

Surface Water Management Regulatory Framework

The following Regulatory Framework summarizes Federal, State, and local regulations effectively governing surface water management in Pinellas County:

COUNTY REGULATIONS

Pinellas County Environmental Enforcement Act – Chapter 58, Article II, 90-403, and Chapter 58, Article VI, Laws of Florida.

Administered in Pinellas County by: Pinellas County Department of Environmental Management.

Allows the County to coordinate the enforcement of environmental ordinances, rules and regulations. Provides for civil penalties to recover damages for any pollution, alteration, degradation or elimination of a surface water. Provides authority for inspections and for emergency orders requiring the immediate cessation of the activity causing the violation. Applicable to unincorporated areas of the County.

Water and Navigation Control Authority (Section Chapter 166, Article V of the Pinellas County Land Development Code).

Administered in Pinellas County by: Pinellas County Board of County Commissioners acting as the Water and Navigation Control Authority through the Water and Navigation Clerk, Pinellas County Department of Environmental Management.

Designates all submerged lands, with the exception of certain privately held lands, within the boundaries of Pinellas County as Aquatic Preserves. Sets limits on the use of such designated lands. Creates the authority of the Water and Navigation Control Authority (Pinellas County Board of County Commissioners) to regulate and control the "...alteration, filling, pumping, or (other) alteration of (waterbodies)."

Habitat Management and Landscape (Chapter 166, Article II of the Pinellas County Land Development Code).

Administered in Pinellas County by: Pinellas County Departments of Environmental Management and Building and Development Review Services

Limits the construction of impervious areas and other activities that would "accelerate...stormwater runoff, which results in flooding and reduced surface water quality." Upland buffers are required adjacent to wetlands to provide protection from development impacts such as siltation and eutrophication. Effective in unincorporated areas of the County as well as certain incorporated areas.

Floodplain Management (Chapter 158 of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Public Works Department and Building and Development Review Services Department

Purpose is to preserve flood storage volume and to attenuate flow rates to downstream structures, drainage ways, lakes streams and other receiving waters. Also, prohibits hazardous materials within any designated floodplain. Requires that sanitary sewer systems not discharge into floodwaters. Restricts development within floodplains. Enforcement of the provisions contained in this section are required by the Federal Emergency Management Agency (FEMA) as a condition for allowing local governments to participate in the Flood Insurance Program.

Release of Hazardous Materials (Chapter 58 of the Pinellas County Land Development Code)

Administered in Pinellas County by: The Pinellas County Department of Emergency Services and the Pinellas County Sheriff's Department.

Provides that "no person shall release or cause or permit the release of hazardous materials (as defined) into the environment." This section of the Code is applicable countywide.

Flood Damage Prevention and Control (Chapter 170, Article III of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Public Works Department

Requires that development activity create "no adverse impact" to the quality and quantity of a floodplain. Controls "the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters." Requires that sanitary sewer systems be protected from infiltration by floodwaters. These provisions are required by the Federal Emergency Management Agency (FEMA) as a condition for allowing local governments to participate in the Flood Insurance Program.

Litter Control (Chapter 58, Article VIII of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Sheriff's Office

Prohibits the depositing of any litter on, or in, any freshwater lake, river or stream, or tidal or coastal water in Pinellas County. These provisions are enforceable Countywide.

Concurrency Management System (Chapter 134, Article VI of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Planning Department

Ensures that the adopted level of service standards for drainage (and other facilities and services) are maintained prior to the issuance of a development order or permit. These provisions are applicable to unincorporated portions of the County receiving service from a County facility, and to those portions of the incorporated County receiving the same.

Pinellas County Comprehensive Plan (Chapter 134, Article III of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Planning Department

Requires all development to be consistent with the provisions of the Comprehensive Plan and the land development regulations promulgated as a result of the Plan. These provisions are enforceable in the unincorporated County and in incorporated areas where County services are provided.

Stormwater and Surface Water Pollution (Chapter 58, Article VI of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Department of Environmental Management

Relates to the regulation of discharges and connections made to Pinellas County's municipal separate storm sewer system. The purpose is to "prevent and abate pollution through the regulation and control of connections and discharges to the Pinellas County Municipal Separate Storm Sewer System and to limit the use of the (system) to the collection, conveyance, treatment, and disposal of stormwater." This ordinance was adopted pursuant to the Clean Water Act (33 U.S.C. 1251).

