

Memorandum



Date: (Second Reading 11-01-05)
September 8, 2005

To: Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners

Agenda Item No. 7(J)

From: George M. Burgess
County Manager

Subject: Ordinance Amending Sections 24-5 and 24-15; and Repealing and Enacting Section 24-45
of the Code of Miami-Dade County, Florida, Relating to Underground Storage Facilities

RECOMMENDATION

It is recommended that the Board approve the attached ordinance amending Sections 24-5 and 24-15, and, repealing and enacting Section 24-45 of the Code of Miami-Dade County, Florida (Code). The changes to the aforementioned Sections of the Code provide for removal of obsolete requirements, greater consistency with state rules, and simplification and clarification of code requirements relating to underground storage facilities.

BACKGROUND

The Miami-Dade County Underground Storage Facility Ordinance was originally passed in 1983 and the last major update to the section was made in 1992. Since that time there have been many changes in the state rules for storage tanks as well as changes in the available technology and equipment for storage tanks. The ordinance will promote compliance among users by making the Sections easier to understand, making the Code more consistent with state rules, removing compliance deadlines that have already passed, and removing regulatory requirements that are obsolete or ineffective. Additionally, the ordinance will require upgrading for storage tank systems that do not provide adequate environmental protection and remove county permit requirements that are redundant with state requirements.

FISCAL IMPACT

This ordinance will have no fiscal impact.

Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 1, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 7(J)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(J)
11-01-05

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 24-5 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING DEFINITIONS; AMENDING SECTION 24-15 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO PLAN APPROVAL; REPEALING SECTION 24-45 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO REGULATION OF UNDERGROUND STORAGE FACILITIES; ENACTING SECTION 24-45 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO REGULATION OF UNDERGROUND STORAGE FACILITIES; PROVIDING SEVERABILITY, INCLUSION IN AND EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 24-5 of the Code of Miami-Dade County, Florida, relating to definitions, is hereby amended to read as follows:

Section 24-5 Definitions

In construing the provisions of this chapter, where the context will permit and no definition is provided herein, the definitions provided in Chapter 403, Florida Statutes, as may be amended from time to time, and in rules and regulations promulgated thereunder, as may be amended from time to time, shall apply. The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section:

1990 Urban Development Boundary shall mean the line established by the Miami-Dade County Board of County Commissioners on July 8, 1983 by Ordinance 83-58 delineating the approved urban development boundary for Miami-Dade County, as amended by ordinance from time to time.

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

~~[[Abandoned shall mean has not been operated for ninety one (91) days or more within any six-month period of time.]]~~

>>Abandonment in place of an underground storage facility shall mean:

- (1) installation and sampling of the monitoring wells and soil borings required for the TCAR, and
- (2) emptying, inerting and cleaning the interior of the underground storage facility, and
- (3) filling the underground storage facility with a non-shrinking, inert and solid material approved by the Department.<<

Aboveground storage facility shall mean a tank, pipe, vessel or other container, or any combination of the foregoing, used or designed to be used for the aboveground storage or aboveground transmission of hazardous materials including but not limited to line leak detectors, monitoring wells and secondary containment system associated therewith. ~~[[Aboveground storage facilities shall only include a facility which has more than ninety (90) percent of its volume above the surface of the ground.]]~~

>>(1) Aboveground storage facilities have less than ten (10) percent of their total volume below the surface of the ground.

(2) Facilities with ten (10) percent or more of their volume below the ground surface and which are contained within a vault or structure of sufficient size to allow human access and visual inspection of all components thereof are hereby determined to be aboveground storage facilities.<<

* * *

Free product shall mean a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, floating on water, surface water or groundwater.

