

MEMORANDUM

Agenda Item No. 7(F)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	DATE:	(Second Reading 5-6-14) March 4, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	SUBJECT:	Ordinance amending Section 24-43.1 of the Code relating to liquid waste disposal and potable water supply systems; amending Section 24-43.2 of the Code relating to regulation of on-site domestic well systems and other water supply wells

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Co-Prime Sponsors Commissioner Jose "Pepe" Diaz and Commissioner Audrey M. Edmonson, and Co-Sponsors Vice Chair Lynda Bell, Commissioner Barbara J. Jordan, Commissioner Jean Monestime and Commissioner Xavier L. Suarez.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Date: May 6, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners.

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Amending Section 24-43.1 of the Code of Miami-Dade County Relating to Liquid Waste Disposal and Potable Water Supply Systems; Amending Section 24-43.2 of the Code Relating to Regulation of On-Site Domestic Well Systems and Other Water Supply Wells; Amending Section 24-43.3 of the Code Relating to Potable Water Standards; Each of the Amendments Defining "Available" When Used in the Context of Required Connection to Public Sewer Mains and Water Mains .

Recommendation

It is recommended that the Board of County Commissioners approve the attached ordinance amending Section 24-43.1 of the Code of Miami-Dade County, relating to liquid waste disposal and potable water supply systems, amending Section 24-43.2 of the Code relating to regulation of on-site domestic well systems and other water supply wells, and amending Section 24-43.3 of the Code relating to potable water standards. This proposed Code change is provided as a result of my direction for staff to identify opportunities to improve the delivery of our services in implementing the policies of this County while reducing unnecessary costs and time consuming process for our citizens.

Scope

The proposed ordinance involves environmental regulation countywide.

Fiscal Impact/Funding Source

This ordinance will not require additional funding and will be revenue neutral to the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM). The Miami-Dade Water and Sewer Department (WASD) collects a water and sewer connection fee and collects fees for services from properties that connect to public water and sewer lines. This ordinance will reduce the number of properties required to connect. However, the reduction in revenue to WASD is expected to be negligible.

Track Record/Monitor

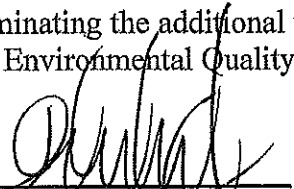
Carlos Hernandez, PE, Wastewater Permitting Section Chief, Department of Regulatory and Economic Resources, Division of Environmental Resources Management, will be responsible for the implementation of this ordinance.

Background

Chapter 24 of the Code requires connection to a public water main or public sanitary sewer when a public water main or public sanitary sewer line is determined to be available and operative in any portion of the public right-of-way or easement abutting the property. However, the Code does not include a provision for considering whether such a connection is economically feasible. In some cases, the water or sewer line may actually be located on the opposite side of a major street or highway, or may require connection to a sewer force main at a significant and disproportionate cost to property owners that only generate a limited volume of domestic sewage. Under these

circumstances, a property owner's only alternative is to seek a variance from this provision of the Code through the Environmental Quality Control Board. In reviewing these cases, DERM technical staff evaluate the variance requests for conformance with all other environmental provisions in the Code, including meeting minimum lot size and sewage loading requirements, and subsequently prepare a recommendation for consideration by the Environmental Quality Control Board. When receiving a favorable recommendation from DERM, these variance requests are typically approved by the Environmental Quality Control Board.

This ordinance provides a definition for availability of public water and public sanitary sewers that includes factors relating to physical impediments which are currently not addressed in the Code, and this ordinance eliminates inconsistencies with state regulations. This ordinance eliminates the requirement for properties that conform with relevant environmental standards in the Code, but only generate a limited volume of domestic sewage, to connect to public water and public sanitary sewers when connection requires crossing a major street or requires connection to a public sewer force main. This ordinance will also streamline the permit review and approval process by eliminating the additional time and expense for property owners to seek and obtain a variance from the Environmental Quality Control Board in these cases.