Pinellas County Comprehensive Zoning Code (Chapter 138 of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Building and Development Review Services Department

Establishes zoning districts to regulate the uses of land. Provides protection for coastal waterways and coastal wetlands by stipulating that no use of land or water may: (a) result in pollution discharge to waters of the United State or to public waters of the State, (b) result in injury to the aquatic ecosystem, or 8 alter the normal water elevation of interior wetlands or lakes. Establishes the Preservation/Conservation District and provides criteria to protect areas of natural drainage by requiring that they remain in an essentially undeveloped state with no impervious cover. Provides for restrictions on parking spaces in order to increase the absorption rate of stormwater. Requires that filling or excavating projects protect water sources from on-site pollution.

Access Management (Chapter 170, Article IV of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Public Works

Requires design and construction criteria for driveway culverts and inlets for purposes of erosion control.

Pinellas County Sewers and Sewage Disposal (Chapter 126, Article IV of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Utilities Department

Regulates discharge to sanitary sewer systems or any connected system. Prohibits "pass through" or discharge of pollutants to the sanitary sewer system which cause the effluent of the treatment plant to violate state or federal standards. Prohibits discharge of any untreated wastewater to any watercourse. Connection to the sanitary sewer system upon its availability is required. Interceptors for grease, oil and sand are required, except for residential uses. Industrial users must comply with Industrial Wastewater Discharge permits which include meeting certain monitoring and pretreatment standards. Connection of surface water runoff drains to the sanitary sewer system is prohibited. Discharge of toxic substances to the system is also prohibited. Applicable to unincorporated areas of Pinellas County, and to incorporated areas serviced by the Pinellas County Sewer System.

Individual Sewage Disposal Systems (Chapter 66, Article II of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Health Department

The purpose is to protect the health, safety, and welfare of Pinellas County citizens and to prevent the pollution of surface and subsurface waters of Pinellas County by ensuring the proper location of individual waste disposal systems (generally superseded by regulation 10D-6, F.A.C.).

Site Development and Platting System (Chapter 151, Article II of the Pinellas County Land Development Code)

Administered in Pinellas County by: Pinellas County Public Works Department and Building and Development Review Services

Requires site plans for new construction as well as for modifications to existing uses. Outlines drainage requirements for commercial and residential site plans, including detention and treatment of surface water runoff. Contains design standards for underdrain systems that discharge to certain types of storm sewer inlets. Provides surface water management standards and requires treatment of surface water per 62.317, F.A.C., turbidity control during construction and other provisions to maintain or improve the quality of receiving water bodies.

STATE OF FLORIDA

F.S. 373 - FLORIDA WATER RESOURCES ACT The Florida Water Resources Act (FWRA)

Regulates the construction, alteration, maintenance, operation, and abandonment of dams, appurtenant works, impoundments, reservoirs, and works affecting waters in the State. The goal of the Act is to prevent harm to the water resources of the State. Provides for the permitting of various activities including management and storage of surface waters (Part IV) and consumptive uses of water (Part II). The Act creates Water Management Districts, who together with the DEP, are the agencies responsible for implementing the regulatory components of the FWRA. The FWRA establishes minimum flow levels for surface water courses and minimum water levels for lakes and groundwater aquifers.

The enforcement of certain conditions pursuant to stormwater management have been delegated to Pinellas County.

62-40 F.A.C - STATE WATER POLICY

General State Water Policy for the management and conservation of water resources and natural systems. Provides a basis for FDEP review of water management programs, rules, and plans which concentrate on resource protection and management through watershed management plans. Requires development of the State Water Use Plan. Requires that the State Water Use Plan be consistent with the State Comprehensive Plan. Includes requirements that water management districts develop pollutant reduction goals to be implemented by local governments.

Part V specifies the criteria for water program development through District Water Management Plans. This includes Water Management District and Department of Environmental Protection authority regarding management and storage of surface waters and stormwater management.

62-25 F.A.C. - REGULATION OF STORMWATER DISCHARGE

Known as the "stormwater rule", establishes minimum statewide stormwater permitting standards in an attempt to prevent pollution of State waters by discharges from new, expanded or modified development. Includes general stormwater permitting requirements for construction of new surface water management systems, or alteration of any existing systems. Requires that the post-development peak rate of discharge not exceed the pre-development peak rate.

Enhanced water quality protection is provided to Outstanding Florida Waters, with regulations requiring that stormwater discharge facilities must provide additional treatment of runoff.

Covers permit requirements for wetland stormwater discharge facilities including runoff performance standards for flood protection, discharge rates, drainage and retention/detention facilities.

Provides for the delegation of stormwater responsibilities to Water Management Districts.

These rules have been adopted to a large extent by SWFWMD rules 40D-4 F.A.C., 40D-40 F.A.C., and 40D-2 F.A.C.

