

## PART 3.05.00 WELLHEAD AND SURFACE WATER RESOURCE PROTECTION\*

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**\*Editor's note:** Ord. No. 04-27, § 2, adopted June 10, 2004, amended Part 3.05.00, in its entirety, to read as herein set out in §§ 3.05.01--3.05.11. Prior to inclusion of said ordinance, Part 3.05.00 pertained to wellhead protection. See also the Table of Amendments.

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### Sec. 3.05.01. Purpose

A. The purpose of this Part is to ensure the protection of the quality of existing and future public potable water supplies in Hillsborough County, Florida, through the establishment of Wellhead Resource Protection Areas (WRPA) around public potable water supply wells, Surface Water Resource Protection Areas (SWRPA) around surface water bodies that are upstream of a potable water supply system, and Potable Water Wellfield Protection Areas (PWWPA) around potable water wellfields, and the setback prohibition or regulation of specific activities and facilities in these areas.

B. The Hillsborough County Board of County Commissioners hereby declares that in order to ensure an adequate and safe future supply of potable water that certain land uses and associated activities, which are deemed by the County to be potential sources of degradation of the drinking water quality in Hillsborough County, may be regulated or prohibited within defined areas. This Part sets forth regulations and prohibitions deemed necessary by the Hillsborough County Board of County Commissioners to ensure protection of the present and future public potable water supply wells, surface water supply sources and potable water wellfields.

C. After adoption of this Ordinance by the Board of County Commissioners, the County Administrator will establish administrative procedures for facilities to comply with the requirements of this Part. These procedures will establish priorities for compliance and compliance timeframes. Priorities will be based on known groundwater threats to the resource, proposed new prohibited activities and known surface water threats to the resource.

D. Notwithstanding the vesting (Section 11.02.00) and non-conforming use (Section 11.03.00) provisions of the Land Development Code, all Prohibited and Restricted Activities are required to comply with the requirements of this Part.  
(Ord. No. 04-27, § 2, 6-10-04)

### Sec. 3.05.02. Wellhead Resource Protection Area Map, Surface Water Resource Protection Area Map and Potable Water Wellfield Protection Area Map

A Wellhead Resource Protection Area Map consists of the delineation of wellhead resource protection areas. A Surface Water Resource Protection Area Map consists of the delineation of surface water protection areas. A Potable Water Wellfield Protection Area Map consists of the delineation of potable water wellfield protection areas.

A. Designation of Wellhead Resource Protection Areas

Zones around public potable water supply wells or Aquifer Storage and Recovery Wells that meet the criteria of a public potable water supply well are designated as Wellhead Resource Protection Areas (WRPA) to protect the quality of existing and future potable water resources. The Wellhead Resource Protection Areas for unincorporated Hillsborough County are designated on the Hillsborough County Wellhead Resource Protection Area Map in two zones: Zone 1 - Potable Water Protection Impact Zone and Zone 2 - Public Potable Water Supply Well Protection Zone.

**B. Designation of Surface Water Resource Protection Areas**

Lands located adjacent to or near surface water bodies that are upstream of potable water supply systems are designated as Surface Water Resource Protection Areas (SWRPA) to protect downstream water quality from threats of certain types of land use activities and surface water discharges. SWRPA zones which include the land area of surface water bodies and watercourses are designated on the Surface Water Resource Protection Area map.

**C. Designation of Potable Water Wellfield Protection Areas**

Potable water wellfields shall have a Potable Water Wellfield Protection Area (PWWPA) of a 500 foot radial setback from a potable water well. The potable water wellfield protection area shall be established for potable water wells to be consistent with State statutes and administrative regulations.

**D. Interpretation of Wellhead Resource Protection Area, Surface Water Resource Protection Area and Potable Water Wellfield Protection Area Designations**

To determine the location of properties and facilities within the resource protection areas delineated on the Hillsborough County Wellhead Resource Protection Area Map, the Surface Water Resource Protection Area Map, and the Potable Water Wellfield Protection Area Map, the following general rules shall apply:

**1. Map boundaries.**

Provisions of this regulation shall apply for that portion of a parcel of land which lies within a WRPA, a SWRPA or a PWWPA, to the extent of the boundary delimitation shown on the Hillsborough County Wellhead Resource Area Protection Map, the Surface Water Resource Protection Area Map or the Potable Water Wellfield Protection Area Map.

**2. Changes to map boundaries.**

Wellhead Resource Protection Area, Surface Water Resource Protection Area and Potable Water Wellfield Protection Area designations may be changed by the Board of County Commissioners, on the basis of defined criteria, including but not limited to changes in the technical knowledge concerning the aquifers or surface waters of Hillsborough County, changes in pumping rates for public potable water supply wells in wellfields, wellfield reconfiguration, the addition of new public potable water supply wells to a wellfield, the addition of new surface water withdrawals for public supply, the addition of potable water wellfields, changes to the Tampa Bay Water Master Water Plan, the establishment of Minimum Aquifer Levels and Minimum Flows and Levels or approval of additional wellfields or surface water withdrawals.

(Ord. No. 04-27, § 2, 6-10-04)

**Sec. 3.05.03. Prohibited Activities In The Wellhead Resource Protection Areas and Surface Water Resource Protection Areas**

A. Prohibited Activities In WRPA Zone 1

Property that is located in both a WRPA Zone 1 and a SWRPA is subject to both 3.05.03.A and 3.05.03.B.

