an excavation is made outside of the Urban Development Boundary in a zoning district authorizing residential uses, the use of fill or aggregate material shall comply with section 33-13(e)(vi).<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel
Abbie Schwaderer Raurell



Co-Prime Sponsors: Commissioner Dennis C. Moss
Commissioner Daniella Levine Cava