403 F.S. - FLORIDA AIR AND WATER POLLUTION CONTROL ACT

Goal is to prevent, abate, and control any activities causing pollution of air and waters of the State. This act provides that no stationary installation that reasonably will be expected to be a source of water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit, unless exempt.

376 F.S. - THE POLLUTION DISCHARGE PREVENTION AND CONTROL ACT

Supports and compliments the Federal Water Pollution Control Act, as amended, by protecting coastal waters, estuaries, lands adjoining the seacoast, and waters of the State from pollution.

62N-16 F.A.C. - PROHIBITION OF POLLUTANT DISCHARGES

Covers the powers and duties of the DEP, as they relate to prohibition of pollutant discharges (as defined in F.S. 403.803(13)), and the removal of prohibited discharges.

62-3 F.A.C. - WATER QUALITY STANDARDS

Sets standards for water quality and discharges to surface and ground water bodies. Specific water quality criteria are contained in the rules of the DEP. This includes water quality for groundwater sources.

62-302 F.A.C. - STATE SURFACE WATER QUALITY STANDARDS

Classifies surface waters into one of five different categories based upon the expected uses of each waterbody.

Establishes minimum criteria for each surface water classification in order to protect public health and enhance the quality of waters of the State.

62-4 F.A.C. - PERMITS

DEP/SWFWMD rules regarding permit standards (standards for issuing dredge and fill, stormwater, and water quality permits). Provides for the classification and exemption of certain waterbodies for permitting purposes. Includes water quality standards.

Provide that permits cannot be issued for sewage facilities that directly discharge to an Outstanding Florida Water (OFW) which would lower ambient water quality, or for discharges which would degrade a downstream OFW.

In order to receive permits, discharges must be in accordance with DEP standards as set out in 62-600 F.A.C.

62-600 F.A.C. - GRIZZLE-FIGG ADVANCED WASTE TREATMENT ACT

Intended to protect Florida's coastal waters and estuaries by requiring that effluent discharged from waste treatment facilities into certain Florida waters be treated to advanced waste treatment (AWT) standards where deemed necessary by DEP. Establishes criteria for the discharge of wastewater to certain wetlands.

62-620 F.A.C. - WASTEWATER FACILITY PERMITTING

Provides for permits for constructing, modifying, or operating a domestic or industrial wastewater facility or activity which discharges pollutants into waters of the State.

62-625 F.A.C. - POLLUTANT PRE-TREATMENT REQUIREMENTS

Provides the pre-treatment requirements for existing and new sources of pollution.

62-43 F.A.C. - SURFACE WATER IMPROVEMENT AND MANAGEMENT ACT (SWIM)

Establishes criteria for: surface water priority lists; approval of priority ranking lists; review of plans for ranked water bodies; and establishment of uniform and consistent water body management plans.

Directs the Water Management Districts to "design and implement plans and programs for the improvement and management of surface waters."

The program ranks waterbodies of statewide and regional significance for preparation of action-oriented management plans. These plans serve as a guide to local governments and water management districts in protecting and restoring these waterbodies through specific projects.

Under this Act, the SWFWMD has prioritized those surface waters most in need of environmental restoration, and is developing plans, along with the respective local governments, for their restoration. Tampa Bay and Lake Tarpon are SWIM program priorities.

The program also works closely with the National Estuaries Program (NEP) and the Agency on Bay Management (ABM).

62-312 F.A.C. - DREDGE AND FILL ACTIVITIES

Requires permits for dredge and fill activities in surface waters of the State. Requires permits for dredging and filling in, on, or over navigable waters. Provides for mitigation criteria and exemptions.

62-340 F.A.C. - DELINEATION OF WETLANDS AND SURFACE WATERS

Provides the methodology for delineating wetlands and surface waters. Utilized in Pinellas County by: SWFWMD, Pinellas County Development Review Services and Department of Environmental Management

10D-6 F.A.C. - STANDARDS FOR ON-SITE SEWAGE DISPOSAL SYSTEMS

Regulates and sets standards for septic tanks in Florida. Standards are set for permitting, design, and construction of on-site disposal systems.

Requires that residences on septic tanks hook up to sanitary sewer services within 180 days of its becoming available, provided it is within the best interests of public health and economics. Permits are only issued if hook-up is not available to the public or investor owned utility.

ENVIRONMENTAL RESOURCE PERMIT (ERP)

Combines DEP's wetland resource permit with the Water Management Districts' Surface Water Management Permits (MSSW). It consolidates review of existing dredge and fill, stormwater management and sovereign lands permits, and is issued through the water management districts. Involves the consolidation of parts of 403 F.S. presently implemented by the SWFWMD and DEP under 373 F.S.