Jack Osterholt, Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: May 6, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 7(F)

Veto _____

5-6-14

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 24-43.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO LIQUID WASTE DISPOSAL AND POTABLE WATER SUPPLY SYSTEMS; AMENDING SECTION 24-43.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO REGULATION OF ON-SITE DOMESTIC WELL SYSTEMS AND OTHER WATER SUPPLY WELLS; AMENDING SECTION 24-43.3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO POTABLE WATER STANDARDS; EACH OF THE AMENDMENTS DEFINING "AVAILABLE" WHEN USED IN THE CONTEXT OF REQUIRED CONNECTION TO PUBLIC SEWER MAINS AND WATER MAINS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 24-43.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 24-43.1. Liquid waste disposal and potable water supply systems.

- (1) The intent and purpose of this section is to safeguard the public health, safety, and welfare by regulating liquid waste storage, disposal and treatment methods other than sanitary sewers and any source of potable water supply.
- (2) No person shall discharge or cause, allow, permit, let or suffer to be discharged any liquid waste or other substance of any kind whatsoever into a septic tank other than domestic sewage.

* * *

- (7) Notwithstanding any provision of this code, when an approved public gravity sanitary sewer or approved sanitary sewer force main is available and operative in a public right-of-way or easement abutting the property, the use of any liquid waste storage, disposal or treatment methods shall cease within ninety (90) days of the date the Director or the

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

Director's designee determines that the approved public sanitary sewer is available and operative. Thereafter, all liquid wastes that are generated, handled, disposed of, discharged or stored on the property shall be discharged to an approved and operative gravity sanitary sewer or approved sanitary sewer force main except those liquid wastes, other than domestic sewage, that are permitted by this chapter to be generated, handled, treated or stored on the property. Notwithstanding the foregoing, graywater may, at the option of the property owner, be discharged to a graywater disposal system approved by the Director or the Director's designee.

>>Available, when used in Section 24-43.1(7) shall mean the following:

- (a) Single Family Residence and Duplex: A public gravity sewer shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property, but not on the opposite side of a roadway divided by a raised median or on the opposite side of a roadway which has four (4) lanes or more. A public force main is not considered available.
- (b) Residential, other than Single Family Residence or Duplex:
 - (i) For properties complying with the sewage loading provisions of Section 24-43.1(3) using the sewage flows set forth in Section 24-43.1(5) and with sewage flow less than or equal to 1,000 gallons per day (gpd) calculated using unit rates in Chapter 64E-6, Florida Administrative Code, as may be amended from time to time, a public gravity sewer shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property, but not on the opposite side of a roadway divided by a raised median or on the opposite side of a roadway which has four (4) lanes or more. A public force main shall not be considered available..
 - (ii) For properties not complying with the sewage loading provisions of Section 24-43.1(3) using the sewage flows set forth in Section 24-43.1(5) or with a sewage flow greater than 1,000 gallons per day (gpd) calculated using unit rates in Chapter 64E-6, Florida Administrative Code, as may be amended from time to time, a public gravity sewer or a public force main shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property.
- (c) Non-residential land uses that generate only domestic sewage: (including residential with mixed use):
 - (i) For properties complying with the sewage loading provisions of Section 24-43.1(4)(b) using the sewage flows set forth in Section 24-43.1(5) and with sewage flow less than or equal to 1,000 gallons per day (gpd) calculated using unit rates in Chapter 64E-6, Florida Administrative Code,

as may be amended from time to time, a public gravity sewer shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property, but not on the opposite side of a roadway divided by a raised median or on the opposite side of a roadway which has four (4) lanes or more. A public force main shall not be considered available.

- (ii) For properties not complying with the sewage loading provisions of Section 24-43.1(4)(b) using the sewage flows set forth in Section 24-43.1(5) or with a sewage flow greater than 1,000 gallons per day (gpd) calculated using unit rates in Chapter 64E-6, Florida Administrative Code, as may be amended from time to time, a public gravity sewer or a public force main shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property.

- (d) Any use that generates a liquid waste other than domestic sewage: A public gravity sewer or public force main sewer shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property.