Property that is located in both a WRPA Zone 1 and a PWWPA is subject to both 3.05.03.A and 3.05.05.

1. New sanitary landfills, including new phosphogypsum piles, and any other disposal of a solid waste as permitted under Chapter 62-701.020, F.A.C.
2. New industrial land use designations.
3. New Interim wastewater treatment plants, unless Advanced Wastewater Treatment (AWT) standards and other regulatory requirements for Community Wastewater Treatment Plants are met.
4. New concentrated animal feeding operations as defined in Chapter 62-670.200, F.A.C.
5. New dairy farm storage and treatment facilities, high intensity areas and land application areas as defined in Chapter 62-670.200, F.A.C.
6. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan Aquifer.
7. Any new land applications of sludge and septage.
8. New underground storage facilities shall be prohibited within a distance of 1,000 feet from a public potable water supply well.

B. Prohibited Activities In WRPA Zone 2 and/or SWRPA

Property that is located in both a WRPA Zone 2 or a SWRPA and a PWWPA is subject to both 3.05.03 B and 3.05.05.

1. The use, handling, production, disposal, and storage of Regulated Substances associated with nonresidential activities is prohibited in the WRPAs and SWRPAs, except as provided under this Part.
2. No installation shall discharge into groundwater, either directly or indirectly, any contaminant that causes a violation in the water quality standards and criteria for the receiving groundwater as established in Chapter 62-520, F.A.C.
3. Discharges through natural or manmade conduits, such as wells and sinkholes, that allow direct contact with class G-1 and class G-2 groundwater are prohibited, except for projects designed to recharge aquifers with surface water of comparable quality, or projects designed to transfer water across or between aquifers of comparable quality for the purpose of storage or conservation, or residential stormwater discharging through wet retention/detention ponds.
4. Industrial stormwater discharges to retention/detention ponds are prohibited.
5. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan aquifer system is prohibited.
6. There will be no new land use activities which are classified under the definition of Heavy Industrial.
7. Heavy Manufacturing is prohibited.
8. Construction and operation of new solid waste disposal facility as defined by Chapter 62-701.200 F.A.C. shall be prohibited. Operation of all existing sanitary landfills including new phosphogypsum piles, and any other disposal of a solid waste as permitted under Chapter 62-701, F.A.C. will be terminated within one year and a permanent leachate monitoring system installed to monitor movement of leachate.

9. Junkyards are prohibited.
10. Industrial septic tank disposal systems are prohibited.
11. New underground storage tank systems and aboveground storage tank systems, are prohibited within a WRPA Zone 2 or a SWRPA.
12. Any new land applications of domestic wastewater residuals, sludge, septage and domestic septage are prohibited.
13. New Interim wastewater treatment plants are prohibited, unless Advanced Wastewater Treatment (AWT) standards and other regulatory requirements for Community Wastewater Treatment Plants are met.
14. Industrial Wastewater Treatment Plants are prohibited.
15. New concentrated animal feeding operations as defined in Chapter 62-670.200, F.A.C. are prohibited.
16. New dairy farm aboveground or underground storage facilities and wastewater treatment plant, high intensity areas and land application areas as defined in Chapter 62-670.200, F.A.C. are prohibited.
17. New mining operations permitted under Chapters 62-671, -672, and -673, F.A.C. are prohibited.
18. Land application of industrial waste water and industrial reuse water is prohibited.
19. Human cemeteries are prohibited.
20. Land Excavation is prohibited.
21. Reclaimed Aquifer Storage and Recovery (ASR) wells are prohibited.
22. New Class I and Class III underground injection control wells, as regulated in Chapter 62-528, F.A.C., are prohibited.
23. New Class V underground injection control wells, as regulated in Chapter 62-528, F.A.C., are prohibited except as provided below:
  1. Thermal exchange process wells (closed-loop without additives) for use at single family residences; and
  2. Aquifer storage and recovery systems wells, where the injected fluid meets the applicable drinking water quality standards in Chapter 62-550, F.A.C.
24. New hazardous waste treatment, storage, disposal, and transfer facilities requiring permits under Chapter 62-730, F.A.C., are prohibited.
25. New aboveground and underground tankage of hazardous wastes regulated under Chapter 62-730, F.A.C., is prohibited.

C. Existing Prohibited Activities

All prohibited activities identified in 3.05.03 A and B existing on the effective date of this regulation within a WRPA or SWRPA shall obtain an Operating and/or Closure Permit under Section 3.05.08.

D. Expansion or Modification of an Existing Prohibited Activity

Any expansion or modification of, or any other improvement made to an existing prohibited activity or facility identified in Section 3.05.03 A and B above which will extend the useful life of the activity or facility, or increase the intensity or productivity of the activity or facility beyond that existing on the effective date of this regulation, shall require a Prohibited Use Operating Permit under Section 3.05.07. The Board of County Commissioners must make a finding of an overriding public interest being served by the expansion of the prohibited activity in order for the Prohibited Use Operating Permit to be approved.

