

ORDINANCE NO. 2010-045

2010 JUN 15 11:03:08

BOARD RECORDS
FILED FOR RECORD

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO MANDATORY CONNECTION TO GOVERNMENT-OWNED UTILITY SYSTEMS IN SARASOTA COUNTY; AMENDING ORDINANCE NO. 2000-079, AS AMENDED, AND CODIFIED IN SECTION 126-58 OF THE SARASOTA COUNTY CODE (THE "CODE") TO EXPAND THE APPLICABILITY OF THE MANDATORY CONNECTION REQUIREMENTS TO ANY GOVERNMENT-OWNED UTILITY WASTEWATER SYSTEM LOCATED IN SARASOTA COUNTY AS DESIGNATED BY INTERLOCAL AGREEMENT; AMENDING FINDINGS OF FACT; APPLICABILITY; DEFINITIONS; MANDATORY CONNECTION TO THE UTILITY SYSTEM; NOTIFICATION TO PROPERTY OWNERS; MONTHLY READINESS-TO-SERVE CHARGE; FINANCING PROGRAM; AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

SECTION 1. This Ordinance hereby amends Ordinance No. 2000-079, as amended and codified in Section 126-58 of the Sarasota County Code (the "Code"). In this Ordinance, new text is indicated by underlining and deleted text is indicated by ~~strikethrough~~.

SECTION 2. Section 126-58 of the Code is hereby amended as follows:

Section 126-58. Mandatory Connection to the Sarasota County Utility System and such other government-owned Utility System as designated by Interlocal Agreement.

(a) *Findings of fact.*

- (1) Pursuant to Article VIII, Section 1 (g) of the Florida Constitution, Section, 125.01(1)(t), Florida Statutes, and Section 1.3 of the Sarasota County Charter, the Sarasota County Board of County Commissioners (the "Board") has all the powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors, and may enact County ordinances not inconsistent with general law necessary for the exercise of its powers.
- (2) Section 125.01(1)(k), Florida Statutes, provides specific legislative authorization for counties to provide and regulate sewage collection and disposal, water supply and conservation programs.
- (3) Section 381.0065, Florida Statutes, as amended, requires the owners of on-site sewage treatment and disposal systems to connect to an available publicly owned or investor-owned sewage system within a specified period of time after receiving written notification.

- (4) The Sarasota Bay National Estuary Program has published its Comprehensive Conservation and Management Plan for Sarasota Bay, entitled, "Sarasota Bay: Navigating a Course to Paradise Reclaimed," which recommends that specific actions be implemented by the community in order to restore Sarasota Bay, including the Board's adoption of an ordinance requiring residents to hook up to central wastewater treatment when it becomes available, pursuant to state regulation.
- (5) The Sarasota County Wastewater Advisory Task Force recommended in their 1995 final report that sewer connection requirements be formalized by the Board prior to final design and construction of the County's central sewer system.
- (6) Water Policy 1.1.7. in Chapter 4, Watershed Management, of *the Revised and Updated Sarasota County Comprehensive Plan*, as amended from time to time, states that the County shall require that all buildings served by onsite wastewater treatment and disposal systems, except approved onsite grey water systems, connect to a publicly-owned or investor-owned sewerage system within one year of notification by the County that such a system is available as defined in Rule 64E-6.002(9), Florida Administrative Code.
- (7) The connection of Establishments to a central wastewater treatment system and the elimination of on-site treatment and disposal systems promote the health, safety and welfare of all Sarasota County residents by protecting the environment and providing for regulatory safeguards.
- ~~(7)~~(8) In light of the financial and enforcement policy decisions inherent in adopting a wastewater treatment connection program, it is appropriate to limit applicability of this Ordinance to utility systems located in the Sarasota County Utility Service Area and such other government-owned utility systems located in Sarasota County that have entered into an Interlocal Agreement with Sarasota County.
- ~~(8)~~(9) In order to promote, protect and improve the health, safety and welfare of the public, Chapter 2, Article VIII of the Sarasota County Code, as amended from time to time, established the County's authority and procedures to enforce codes effective within ~~the unincorporated areas of the County,~~ pursuant to code enforcement procedures set forth in that code.
- ~~(9)~~(10) The Board, sitting as the Land Development Regulation Commission, reviewed this ordinance and found it consistent *with the Revised and Updated Sarasota County Comprehensive Plan.*