* * *

>>Out of service shall mean an underground storage facility which is empty, does not have hazardous materials transferred into or withdrawn from the underground storage facility, is not in active use and is in compliance with the requirements set forth in Chapter 62-761.800, Florida Administrative Code.<<

* * *

~~[[Temporarily out of service shall mean not in operation for ninety (90) days or less within any six-month period of time.]]~~

* * *

~~[[Underground Storage Facilities Supervisor shall mean an employee designated by any person who owns one hundred (100) or more underground storage facilities in Florida and whose duties include the supervision of construction and inspection of underground storage facilities.]]~~

Underground storage facility shall mean a tank, pipe, vessel or other container, or any combination of the foregoing, used or designed to be used for the underground storage or underground transmission of hazardous materials, including but not limited to line leak detectors, monitoring wells, continuous automatic leak detection systems and secondary containment system associated therewith, >>excluding hydraulic lift systems,<< oil-water separators, sanitary sewers, septic tanks, septic tank drainfields, the primary pipeline transmitting jet fuel from Port Everglades to Homestead Air ~~[[Føree]]~~ Reserve Base, and any other primary pipeline transmitting hazardous materials from one county to another county. >>Underground storage facilities have ten (10) percent or more of their total volume below the surface of the ground.<<

* * *

>>Unmaintained underground storage facility shall mean an underground storage facility which was not or is not properly closed or placed out of service in accordance with the rules and regulations of the State of Florida and Section 24-45(6) of this Code and for which there is neither a valid operating permit issued pursuant to Section 24-18(2) of this Code nor, a valid registration placard issued by the State of Florida Department of Environmental Protection.<<

* * *

Section 2. Section 24-15 of the Code of Miami-Dade County, Florida, relating to plan approval required, is hereby amended to read as follows:

Section 24-15 Plan Approval Required

>>(1) Intent. It is the intent and purpose of this section to require that all new facilities, equipment and processes constructed or operated after the effective date of this chapter shall comply with the requirements herein contained, and that any major or substantial enlargement, expansion or addition to existing facilities also shall comply with the requirements herein contained. Any building permit issued by the County or a municipality in violation of the provisions of this chapter is hereby determined to be void.<<

~~[[(+)]]~~>>(2)<<Waste water facilities. It shall be unlawful for any person to enter into or let a contract for or to commence the installation, extension, or operation of any sewerage system or waste treatment facility or any industrial waste disposal facility without first obtaining the prior written approval of the Director of the Department of Environmental Resources

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Management or ~~[[his]]~~ >>the Director's designee<<. It shall be unlawful for any person to make any enlargement, alteration or addition to any facility, or commence the construction of any facility, that will reasonably be expected to be a source of water pollution without first obtaining the prior written approval of the Director of the Department of Environmental Resources Management or ~~[[his]]~~ >>the Director's designee<<. No building permit involving the generation or discharge of effluents shall be issued by the County or any municipality unless the application for a building permit has been approved by the Director of the Department of Environmental Resources Management or ~~[[his]]~~ >>the Director's designee<<.

The provisions of this section shall not apply to facilities discharging only domestic wastes to a public sewer system approved by the Director of the Department of Environmental Resources Management or ~~[[his]]~~ >>the Director's designee<<. Notwithstanding the foregoing, the provisions of this section shall apply to facilities discharging only domestic wastes to a public sewer system approved by the Director of the Department of Environmental Resources Management or ~~[[his]]~~ >>the Director's designee<< if the facilities provide any form of pretreatment in conjunction with a grease trap.

Provided that after January 25, 1974, the Director, Environmental Resources Management, shall not approve an application for an interim package sewage treatment plant unless directed to do so by the Environmental Quality Control Board after a public hearing pursuant to notice. For the purpose of this subsection, an interim package sewage treatment plant shall include all domestic waste water treatment facilities that are not included in the regional treatment system as described in the approved 1973 Water Quality Management Plan.

~~[[2]]~~>>(3)<<*Air facilities*. It shall be unlawful for any person to make any major or substantial alteration, enlargement or addition to any existing facility, equipment or operation, or to commence the construction or operation of any new facility, that may be a source of air pollution as herein defined, without first obtaining the prior written approval of the plans, equipment or processes thereof by the Director Environmental Resources Management >>or the Director's designee<<. No building permit shall be issued by the County or any municipality unless the application therefore or the plans for construction of the proposed facility ~~[[show the approval of]]~~ >>have been approved by<< the Director Environmental Resources Management >>or the Director's designee<<. The provisions of this chapter shall not apply to individual family dwellings or multiple-family dwellings of not more than four (4) units in respect to heating equipment or comfort space heating.