E. Permitting for New Prohibited Activities

1. In situations where a new Prohibited Activity will serve an overriding public interest or a compelling public purpose by being located within a WRPA or SWRPA, a Prohibited Use Operating Permit under Section 3.05.07 may be sought. The Board of County Commissioners must make a finding of an overriding public interest being served by the prohibited use in order for the Prohibited Use Operating Permit to be approved. An applicant must meet the provisions of Section 3.05.07 Prohibited Use Operating Permits of this Part.
2. A Closure Permit is required under Section 3.05.03 for Prohibited Activities. (Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.04. Restricted Activities in the Wellhead Resource Protection Areas and Surface Water Resource Protection Areas

A. Restricted Activities in WRPA Zone 1

Property that is located in both a WRPA Zone 1 and a SWRPA is subject to both 3.05.04.A and 3.05.04.B.

Property that is located in both a WRPA Zone 1 and a PWWPA is subject to both 3.05.04.A and 3.05.05.

The following activities are restricted in the Wellhead Resource Protection Areas Zone 1, shall require an Operating Permit, and may require a Closure Permit from the County:

1. Sludges.

Existing sludge spreading activities in a WRPA must be permitted by and meet the requirements of State and Local environmental permitting agencies and this Part. Renewal of an Operating Permit and Special Use Permit under this Part shall not be granted.

2. Septages.

Existing septage spreading activities in a WRPA must be permitted by and meet the requirements of State and Local environmental permitting agencies and this Part. Renewal of an Operating Permit and Special Use Permit under this Part shall not be granted.

3. Regulated substances.

Any new facility that uses, handles, stores, or generates a Regulated Substance in an amount equal to or greater than the Final Reportable Quantity (RQ) must be permitted by and meet the requirements of State and Local environmental permitting agencies and this Part.

B. Restricted Activities In WRPA Zone 2 and/or SWRPA

Property that is located in both a WRPA Zone 2 or a SWRPA and a PWWPA is subject to both 3.05.04 B and 3.05.05.

The following activities are restricted in the Wellhead Resource Protection Areas Zone 2 and Surface Water Resource Protection Areas, shall require an Operating Permit, and may require a Closure Permit from the County. In order to be approved by the County, the applicant shall demonstrate the use of Best Available Technology (BAT) and/or Best Management Practices (BMP) for the particular activity:

1. Domestic Wastewater Treatment Plants
2. Animal Production Unit/Type 1 or Type 2
3. Construction and Demolition Debris

4. Dry Cleaner/Small or General
5. Dry Cleaning Plants
6. Outdoor Firing Ranges
7. Manufacturing Processing and Assembly (not to include activities that are considered to be Heavy Manufacturing or Minor Industry)
8. Furniture Finishing and Repair
9. Utility Refueling Facilities and Sulfuric Acid Tanks
10. Golf Courses
11. New generators of hazardous waste, as regulated under Chapter 62-730, F.A.C., which excludes household hazardous waste as defined in 40 C.F.R. Part 261.4(b)(1) (1994), hereby incorporated and adopted by reference, shall comply with the secondary containment requirements of 40 C.F.R. Part 264 Subpart I (1994), hereby incorporated and adopted by reference.

C. Existing Restricted Activities

Existing activities identified in 3.05.04 A. and B. are restricted in the Wellhead Resource Protection Areas and Surface Water Resource Protection Areas, and shall require an Operating Permit, and may require a Closure Permit from the County, unless qualifying as a General Exemption in Section 3.05.06 In order to be approved by the County, the applicant shall demonstrate the use of Best Available Technology (BAT) and/or Best Management Practices (BMP) for the particular activity.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.05 Potable Water Wellfield Protection Measures

Per Chapter 62-521 F.A.C., the area located within a 500 foot radial setback from a potable water well is designated by the Florida Department of Environmental Protection as a wellhead protection area. These wellhead protection areas are designated Potable Water Wellfield Protection Areas (PWWPA) in Hillsborough County. Facilities located in a PWWPA are subject to the restrictions and prohibitions found in Chapter 62-521.400 F.A.C., as amended. Chapter 62-521 F.A.C. requires compliance with location of certain land uses. Operating and Closure Permits are required and shall comply with requirements of Section 3.05.08 of this Part.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.06. General Exemptions

The following legally existing activities and facilities are deemed by the County to be generally exempt from the requirements of this Part. These general exemptions shall not be construed or otherwise interpreted to exempt those activities or facilities prohibited or permitted in this Part. General Exemption for a particular activity or facility shall not automatically expire so long as the activity or facility meets the criteria of this Part. However, a General Exemption for a particular activity or facility shall be subject to revision or revocation as provided in this Part.

A. General Exemption for Continuous Transit

The transportation of any Regulated Substance through a WRPA or SWRPA or PWWPA shall be exempt from the provisions of this Part provided that the transporting motor vehicle is in continuous transit. The transport of any Regulated Substance through

existing permanent pipelines shall also be exempt provided that the currently authorized use or uses are not changed.

**B. General Exemption for Vehicular Fuel and Lubricant Use**

The use of any petroleum product solely as a fuel in a vehicle's fuel tank or as a lubricant in a vehicle shall exempt the vehicle from the provisions of this Part.