- (11) As a general Board policy, potable water line extensions are to be constructed concurrent with the construction of central sanitary sewer collection systems, thereby reducing repetitive construction impacts to public infrastructure and disruption to the ingress and egress to neighborhoods.
- (12) In order to prevent contamination of potable drinking water supply wells from sanitary sewer collection/transmission systems, the Florida Department of Environmental Protection (DEP) has promulgated standards set forth in Rule 62-604.400, F.A.C. requiring setback distances between potable drinking water supply wells and sanitary sewer collection/transmission lines.
- (13) Due to the potential for contamination of potable drinking water supply wells from sanitary sewer collection/transmission systems and in furtherance of assuring compliance with DEP standards, the Board finds that potable drinking water supply wells that do not meet the standards set forth in Rule 62-604.400, F.A.C. shall constitute a Sanitary Hazard.
- (14) Pursuant to Section 163.01, Florida Statutes as well as their respective home rule authority, local governments may enter into interlocal agreements with each other to provide services and facilities which each might exercise separately to make the most efficient use of their powers.
- (b) *Applicability.* The provisions of this Section are applicable to the unincorporated area of Sarasota County served by ~~connections to~~ the Sarasota County Utility System and to any municipality located within Sarasota County as provided in an Interlocal Agreement.
- (c) *Definitions.* For the purposes of this section, the following definitions shall apply:
- (1) *Abandon* shall mean the abandonment of an Onsite Sewage Treatment and Disposal System ("OSTDS") according to Rule 64E-6.011, F.A.C.
 - (2) *Available* shall refer to that portion of the ~~Sarasota County~~ Utility System, excluding Transmission Forcemains, that is capable of being connected to the plumbing of a residential subdivision lot, a single or multi-family residence, or an Establishment, provided that:
 - a. The Utility System is not under a Florida Department of Environmental Protection moratorium; and
 - b. The Utility System has adequate permitted capacity to accept the sewage to be generated by the residence or Establishment; and
 - c. For a residential subdivision lot, a single or multi-family residence, or an Establishment, any of which that has an estimated sewage flow of 1,000 gallons per day or less, a Wastewater Service Line

exists in a public easement or right-of-way that abuts the property line or is within 100 feet of the property line of the subdivision lot, residence, or Establishment and wastewater flow can be achieved by gravity, vacuum or low-pressure pump/pipe from the residence or Establishment to the Utility System; and

- d. For an Establishment or multi family residence with estimated sewage flows exceeding 1,000 gallons per day, a Wastewater Service Line, force main or lift station exists in a public easement or right-of-way that abuts the property of the Establishment or multi family residence, or is within 150 feet of the property line of the Establishment or multi family residence as accessed via existing rights-of-way or easements.
- (3) *Board of County Commissioners or Board* shall mean the Board of County Commissioners of Sarasota County, Florida.
- (4) *Capacity Fee* shall be defined by Section 70-256 of the Sarasota County Code of Ordinances, as amended from time to time.
- (5) *Connection Charges* shall mean all Board-adopted hook-up charges, exclusive of Capacity Fees and On-Lot Costs.
- (6) *Establishment* shall mean a building or buildings other than a single or multi family residence.
- (7) *Interlocal Agreement* shall mean an inter-governmental agreement entered into between Sarasota County and a governmental entity located within Sarasota County providing for County notification and enforcement of the mandatory connection provisions of this Ordinance within the jurisdiction of the other governmental entity.
- (8) *Lift Station* shall mean a collector of wastewater flows which lifts and pumps these flows via a Transmission Forcemain into a gravity system, another Transmission Forcemain, another Lift Station or a wastewater treatment plant.
- ~~(7)~~(9) *On-Lot-Costs* shall mean the cost of properly Abandoning an existing OSTDS on the property and constructing the necessary piping and appurtenances to connect the home or Establishment to the Available ~~Central Wastewater~~ Utility System at the property line or easement line.
- ~~(8)~~(10) *On-Site Sewage Treatment and Disposal System ("OSTDS")* shall mean a system subject to Rule 64E-6, F.A.C., that contains a standard subsurface, filled, or mound drainfield system; a septic tank, an aerobic treatment unit; a laundry wastewater system; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy.

(9)(11) *Sanitary Hazard* shall mean a physical condition which involves or affects a potable drinking water supply well and that creates an imminent or potentially serious risk to the health of any person who consumes water from that well.

(10)(12) *Service Area* shall mean: (a) the geographic location within unincorporated Sarasota County in which Sarasota County provides Utility services, and (b) the geographic location within Sarasota County in which a government-owned utility that has entered into an Interlocal Agreement provides utility service.