40D-2 F.A.C. - BASIS OF REVIEW

The Basis of Review includes stormwater system design criteria, as well as technical and administrative information for applicants for permits.

40D-4 F.A.C. and 40D-40, F.A.C. - MANAGEMENT AND STORAGE OF SURFACE WATERS (MSSW)

Southwest Florida Water Management District (SWFWMD) rules governing surface water permitting and storm water runoff. Implements the comprehensive surface water management permit system authorized in the Florida Water Resources Act (373 F.S., Part IV), and 62-25, F.A.C.

A surface water management permit under 40D-4 must be obtained prior to construction, alteration, abandonment or removal of any dam, impoundment, reservoir, appurtenant work or works. Much of this responsibility has been locally delegated to Pinellas County. The District retains the permitting authority for large projects, (over 100 acres) and projects where wetland resource (dredge and fill) applications are required.

Regulates new surface water management systems and alterations to existing surface water management systems which will have a significant impact on the water resources of the District, including wetlands and other natural resources.

This rule specifically does not apply to the use of wetlands for stormwater treatment.

60-624. F.A.C. Municipal Separate Stormsewer Systems

This rule provides the requirements for Municipal Separate Storm Sewer Systems (MS4) permits, and provides authority for the regulation of stormwater illicit discharges.

40D-6 F.A.C. - WORKS OF THE DISTRICT PERMIT

A permit must be obtained prior to connecting with, placing construction in or across, discharging into or otherwise making use of works of the District.

Protects existing works, and works for which planning is underway (e.g., canals, water control structures, rights-of-way, lakes and streams) from actions which would impair their ability to function as intended.

40D-8 F.A.C. - LAKE LEVELS PROGRAM

Establishes: guidelines (primarily in the floodplain) for development bordering lakes; conservation water storage and recharge capabilities of lakes; provides levels for operation of lake control structures; a means for providing information on district consumptive use permitting (CUP) activities.

FEDERAL REGULATIONS

33 U.S.C. 1251 - FEDERAL WATER POLLUTION CONTROL ACT (1972) (PL 92-500, as amended by PL 92-217 (Clean Water Act of 1977), and the Water Quality Act of 1987).

This is the major body of legislation governing water pollution. The primary provisions are designed to restore the chemical, physical and biological integrity of the nation's waters and to make the waters both "fishable and swimmable" by eliminating pollutant discharges. Runoff is addressed in the following section of the Clean Water Act:

Section 319 establishes a national program to control nonpoint sources of pollution. Funding is available under Section 319(h) of this section for protection or restoration of wetland and riparian areas to reduce nonpoint source pollution.

Section 401 of the Clean Water Act gives a State the option of reviewing, approving, conditioning, or denying all Federal permits or licenses that might result in a discharge to State waters, including wetlands.

Section 404 (Dredge and Fill) of the Clean Water Act regulates the discharge of dredge and fill material into waters of the United States, including wetlands. Activities that are regulated under this program include, water resource projects (such as dams, levees, etc.), infrastructure development, fills for development, and conversion of wetlands to uplands for farming and forestry.

Program is administered by the Army Corps of Engineers, U.S.C. 33 (ss.330) & U.S.C. 33 (ss.403), (in conjunction with the FDEP); they administer the day-to-day program, including individual permit decisions and jurisdictional determinations. In addition, the U.S. Fish and

Wildlife Service, the National Marine Fisheries Service, and State resource agencies act in advisory capacities.

Under Section 404, mitigation banks are now permitted as a means of "compensation" for future conversions of wetlands for development activities.

40 CFR, Part 122 (1990)

EPA Regulations implementing the Federal Clean Water Act and the regulation of stormwater quality and quantity.

Requires that the contribution of pollutants to the municipal storm sewer by stormwater discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity be controlled through ordinance, permit, contract, order or similar means.

55 CFR - NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT PROGRAM

The Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) program, and requires a federal (USEPA) permit for discharging pollutants from point source and non-point source facilities.

Section 402(p) of the Act requires stormwater permits for four major classes of stormwater discharge including discharges from a municipal separate stormwater sewer system serving an incorporated or unincorporated, urbanized population greater than 100,000 and discharges that contribute to the violation of a water quality standard or are significant contributors of pollutants to waters of the United States.

SECTION 320 - USEPA NATIONAL ESTUARIES PROGRAM (TBNEP)

This program designates estuaries of national significance. Tampa Bay and its tributaries have been designated as such and the development of a long term Comprehensive Conservation and Management Plan for Tampa Bay is underway, with participation by affected governments and agencies.