**C. General Exemption for the Use of Nitrates Contained in Fertilizers**

The use of fertilizers containing nitrates shall be generally exempt from this Part. However, BMP's specified in FDEP's publication Best Management Practices for Agrichemical Handling and Farm Equipment Maintenance shall be utilized for the storage and loading of fertilizers and BMP's contained within the University of Florida's Institute of Food and Agricultural Sciences crop-specific publications shall be utilized for the application of fertilizers. BMP's shall include those which are generally recognized and accepted by IFAS, DACS, FDEP or USDA.

**D. General Exemption for Janitorial Uses**

The use of Regulated Substances for the maintenance and cleaning of residential, commercial and office buildings is generally exempt from the provisions of this Part.

**E. General Exemption for Construction Activities**

The activities of constructing, repairing or maintaining any facility or improvement on land within a WRPA or SWRPA or PWWPA shall be generally exempt from the provisions of this Part provided that all contractors, subcontractors, laborers, material men and their employees or agents, when using, handling, storing, producing, transporting or disposing of Regulated Substances use applicable Best Management Practices.

**F. General Exemption for Laboratory or Instrument Use**

Professional laboratories shall not be required to obtain an Operating Permit for the handling, storage, use, generation, transport or disposal of Regulated Substances, if and only if, these substances are stored, generated, transported, handled, used or disposed of in the normal course of business of the laboratory.

**G. General Exemption for Retail Sales Activity**

Retail sales establishments which store and handle, for resale, Regulated Substances in the substance's original and unopened containers shall not be required to obtain an Operating Permit, when using, handling, storing, producing, transporting or disposing of Regulated Substances, use applicable Best Management Practices, and are generally exempt from the provisions of this Part.

**H. General Exemption for Application of Pesticides, Herbicides, Fungicides, and Rodenticides**

The application of those Regulated Substances used as pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control, and aquatic weed control activities shall be exempt from the provisions of this Part provided that:

1. Application of the substance is in strict conformity with the use requirements as set forth in the EPA registry for that substance and as indicated on the containers in which the substances are sold.
2. The application is in strict conformity with the requirements as set forth in Chapter 482 and 487 Florida Statutes, and the Florida Administrative Code.
3. The application of any of the pesticides, herbicides, fungicides, and rodenticides shall be highlighted in the records of the certified operator supervising its use. The

certified operator shall provide specific notification in writing to the applicators under his or her supervision that they are working at a site located in a potable water Wellhead Resource Protection Area or Surface Water Resource Protection Area or Potable Water Wellfield Protection Area for which particular care is required. Record shall be kept of the date and amount of those substances applied at each location and said records shall be available for inspection by the County.

4. There is no permanent storage of the pesticides, herbicides, fungicides and rodenticides.

I. General Exemption for Office Uses

Office uses, except for the storage, handling or use of Regulated Substances as provided for in this Part, shall be generally exempt from the provisions of this Part.

J. General Exemption for Residential Uses

Residential uses shall be generally exempt from this Part. However, a minimum lot size of one acre of upland is required for the use of a septic system in WRPA Zone 1 and/or WRPA Zone 2.

K. General Exemption for Utilities

Utilities are generally exempt from the prohibitions of this Part. However, if a utility has a refueling facility or sulfuric acid tanks located within a WRPA Zone 2 or a SWRPA, an Operating Permit shall be obtained pursuant to Section 3.05.08.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 3.05.07. Prohibited Use Operating Permits

A. Generally

In situations where a Prohibited Activity will serve an overriding public interest or a compelling public purpose by being located within a WRPA or SWRPA, a Prohibited Use Operating Permit may be sought. The Board of County Commissioners must make a finding of overriding public interest in order for the Prohibited Use Operating Permit to be approved. The applicant must demonstrate that special or unusual circumstances and adequate technology exist to isolate the facility or activity from the potable water supply. In granting the Prohibited Use Operating Permit, the County may prescribe any additional appropriate conditions and safeguards which are necessary to protect the WRPA or the SWRPA. Prohibited Use Operating Permit conditions can include, but are not limited to:

1. Submittal of existing monitoring reports to the County.
2. Required actions to prevent an illegal discharge.
3. Establishing a permit renewal and inspection cycle more frequent than otherwise required.
4. A requirement for monitoring of groundwater or surface water quality.
5. Actions which are conditions of approval of the permit which must be maintained in compliance for the permit to be in effect
6. Surety, bond, escrow, letter of credit, or other common form of financial assurance.

B. Duration

A Prohibited Use Operating Permit for a particular activity or facility shall remain valid for a five-year period provided the permittee is in compliance with the terms and conditions of the permit and there is no change in the activity or use of the property. A Prohibited Use Operating Permit for a particular activity or facility shall expire

automatically five years after issuance, unless revised, revoked or extended as provided in this Part. An applicant must apply for an Extension and obtain approval before the expiration of the permit. Permits may be extended more than once.

#### C. Conditions and Safeguards

In granting the Prohibited Use Operating Permit, additional conditions and safeguards may be prescribed which are deemed necessary to protect the existing impacted well(s), future identified well(s) or future potable surface water supply resources. The applicant for a Prohibited Use Operating Permit shall demonstrate by the preponderance of competent substantial evidence of:

1. Overriding public interest.

The Board of County Commissioners must make a determination that there is an overriding public interest or a compelling public purpose being served by allowing a prohibited use to locate or expand in a WRPA or a SWRPA.