(13) *Transmission Forcemain* shall mean a pressurized main that is not designed to provide collection services to individual customers but is designed to transfer large quantities of wastewater from a Lift Station to another Transmission Forcemain, gravity system, Lift Station or a wastewater treatment plant.

(14) *Utility System* shall mean any real property, attachments, fixtures, treatment plants, pumping stations, intercepting sewers, mains, laterals, vacuum lines, pressure lines, appurtenances, easements, rights or other real or personal property of the Sarasota County Utility System or another government-owned Utility System located within Sarasota County pursuant to Interlocal Agreement, used and useful or having present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage and sewage effluent and residue.

(15) *Wastewater Service Line* shall mean that portion of the Utility System designed to collect wastewater from an individual residential, commercial or industrial user, including all necessary facilities installed on the utility's side of the point of connection with the customer's plumbing.

(d) *Mandatory Connection to the ~~Sarasota County~~ Utility System*

(1) *Connection to the Utility System.*

a. OSTDS owners within the Service Area must connect to the Utility System within the following time periods:

1. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility System within 365 days after receiving notification that the Utility System is Available for connection pursuant to Section 126.58(e)(3) herein.

2. If the OSTDS needs repair or modification to function in a sanitary manner to comply with the requirements of sections 381.0065--381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must

connect to the Utility System within 90 days after receiving notification that the Utility System is Available.

- b. At his/her own expense, the property owner shall, within 90 calendar days of connection to the Utility System, either:
 - 1. Properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes, or
 - 2. Obtain approval from the DOH to use the abandoned septic tank as an irrigation cistern.
- c. Subject to any financial programs which may be applicable, the property owner shall pay the specified Connection Charges and Capacity Fees in effect at the time of connection to the Utility System.

(2) *Compliance with DEP Potable Water Supply Well Setback Requirements.* Within 90 days after receiving the Second Notification pursuant to Section 126-58(e)(2) herein, any potable drinking water supply well that does not meet the setback distance requirements from the proposed Utility System line, as described in Rule 62-604.400, F.A.C. shall be brought into compliance with Rule 62-604.400, F.A.C. by the property owner at his/her own expense shall bring his/her drinking water supply well into compliance with the utility line setback requirements set forth in Rule 62-604.400, F.A.C. by raising the well casing, connecting to central water, or taking such other alternative action as the DEP determines will result in an equivalent level of reliability and public health protection.

(e) *Notification to Property Owners.* The County shall provide notification to all OSTD owners within the Service Area as follows:

- (1) *First Notification.* The First Notification shall be sent by First Class mail no less than one year prior to the anticipated date on which the Utility System will become Available, notifying all OSTDS owners within the Service Area of the anticipated availability of the Utility System and that:
 - a. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility System within 365 days after receiving notification that the Utility System is Available for connection; and
 - b. If the OSTDS needs repair or modification to function in a sanitary manner to comply with the requirements of sections 381.0065--381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must connect to the Utility System within 90

days after receiving notification that the Utility System is Available for connection; and

- c. Within 90 calendar days of connection to the Utility System, at his/her own expense, the property owner shall either: (1) properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes, or (2) receive proper approval from the DOH to use the abandoned septic tank as an irrigation cistern; and
- d. If the property owner has a potable drinking water supply well that does not meet setback distance requirements from the proposed Utility System line, as described in Rule 62-604.400, F.A.C., within 90 days after receiving notification pursuant to section 128.58(e)(2) herein, the property owner, at his/her own expense, will be required to bring his/her potable drinking water supply well into compliance with Rule 62-604.400, F.A.C.; and
- e. Subject to any financial programs outlined in the notice, the property owner shall pay to the governmental entity providing utility service the specified Connection Charges and Capacity Fees in effect at the time of connection.

(2) *Second Notification.* At least 90 days prior to the Utility System becoming Available, the County shall provide notice by certified mail or process server to OSTDS owners within the Service Area who have a potable drinking water supply well that does not meet the ~~utility line~~ setback distance requirements from the proposed Utility System line, as described in Rule 62-604.400, F.A.C, notifying the OSTDS owners that:

- a. Within 90 days of receiving this Second Notification, the property owners shall bring his/her potable drinking water supply well into compliance with the Utility System line setback requirements set forth in Rule 62-604.400, F.A.C. by raising the well casing, connecting to central water, or taking such other alternative action as the DEP determines will result in an equivalent level of reliability and public health protection.
- b. If certified mail or process service is unsuccessful, the Utility County shall provide notice by First Class mailing. Notice shall be deemed given on the date the notification is deposited in the U.S. mail. The Utility County may record this notice in the public record.