~~[[3]]~~>>(4)<<*Potable water facilities*. It shall be unlawful for any person to enter into or let a contract for or to commence the installation, extension, alteration or operation of any public water supply facility without first obtaining the prior written approval of the Director Environmental Resources Management. No building permit involving a demand on a public water supply shall be issued by the County or any municipality unless the application for a building permit or plans for construction thereof ~~[[shows approval]]~~ >>have been approved<< by the Director Environmental Resources Management >>or the Director's designee<<.

~~[[(4)]]~~ >> (5) << *Aboveground storage facilities.* It shall be unlawful for any person to install, repair, modify, expand, replace or permit, cause, allow, let or suffer the installation, repair, modification, expansion or replacement of any aboveground storage facility, without first obtaining the prior written approval of the Director of the Department of Environmental Resources Management or his designee. No building permit shall be issued by the County or any municipality unless the application therefore or the plans for construction of the proposed aboveground storage facility ~~[[show the approval of]]~~ >> have been approved by << the Director of the Department of Environmental Resources Management or ~~[[his]]~~ >> the Director's << designee.

~~[[(5)]]~~ *Intent.* It is the intent and purpose of this section to require that all new facilities, equipment and processes constructed or operated after the effective date of this chapter shall comply with the requirements herein contained, and that any major or substantial enlargement, expansion or addition to existing facilities also shall comply with the requirements herein contained. Any building permit issued by the County or a municipality in violation of the provisions of this chapter shall be void.]]

>> (6) *Underground storage facilities.* It shall be unlawful for any person to install, repair, modify, expand, replace or permit, cause, allow, let or suffer the installation, repair, modification, expansion or replacement of any underground storage facility, without first obtaining the prior written approval of the Director of the Department of Environmental Resources Management or the Director's designee. No building permit shall be issued by the County or any municipality unless the application or the plans for construction of the proposed underground storage facility have been approved in writing by the Director of the Department of Environmental Resources Management or the Director's designee. The Director, or the Director's designee, shall issue such written approval only upon receipt of formal engineering plans, which are signed and sealed by a professional engineer registered in the State of Florida and which plans detail that the underground storage facilities specified in said plans shall be constructed in compliance with the requirements of this Chapter, Chapter 62-761 of the Florida Administrative Code and the referenced standards contained therein. After receipt of written approval from the Director, or the Director's designee, the owner or operator of the underground storage facility shall notify the Department a minimum of two (2) working days prior to the commencement of installation, repair, modification, expansion or replacement of any underground storage facility. The installation, repair, modification, expansion or replacement shall be subject to inspection by the Department to determine compliance with the approved plans and applicable laws and ordinances. <<

Section 3. Section 24-45 of the Code of Miami-Dade County, Florida, relating to regulation of underground storage facilities, incorporated herein by reference hereto, is hereby repealed in its entirety. Ordinances enacted by the Board of County Commissioners of Miami-Dade

County, Florida, if any, pursuant to Section 24-45 of the Code of Miami-Dade County, Florida, which are not codified, shall not be affected by this repeal and shall remain in full force and effect. Resolutions, rules, and regulations adopted by the Board of County Commissioners of Miami-Dade County, Florida, if any, pursuant to Section 24-45 of the Code of Miami-Dade County, Florida, shall not be affected by this repeal and shall remain in full force and effect. Special, local or general laws applicable only to Miami-Dade County, Florida, and any ordinances enacted by the Board of County Commissioners of Miami-Dade County, Florida, and any resolutions adopted by the Board of County Commissioners of Miami-Dade County, Florida, pursuant to such special, local or general laws applicable only Miami-Dade County, Florida, if any, shall not be affected by this repeal and shall remain in full force and effect.

Section 4. Section 24-45 of the Code of Miami-Dade County, Florida, relating to regulation of underground storage facilities, is hereby enacted as follows:

Section 24-45 Regulation of Underground Storage Facilities

- (1) *Legislative intent.* The intent and purpose of this section is to safeguard the public health, safety and welfare by regulating underground storage facilities.

Short title; applicability; construction. This section shall be known as the "Underground Storage Facilities Ordinance." The provisions of this section shall be effective in the incorporated and unincorporated areas of Miami-Dade County and shall be liberally construed to effect the purpose set forth herein.

- (3) Performance Standards For Underground Storage Facilities

- (a) It shall be unlawful for any person to operate, maintain, or cause, permit allow, let or suffer the operation or maintenance of any underground storage facility installed prior to June 2, 1992 without a network of groundwater monitoring wells of design and location approved by the Director or the Director's designee.