2. Unique hardship.

Unique circumstances exist which are peculiar to the particular non-residential activity or facility and which are different than any other prohibited or permitted non-residential activity or facility; and

3. Best Available Technology.

Best Available Technology exists which will isolate the activity or facility from contaminating the existing or future potable water supply resources; and

4. Hydrogeologic data and analysis.

Site-specific hydrogeologic data and analysis establish that the activity or facility will not elevate water quality parameters above the limits set forth in Florida Administrative Code 62-3 at the point of discharge; and

5. Best Management Practices.

Utilization of Best Management Practices shall be required.

#### D. Application to the County.

Activities claiming Prohibited Use Operating Permit with best available technology to isolate the facility or activity from the potable water supply facility and protect the potable water supply wellfield must submit:

1. A Prohibited Use Operating Permit application claiming special or unusual circumstances and adequate protection technology.

2. Such application shall contain a statement by the applicant detailing the circumstances which the applicant feels would entitle him to an exemption pursuant to this section.

3. Information must be provided that proves that an overriding public interest is being served by the prohibited use.

#### E. Review of Prohibited Use Operating Permit Applications

Applications will be reviewed for:

1. An overriding public interest being served by the prohibited use.

2. Impacts of the activity on public potable water supply wells and public potable water supply systems or surface waters.

3. Results of the required Inspection Report showing any determinable violation of the code requirements.

4. A determination that there is or is not a proposed activity or facility which requires permit conditions.

5. Determination of proposed use of Best Available Technology.
  6. Determination of unique hardship.
  7. Determination of proposed Best Management Practices.
  8. In order to authorize any Prohibited Use Operating Permit, the Wellhead Hearing Master shall consider the following criteria:
    - a. Special conditions: That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
    - b. No special privilege: That granting the Prohibited Use Operating Permit requested will not confer on the applicant any special privilege that is denied by this Article to other similar lands, buildings, or structures in the WRPA or SWRPA.
    - c. Unnecessary hardship: That literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties under the terms of this Article.
    - d. Prohibited Use Operating Permit is necessary: That the Prohibited Use Operating Permit granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
    - e. Purpose and intent compliance: That the grant of the Prohibited Use Operating Permit will be in harmony with the general intent, purpose, and spirit of this Article, and with the comprehensive plan adopted pursuant to state law.
    - f. No detriment to public welfare: That such Prohibited Use Operating Permit will not be injurious to the area involved or otherwise detrimental to the public welfare.
    - g. Establishing conditions or safeguards: That in granting any Prohibited Use Operating Permit, the Wellhead Hearing Master may prescribe appropriate conditions and safeguards to ensure proper compliance with the general spirit, purpose, and intent of this Article. Noncompliance with such conditions and safeguards, when made a part of the terms under which the Prohibited Use Operating Permit is granted, shall be deemed a violation of this Article.
    - h. Expiration: All Prohibited Use Operating Permits granted by the County shall be deemed to automatically expire in the event a structure or use of land which is the subject of the Prohibited Use Operating Permit has been discontinued.
- F. Revocation Or Revision of Prohibited Use Operating Permits
1. Any permit issued under the provisions of the Code shall not become vested in the permittee. The Administrator will revoke any permit by first issuing a written notice of intent to revoke by certified mail, return receipt requested, or hand delivery, if he finds that the permit holder:
    - a. Has failed or refused to comply with any of the provisions of the Code, including but not limited to permit conditions and bond requirements.
    - b. Has submitted false or inaccurate information in his application.
    - c. Has failed to submit operational reports or other information required by this Article.
    - d. Has refused lawful inspection.
    - e. Is subject to revocation.
  2. The Administrator may revise any permit by first issuing a written notice of intent to revise, sent by certified mail, return receipt requested, or hand delivery.

3. Within 30 days of any spill of a Regulated Substance in the WRPA or SWRPA the County shall consider revocation or revision of the permit or revise the bond amount. In consideration of whether to revoke or revise the permit, the Administrator may consider the intentional nature or degree of negligence, if any, associated with the spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee, and the potential degree of harm to the surface water, groundwater or surrounding wells due to such spill.

4. For any revocation or revision by the County of a Prohibited Use Operating Permit as provided under the terms of the Code, the Administrator shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise the Operating Permit.

5. The written notice of intent to revoke or revise shall contain the following information:

- a. The name and address of the permittee, if any, and property owner, if different.
- b. A description of the facility which is the subject of the proposed revocation or revision.
- c. Location of the spill, if any.
- d. Concise explanation and specific reasons for the proposed revocation or revision.
- e. A statement that "Failure to file a petition within 30 days after the date upon which permittee receives written notice by certified or registered letter to the lessor and landowner of the intent to revoke or revise shall render the proposed revocation or revision final and in full force and effect."

6. Failure of the permittee to file a petition shall render the proposed revocation or revision final and in full force and effect.

7. Nothing in this section shall preclude or be deemed a condition precedent to the County seeking a temporary or permanent injunction.

#### G. Inspection

##### 1. Inspection Upon Application for Permit

Facilities and properties applying for a Prohibited Use Operating Permit are subject to onsite inspection of the physical buildings and property by a County inspector before any permit is issued.