- (3) *Final Notification.* The Final Notification shall notify all OSTDS owners within the Service Area that service is Available. The Utility County shall provide notice by certified mail or process server. If certified mail or process service is unsuccessful, the Utility County shall provide notice by First Class mail. Notice shall be deemed given on the date the notification is deposited in the U.S. mail. The Utility County may record this notice in the public record. This Notification shall state that service is Available and that:
- a. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility System within 365 days; and
 - b. If the OSTDS needs repair or modification to function in a sanitary manner to comply with the requirements of sections 381.0065-381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must connect to the Utility System within ninety (90) days; and
 - c. Within ninety (90) calendar days of connection to the Utility System, at his/her own expense, the property owner shall either: (1) properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes; or (2) receive proper approval from the DOH to use the abandoned septic tank as an irrigation cistern; and
 - d. Subject to any financial programs outlined in the notice, the property owner shall pay to the government entity providing utility service the specified Connection Charges and Capacity Fees in effect at the time of connection.

(f) *Monthly Readiness-to-Serve Charge.*

- (1) *Wastewater.* Monthly readiness-to-serve charges in effect at the time shall commence upon connection to the Utility System, provided, however, if the property is not connected to the Utility System within the notice period specified in the notification received from the County pursuant to subsection (e) above, the monthly readiness-to-serve charge in effect at that time shall commence the day following expiration of the notice period.
- (2) *Water.* Monthly readiness-to-serve charges in effect at the time shall commence upon connection to the ~~Sarasota County~~ government-owned water system: provided, however, if, after receiving notification from the County pursuant to Section 126.58(e)(2) herein that the potable drinking water supply well must be brought into compliance with Rule 62-604.400,

F.A.C. by the property owner at his/her own expense and no action has been taken during the 90-day notice period, the monthly readiness-to-serve charge in effect at that time shall commence the day following expiration of the notice period.

- (g) *Financing Program.* By resolution, the Board may establish financing programs for customers of the County Utility System to lessen the financial impact on OSTDS owners; and/or to allow for installment payments for prepaid connection fees.
- (h) *Enforcement.* Violations of this Ordinance may be enforced by the following remedies, which are cumulative and may be pursued simultaneously or consecutively:
 - (1) Code enforcement action pursuant to Chapter 2, Article VIII of the Sarasota County Code for which each day or fraction thereof that the violation continues shall be considered a separate offense;
 - (2) Treated as a misdemeanor and, upon conviction, punishment by a fine not to exceed \$500.00 and/or imprisonment in the County Jail not to exceed 60 days or any other remedy available under the law;
 - (3) Complaint for injunctive relief filed in the Twelfth Judicial Circuit in the State of Florida;
 - (4) Termination of any current utility service being provided by a government-owned Utility System ~~Sarasota County~~ to the property until such time as compliance is achieved.
 - (5) Any other civil or criminal remedy available at law.
- (i) *Enforcement. Costs, Fees, Fines and Penalties.* Money collected for administrative costs, fees, fines and penalties for violations of ~~said~~ this Ordinance shall be deposited in the County Utility System operating fund.

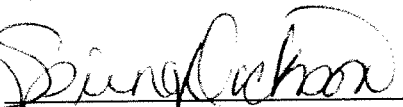
SECTION 3. Severability. It is the intent of the Board that the provisions of this Section shall be severable and, accordingly, the invalidity of any part of this Section shall not affect the validity of any other part. Invalidity of any rule, regulation, agreement, or resolution adopted under authority of this Section shall not invalidate this Section or any other rule, regulation, agreement, or resolution similarly adopted.

SECTION 4. Effective Date. This Ordinance shall take effect upon filing with the Office of the Secretary of State of Florida.

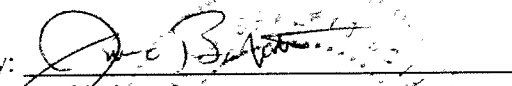
PASSED AND DULY ADOPTED by the Board of County Commissioners of Sarasota County, Florida, this 13th day of July, 2010.

ATTEST:

KAREN E. RUSHING, Clerk of Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

By: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA

By: 
Chair