- (b) Underground storage facilities installed prior to June 2, 1992 and located in the Northwest Wellfield protection area, the West Wellfield Interim protection area, the basic wellfield protection area of any public utility potable water supply well or within any property served or to be served by any source of potable water supply other than a public water supply shall include:
 - (i) A secondary containment system consisting of double-walled tanks and double-walled piping, and
 - (ii) A continuous automatic leak detection system approved by the Director or the Director's designee which is capable of detecting a leak from any point in the underground storage facility by monitoring the piping sumps, dispenser liners, and the interstices between the following two components:
 - 1. the double walls of the tanks and,
 - 2. between the double walls of the piping.

- (c) It shall be unlawful for any person to install, modify, expand, replace, or permit, cause, allow, let or suffer the installation, modification, expansion or replacement of any underground storage facility installed after June 2, 1992 without complying with all of the following:
 - (i) Installation of a network of groundwater monitoring wells of design and location approved by the Director or the Director's designee prior to installation of said monitoring wells, and
 - (ii) Installation of a secondary containment system consisting of double-walled tanks and double-walled piping, and
 - (iii) Installation of a continuous automatic leak detection system approved by the Director or the Director's designee which is capable of detecting a leak from any point in the underground storage facility by monitoring the piping sumps, dispenser liners, and the interstices between the following two components:
 - 1. the double walls of the tanks and,
 - 2. between the double walls of the piping.
 - (iv) Approval of plans by the Director or the Director's designee in accordance with the requirements of Section 24-15(6) of this Code.

- (d) Underground storage facilities installed prior to the effective date of this ordinance with flexible liner secondary containment systems approved by the Director or the Director's designee shall upgrade the existing systems to comply with the requirements set forth herein not later than December 31, 2009.
 - (e) Underground storage facilities installed with modular, rigid, sealed, impervious hydrocarbon-resistant encasing systems approved by the Director or the Director's designee shall upgrade the existing systems to comply with the requirements set forth herein not later than December 31, 2009.
- (4) *Operational Requirements*
- (a) *Release Detection.*
 - (i) The owner or operator of the underground storage facility shall be responsible for monthly visual inspections of the groundwater for the purpose of detecting the presence of free product in each compliance monitoring well as required by Section 24-45(1) herein.
 - (ii) The owner or operator of the underground storage facility shall maintain a record of the results of the visual inspections in the form of an on-site inspection log. The monthly visual inspection record shall be made available to Department representatives for inspection upon request.
 - (iii) In the event groundwater in the compliance monitoring wells of the underground storage facility is contaminated by free product, the owner or operator of the underground storage facility shall immediately implement the provisions of Section 24-45(5)(b) of this Code and, cease the monthly visual inspections of the monitoring wells, and shall, within thirty (30) days from the date of the detection of free product, implement an alternate method of release detection capable of detecting new releases pursuant to the requirements of Chapter 62-761, Florida Administrative Code. When an alternate method of release detection is implemented, the owner or operator of the underground storage facility shall maintain the approved network of monitoring wells, pursuant to the requirements of Section 24-45 of this Code, in a functional condition and make them accessible for periodic inspection by Department representatives upon request.
 - (iv) The owner or operator of underground storage facilities operating with approved secondary containment systems shall perform monthly inspections of the continuous automatic leak detection system to verify the proper operation of the system. A record of the results of the monthly inspections shall be maintained on site and be made available to Department representatives for inspection upon request.

- (b) *Operating Permits.* Underground storage facilities with a capacity greater than one hundred and ten (110) gallons shall obtain an operating permit as required by Section 24-18(12) herein. A current and valid storage tank registration placard issued by the Florida Department of Environmental Protection is hereby determined to satisfy the requirement of obtaining an operating permit as set forth in Section 24-18(12) of this Code. It shall be unlawful for any person to operate, maintain or permit, cause, allow, let or suffer the operation or maintenance of any underground storage facility with a capacity greater than one hundred and ten (110) gallons without an operating permit issued in accordance with the requirements of this Chapter or current storage tank registration placard issued by the Florida Department of Environmental Protection.
- (c) It shall be unlawful for any person to operate, maintain or permit, cause, allow, let or suffer the operation or maintenance of any underground storage facility located within the Northwest Wellfield Protection Area or the West Wellfield Interim Protection Area, except for those underground storage facilities that were installed prior to November 15, 1983 and which are used exclusively for the retail sale of gasoline, gasohol, or diesel fuel.