##### 2. Inspection for Violations of County Code

Facilities and properties which are covered under Part 3.05.00 of the Land Development Code may be inspected for compliance with the Code provisions.

#### H. Hearing Before Wellhead Hearing Master

##### 1. Findings and Recommendations

a. The Wellhead Hearing Master shall file his recommendation and submit the record of the hearing to the Clerk of the Board of County Commissioners within 15 days of the close of the hearing.

b. The Clerk of the Board of County Commissioners shall, within three working days from the date that the Wellhead Hearing Master's recommendation and the record of the hearing are filed, deliver a copy of the recommendation to the applicant, and the Administrator.

c. The recommendation of the Wellhead Hearing Master shall include:

1. Summary of evidence presented.
2. Findings of fact.

3. Conclusions of law.
4. A finding of compliance or a finding of all points of noncompliance with this Code and the Comprehensive Plan.
5. A recommendation to either approve or deny the application with reasons therefore specified, including any recommended conditions.
  - d. No application shall be recommended for approval by the Wellhead Hearing Master unless it is found that the application is in compliance with this Code and the Comprehensive Plan.
2. Record of Hearing Before the Wellhead Hearing Master

The record of the hearing before the Wellhead Hearing Master, which shall be submitted to the Clerk of the Board of County Commissioners, shall consist of:

  - a. The application and accompanying documents.
  - b. Staff reports and recommendations.
  - c. All exhibits and documentary evidence.
  - d. The summary, findings, conclusions, and recommendation of the Wellhead Hearing Master.
  - e. The tape recording of testimony at the hearing.
  - f. Verbatim transcript of the proceedings.
- I. Consideration by the Board of County Commissioners
  1. Notice Date for Board of County Commissioners' Consideration
    - a. Any person wishing to receive notice of the date when the Board of County Commissioners will consider an application may supply the Clerk of the Board of County Commissioners with their name, address, and a stamped self-addressed envelope for that purpose.
    - b. A date and time at which the Board of County Commissioners will consider an application shall be established no later than 15 days from the conclusion of the public hearing before the Wellhead Hearing Master. The Administrator shall arrange for the setting of said date and shall ensure that the Clerk of the Board of County Commissioners is advised at least 30 days in advance of said date.
    - c. Upon notification of the date and time at which the Board of County Commissioners will consider an application for final decision, the Clerk of the Board of County Commissioners shall give notice of same by proof of mailing receipt, to the applicant and to all owners of property who were notified for the public hearing before the Wellhead Hearing Master as required by 3.05.07.I.6. Other parties of record and all persons who supplied the Clerk with their names, addresses, and a stamped self-addressed envelope for the purpose of receiving notice shall also receive notice. Such notice shall be mailed at least 20 days prior to the date set.
  2. Evidence Before the Board of County Commissioners
    - a. The record before the Board of County Commissioners upon consideration of an application shall be the complete record of the hearing before the Wellhead Hearing Master, including his recommendation. Except in those instances where the application is part of the review and application for development approval pursuant to Chapter 380.06, Florida Statutes, the Board after reviewing the record and recommendations, shall consider additional evidence only as considered in 2.B below.
    - b. Additional evidence may be allowed pursuant to the provisions of this Subsection, if:

1. Through the exercise of due diligence it could not have been discovered in time to present same to the Wellhead Hearing Master; and/or
  2. The witness could not appear at the public hearing for good reason beyond his control.
- c. Within seven calendar days after the date of filing of the Wellhead Hearing Master's recommendation, the individual seeking to introduce the additional evidence described in 2 above, shall file with the Clerk of the Board a written request including:
1. The additional evidence, and
  2. The reasons why the evidence could not through the exercise of due diligence have been discovered in time to present same to the Wellhead Hearing Master; and/or
  3. The reasons why the witness could not appear.
- d. The request shall be filed on forms available from the Administrator. A copy of said request shall be maintained by the Administrator and maintained in a master file available to the public and the Board.
- e. The additional evidence, if documentary, shall be attached to the request. If testimonial in nature, a summary of the testimony shall be provided.
- f. The Board shall consider the request for presentation of additional evidence and responses thereto at the public meeting on the Wellhead Hearing Master's recommendation. Staff of the Office of County Attorney shall review the additional evidence request in regard to whether or not the request meets the criteria stated in 2. above and whether or not the additional evidence is duplicative of material already in the record before the Wellhead Hearing Master. Staff of the County Attorney's Office shall report its findings at the meeting before the Board. The Board shall remand the proceeding to the Wellhead Hearing Master for the purpose of consideration of the additional evidence if he finds all the following:
1. The additional evidence could not through the exercise of due diligence have been discovered in time to present same to the Wellhead Hearing Master, or the witness could not appear at the public hearing for good reason beyond his control.
  2. That the additional evidence is not duplicative of material already in the record before the Wellhead Hearing Master.
  3. The evidence is relevant to the issues raised by the petition at issue.
- g. If the Board finds that the additional evidence is not admissible based upon the criteria contained herein, then the Board shall deny the request and proceed to consider the petition. The Board of County Commissioners shall specifically state on the record why a request has been denied. Once a request is denied, the material presented shall not be considered by the Board in its deliberations.
- h. If the Board finds that the additional evidence is admissible and therefore elects to remand the proceedings to the Wellhead Hearing Master, then the Board shall establish a date for said hearing. The remanded proceedings shall be conducted in accordance with the terms of this Code applicable to proceedings before the Wellhead Hearing Master, except that said proceeding does not have to be renoticed. At the conclusion of the remanded proceedings, the Wellhead Hearing Master shall file an amended recommendation which has considered the introduction of the additional evidence. The Clerk of the Board shall renotify all parties of record of the new set time and date at which the Board will consider an application for a final decision.

i. If the applicant elects to waive any objection to the additional evidence, the Board of County Commissioners may proceed to consider the petition without remand.

