


11.19.13 #246.

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Authority to Advertise a Public Hearing for the
Pinellas County Stormwater Ordinance

DATE: November 19, 2013

RECOMMENDATION: I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE ADVERTISEMENT OF A PUBLIC HEARING ON A PROPOSED ORDINANCE RELATING TO ENFORCEMENT OF THE COUNTY'S STORMWATER REGULATIONS.

DISCUSSION: The proposed ordinance intends to resolve jurisdictional problems that frustrate the enforcement of the County's stormwater regulations on properties in the unincorporated parts of the County that discharge directly into stormwater systems that are owned or operated by other governmental entities.

The County is party to an interlocal agreement with the municipalities and FDOT, which states that each party is responsible for controlling pollutants that discharge from property within its territorial jurisdiction into its stormwater system and to any other party's stormwater system. The proposed ordinance gives the County another enforcement tool to achieve this obligation.

A copy of the proposed ordinance is attached for your reference. Accordingly, I recommend the Board of County Commissioners authorize advertising a public hearing on this matter for December 10, 2013.

JLB:DWM:tsc

Attachment

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ORDINANCE NO. 13-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REVISING SECTION 58-236 OF SAID CODE; PROVIDING A REVISION TO THE DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AMENDMENTS THAT MAY ARISE AT PUBLIC HEARING.

WHEREAS, Pinellas County is empowered to enact ordinances for the benefit of the safety, health and welfare of the people of the County; and

WHEREAS, the Board of County Commissioners desires to protect the safety, health and welfare of the citizens of the Pinellas County by managing and controlling stormwater runoff; and

WHEREAS, the Board of County Commissioners finds the added language advances this cause.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Pinellas County:

Section 1. Section 58-236 of the Pinellas County Code is hereby amended to read as follows:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Clean Water Act Amendments to the Federal Water Pollution Control Act, enacted by Congress in 1972, and commonly known as the Clean Water Act.

Authorized official means any employee or agent of the county authorized by the county administrator to administer or enforce the provisions of this article.

Best management practices or *BMPs* as stated in FAC 62-621.300(4)(a) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Construction means any on-site activity which will result in soil disturbance, including but not limited to the building, assembling, expansion, modification or alteration of the existing property, the erection of buildings or other structures, or any part thereof, or land clearing.

County administrator means the county administrator of Pinellas County, Florida, or an authorized official.

Discharge means any direct or indirect introduction of any solid, liquid or gaseous matter into the separate storm sewer system or to any receiving waters of the county. This includes discharges from non point sources, diffuse runoff, leaching and atmospheric deposition.

FDEP means the Florida Department of Environmental Protection.

Illicit discharge means any discharge that is not composed entirely of stormwater except discharges identified as authorized exceptions pursuant to subsection 58-244(c) of this article.

NPDES means the National Pollutant Discharge Elimination System; a program established by the Environmental Protection Agency under the Clean Water Act.

NPDES permit means an NPDES permit issued by FDEP, together with all conditions attached thereto.

Non-point sources (NPS) means diffuse runoff without a single point of origin that flows over the surface of the ground by stormwater and is then introduced to surface or ground waters. NPSs include, but are not limited to, atmospheric deposition and runoff, or leaching from agricultural lands, urban areas, unvegetated lands, onsite sewage treatment and disposal systems, and construction sites.

Person includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, or public officer or any other entity whatsoever, or any combination of such, jointly or severally.

Receiving waters of the county means surface waters of the county including but not limited to open channels, ponds, streams, creeks, lakes, swamps, wetlands located in Pinellas County ~~unincorporated jurisdiction~~, as well as marine waters extending three leagues, or nine miles from the coastline.

Separate storm sewer system or "MS4" as stated in FAC 62-624.200(8) means ~~the a~~ system of conveyances ~~owned or operated by the county~~ used for collecting, storing, and transporting stormwater regardless of ownership. Such conveyances may include but are not limited to roads with stormwater systems, storm drains, catch basins, curbs, gutters, ditches, constructed channels, or ponds.

Site of industrial activity means any area or facility used for manufacturing, processing or raw materials storage, or storage of finished products.

Stormwater means any surface runoff and drainage of water from land surfaces, including the surfaces of buildings and other hardened surfaces on the land, but does not include any industrial or commercial process water, sediment or contaminants introduced into water as a result of activities conducted on the site.

SWFWMD means the Southwest Florida Water Management District.

Section 2. Severability.

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. Effective Date.

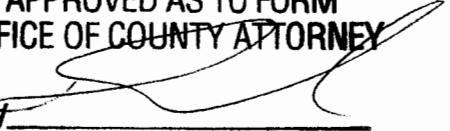
Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

Section 4. Inclusion in the Pinellas County Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 5. Amendment of Proposed Ordinance at Public Hearing.

Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY
By 
Attorney