(5) *Discharges From Underground Storage Facilities*

- (a) In the event that a discharge of hazardous materials from an underground storage facility to the environment or into a secondary containment system has occurred or may have occurred, the Department of Environmental Resources Management shall require the operator or owner of the underground storage facility, or the owner of the real property upon which said underground storage facility is located, to immediately investigate and may require testing of the underground storage facility and the groundwater and soil in the area of the underground storage facility. The required investigation shall determine whether the underground storage facility has discharged or is discharging hazardous materials into the secondary containment system of the facility or into the environment outside of said facility.
- (b) Operators of underground storage facilities as well as any persons, individually or otherwise, having a legal, beneficial, or equitable interest in the underground storage facilities or in the real property upon which said underground storage facilities are located shall be jointly and severally liable and responsible for immediately accomplishing the following when the underground storage facility has discharged, is discharging or may be discharging any hazardous materials of any quantity whatsoever into the environment outside of said facility:
 - (i) Locating and determining the cause of the discharge.
 - (ii) Stopping and preventing any further discharges.
 - (iii) Implementing and completing the site rehabilitation actions for contaminants in accordance with Section 24-44 herein.

- (iv) Notify the Department of Environmental Resources Management of such discharge within twenty-four (24) hours of any such discharge.

(6) *Removal or Abandonment of Underground Storage Facilities*

- (a) Unmaintained underground storage facilities shall be removed from the ground and disposed of in accordance with state and local laws, rules, and regulations, or abandoned in place as set forth below within ninety (90) days of discovery by the owner or operator, discovery by Department representatives of the unmaintained underground storage facility, or notification of the owner or operator by the Director or the Director's designee, whichever occurs first. Prior to implementation of such removal or abandonment in place the owner or operator shall submit written notification of the proposed removal or abandonment in place to the Department on Department-approved forms. Subsequent to the written notification, the owner or operator shall notify the Department a minimum of two (2) working days prior to commencing such removal or abandonment activities.
- (b) The owner or operator shall provide access to Department representatives to the underground storage facility, excavation, excavated soils, and exposed groundwater for the purpose of inspection. If the groundwater table in the excavation is not visible at the time of inspection, or if there is any evidence of ground pollution or water pollution, the Department of Environmental Resources Management may require from the owner or operator of the underground storage facility the installation of one or more groundwater monitoring wells or soil borings or both in the area of the excavation.
- (c) It shall be unlawful for any person to abandon in place or permit, cause, allow, let or suffer such abandonment in place of any underground storage facility without the prior written approval of the Director or the Director's designee. The Director or the Director's designee shall issue his written approval only if the abandonment in place is necessary to protect human health, the environment or the structural integrity of adjacent buildings. A Tank Closure Assessment Report (TCAR) prepared in accordance with Florida Department of Environmental Protection reference standard entitled "Storage Tank System Closure Assessment Requirements", Revised April 1998, as same may be amended from time to time, shall be prepared and submitted to the Department of Environmental Resources Management within sixty (60) days of abandonment in place of any underground storage facility.
- (d) Abandonment in place of an underground storage facility shall mean:
 - (i) installation and sampling of the monitoring wells and soil borings required for the TCAR, and

- (ii) emptying, inerting and cleaning the interior of the underground storage facility, and
- (iii) filling the underground storage facility with a non-shrinking, inert, solid, material approved by the Department.

(7) *Residential Tanks*

Underground storage facilities with total storage volumes less than 300 gallons located at single family residences shall be exempt from Sections 24-45(3) and (4) herein.

Section 5. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word ordinance may be changed to section, article, or other appropriate word.

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of Section 1, Section 2, and Section 4 of this ordinance shall become and be made a part of the Code of Miami-Dade County, Florida. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of Section 3 of this ordinance shall not be made a part of the Code of Miami-Dade County, Florida.

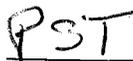
Section 8. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Peter S. Tell