3. Proceedings Before the Board of County Commissioners

a. The participants before the Board of County Commissioners shall be the applicant, County agencies and Parties of Record. The order of appearance and time allotments shall be as follows, provided that for good cause shown, the Board may grant additional time. Testimony shall be limited to matters directly related to the record of the proceedings before the Wellhead Hearing Master.

b. The presentation shall be as follows:

1. Applicant and witnesses; proposal: 15 minutes, plus an additional 15 minutes if requested by the applicant.

2. Administrator, summary of the application, County staff and department findings: five minutes.

3. Proponents; argument for the application: 15 minutes.

4. Opponents; argument against the application: 15 minutes.

5. Staff, amended recommendations, if any: five minutes.

6. Applicant; rebuttal and summation: five minutes.

c. The Board of County Commissioners may continue the hearing upon a finding that said continuance is necessary to a complete review of the Wellhead Hearing Master's recommendation. Said continuance shall be to a date and time certain.

d. The Board of County Commissioners reserves the right to remand an application to the Wellhead Hearing Master when additional review is needed. If the Board elects to remand an application to the Wellhead Hearing Master, the Board shall establish a date and time for said hearing, which shall not exceed 45 days from the date of the Board hearing.

4. Party of Record

A party of record is:

a. A person who was present at the hearing before the Wellhead Hearing Master and presented either oral testimony or documentary evidence.

b. A person who was notified of the hearing before the Wellhead Hearing Master by proof of mail pursuant to the terms of this Section.

5. Consideration and Final Decision of the Board of County Commissioners

The Board of County Commissioners shall consider the record of hearing before the Wellhead Hearing Master, and any testimony or additional evidence received pursuant to the terms contained herein, and shall approve or deny the application subject to such conditions as may be necessary and appropriate.

6. Notice

a. Notice of review by the Wellhead Hearing Master of applications for Prohibited Use Operating Permits shall be provided by the applicant by proof of mailing receipt, to all owners of property within 500 feet of the perimeter of the boundary of the proposed activity. Public rights-of-way less than 1,000 feet in width as measured at the site shall be excluded in calculating notification distances. When a water body less than 1,000 feet in width intervenes in the required notice distance and extends beyond the notice distance, only the property owners adjacent to the water body will receive the extended notice. However, when a water body intervenes, but does not extend beyond notice distance, the water body shall not be recognized for the purpose of notice. The names, addresses and

tax folio numbers of all such owners shall be obtained by reference to the latest ad valorem tax records. In addition, notice shall be provided in the same manner to all duly registered neighborhood organizations lying within one mile of the boundary of the proposed activity. Said notice by mail is the responsibility of the applicant and shall be mailed no later than 20 calendar days after filing of the application. Said notice shall be mailed again by the applicant by proof of mailing receipt, upon establishment of the Wellhead Hearing Master's date and Board of County Commissioners meeting date. The notice shall indicate both dates the application will be considered on, in addition to the requirements of 3.05.07.I.6.D, and shall be mailed no later than 15 calendar days prior to the Wellhead Hearing Master's hearing. In the event the date of the hearing is changed, a new notice shall be sent by the applicant. Further notice shall be given by the Administrator by posting a sign in a conspicuous place on the property which is the subject of the proposed activity at least 15 calendar days prior to the Wellhead Hearing Master's hearing date.

b. Where an application to amend a DRI Development Order is brought to the Board of County Commissioners directly, as authorized in 10.03.00, notice shall be provided by the applicant proof of mailing receipt, to all owners of property within 500 feet of the perimeter of the proposed activity which is the subject of the amendment, excluding public rights-of-way less than 1,000 feet in width. When a water body less than 1,000 feet in width intervenes in the required notice distance and extends beyond the notice distance, only the property owners adjacent to the water body will receive the extended notice. However, when a water body intervenes, but does not extend beyond notice distance, the water body shall not be recognized for the purpose of notice.

c. Notice of review by the Wellhead Hearing Master, as well as notice of final consideration by the Board of County Commissioners of the recommendations of the Wellhead Hearing Master, shall be provided in accordance with 10.03.00 of this Code, and the requirements of Chapter 380, Florida Statutes.

d. For purposes of paragraphs A and B above, mailed notices shall contain the following information:

1. Date, time and location of the hearing;
2. A description of the request;
3. A legal description of the property;
4. Location of the property;
5. Instructions for obtaining further information regarding the request; and
6. The applicant's name.

(Ord. No. 04-27, § 2, 6-10-04)

### Sec. 3.05.08. Operating and Closure Permits

#### A. Generally

Permits for Existing Prohibited Activities in Section 3.05.03 C, Restricted Activities identified in Section 3.05.04 and Restrictions and Prohibitions in Section 3.05.05 are considered Administrative Permits under Section 10.01.00 of the Land Development Code and are issued in accordance with the adopted Development Review Procedures Manual (DRPM).

#### B. Conditions and Safeguards

The Operating Permit conditions shall ensure compliance with all the prohibitions, restrictions, and requirements as set forth in this Part. Such conditions may include, but are not limited to, monitoring wells, outfall discharge monitoring points, periodic water quality analysis and discharge monitoring reports, and compliance schedules. Such conditions may also include requirements in a Closure Permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to surface water and ground water quality.

Operating Permits may have approval conditions attached which reflect actions or conditions necessary for operation or continuance or closure of the activity.

Operating Permit conditions can include, but are not limited to:

1. Submittal of existing monitoring reports to the County.
  2. Required actions to prevent an illegal discharge.
  3. Establishing a permit renewal and inspection cycle more frequent than otherwise required.
  4. A requirement for monitoring of groundwater or surface water quality.
  5. Actions which are conditions of approval of the permit which must be maintained in compliance for the permit to be in effect.
  6. Best Management Practices as requirement for the permit
  7. Surety, bond, escrow, letter of credit, or other common form of financial assurance.
- C. Requirements for issuance of other permits.

No site plan approval, building permit, or certificate of occupancy for any activity shall be issued by the County that would allow development or construction that is contrary to the restrictions and provisions provided in this Part. Permits issued in violation of this Part confirm no right or privilege on the grantee.

D. Issuance of Permit

1. An application which satisfies the requirements of this Part shall be approved and an Operating Permit or Closure Permit issued. The County may deny a permit based on repeated violations of this Part.
2. All of the facilities owned and/or operated by one person, when these structures and activities are located on contiguous parcels of property, even where there are intervening public or private roads, may be covered under one permit.
3. Applications will be reviewed for:
  - a. Impacts of the activity on public potable water supply wells, public potable water supply systems, surface water and potable water wellfields.
  - b. Results of the required Inspection Report showing any determinable violation of the code requirements.
  - c. A determination that there is or is not an activity or facility present which requires permit conditions to correct a violation of the requirements of the code.

E. Duration

An Operating Permit shall remain valid for a five-year period provided the permittee is in compliance with the terms and conditions of the permit and there has been no change in activity or use of the property. An Operating Permit shall expire automatically five years after issuance, unless revised, revoked or extended as provided in this Part. An applicant must apply for and obtain approval of an Extension before expiration of the permit.

Permits may be extended more than once.

F. Inspections

The County shall have the right to make inspections of facilities at reasonable times to determine compliance with this Part. Facilities and properties applying for an Operating Permit are subject to on-site inspection of the physical buildings and property by a County inspector before any permit is issued. Facilities and properties which are covered under Part 3.05.00 may be inspected for compliance with the Code provisions.  
(Ord. No. 04-27, § 2, 6-10-04)

#### Sec. 3.05.09. Extensions

##### A. Generally

An Extension must be obtained for Prohibited Use Operating Permits, for Operating Permits, and for Closure Permits before the expiration of the permit.

##### B. Duration

Extensions are for five year periods provided the permittee is in compliance with the terms and conditions of the permit and there is no change in the activity or use of the property.

##### C. Conditions

In granting the Extension, additional conditions and safeguards may be prescribed which are deemed necessary to protect the existing impacted well(s), future identified well(s), future potable surface water supply resources or potable water wellfields.

##### D. Review of Extension Applications

The applicant must submit an application for an extension and make an appointment for an inspection of the physical buildings and property by a County inspector. If the inspection shows that the use or activity has changed since the issuance of the Permit, a new Permit must be applied for and approval obtained. An extension will be granted if the inspection or application materials show no change in the activities or use on the property.

##### E. Inspections

The County shall have the right to make inspections of facilities at reasonable times to determine compliance with this Part.

(Ord. No. 04-27, § 2, 6-10-04)

#### Sec. 3.05.10. Permitting Appeals

A person or applicant may appeal permitting actions and permits denied by the County.

##### A. Appeal of Administrative Permits

Administrative permits under section 3.05.08 D. which are denied may be appealed to a Wellhead Hearing Master under the procedures in the Land Development Code and the Development Review Procedures Manual.

(Ord. No. 04-27, § 2, 6-10-04)

#### Sec. 3.05.11. Protection of Future Wellfield and Surface Water Sources

The prohibitions and restrictions set forth in this Part and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the Board of County Commissioners as future wellfields. Such prohibitions and restrictions shall become effective upon approval by the Board of County Commissioners of the WRPA or PWWPA maps for the designated future wellfield source.

The prohibitions and restrictions set forth in this Part and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the Board of County Commissioners as future surface water protection areas, as revised and amended through FEMA map changes which designate the boundary of a 100 year floodplain as approved by the BOCC. Such prohibitions and restrictions shall become effective upon approval by the Board of County Commissioners of the SWRPA maps for the designated future surface water source.

(Ord. No. 04-27, § 2, 6-10-04)