- (e) Any non-residential land use located within the basic wellfield protection area of any public utility potable water supply well: A public gravity sewer or public force main sewer shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property.<<

~~[(8) Notwithstanding any provision of this Code, the use of any liquid waste storage, disposal or treatment methods (excluding public sanitary sewers and stormwater disposal methods) for any nonresidential land use within the Northwest Wellfield protection area, within the West Wellfield Interim protection area, the maximum day pumpage wellfield protection areas of the Alexander Orr Wellfield, Snapper Creek Wellfield, Southwest Wellfield, Miami Springs Lower Wellfield, Miami Springs Upper Wellfield, John E. Preston Wellfield or Hialeah Wellfield or within the outer wellfield protection zone of the South Miami Heights wellfield complex or within the basic wellfield protection area of any public utility potable water supply well shall cease within six (6) months from the date that the Director or the Director's designee determines that an approved public gravity sanitary sewer has been made available and operative in any portion of the public right of way or easement abutting the property, or the use of any liquid waste storage, disposal or treatment methods (excluding public sanitary sewers and stormwater disposal methods) for any nonresidential land use which exceeds the maximum allowable sewage loading permitted by Section 24 43.1(4)(b) of this Code, shall cease within six (6) months from the date that the Director or the Director's designee determines that an approved public gravity sanitary sewer has been made available and operative in any portion of the public right of way or easement abutting the property. Thereafter, all liquid wastes that are generated, handled, disposed of, discharged or stored on the property shall~~

~~be discharged to an approved and operative gravity sanitary sewer except those liquid wastes, other than domestic sewage, that are permitted by this chapter to be generated, handled, treated or stored on the property.]]~~

* * *

Section 2. Section 24-43.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-43.2. Regulation of on-site domestic well systems and other water supply wells.

(1) *Regulation of on-site domestic well systems generally.*

- (a) Notwithstanding any provision of this Code, no County or municipal officer, agent, employee or Board shall approve, grant or issue any building permit, certificate of use and occupancy (except for changes in ownership), municipal occupational license (except for changes in ownership), platting action (final plat, waiver of plat or equivalent municipal platting action) or zoning action (district boundary change, unusual use, use variance or equivalent municipal zoning action) for any land use served or to be served by an on-site domestic well system without obtaining the prior written approval of the Director or the Director's designee.

* * *

- (3) *Permits for existing uses.* All uses of water in existence before the effective date of this section, unless otherwise exempted from regulation by law, may be continued after the adoption of this permit system. A permit for any existing use shall be issued upon proper application. Failure to apply for a permit for any existing use for one (1) year after the effective date of this ordinance shall constitute an abandonment of the right granted by this section.

~~[[Notwithstanding the above, when an approved public water main has been made available and operative in any portion of the public right of way or easement abutting the property, the use of any on site domestic well system shall cease and connection shall be made to a public water main within ninety (90) days from the date that the Director or the Director's designee determines that the approved public water main is made available and operative, and]]~~

- ~~(a) — The existing sewage loading on the property exceeds the maximum allowable sewage loading permitted by Sections 24-43.1(3) or 24-43.1(4)(b) of this Code, or~~
~~(b) — The groundwater quality for the property exceeds the potable water standards in Section 24-43.3(2) of this chapter.]]~~

* * *

~~[[(10) Definitions.~~

- (a) ~~Domestic use shall mean any use of water for individual personal needs or for household purposes such as drinking, bathing, eating, cooking or sanitation.~~
- (b) ~~Emergency shall mean that situation where the public health, safety or welfare or the health of animals, fish or aquatic life or of a public water supply or recreational, commercial, industrial, agricultural or other reasonable use of water is immediately in danger or threatened by an insufficient supply, restricted source, deleterious quality or other conditions of the water within the County.~~
- (c) ~~Director shall mean the Director of the Department of Environmental Resources Management with powers as provided by Section 24-7 of the Code.~~
- (d) ~~Groundwater shall mean water beneath the surface of the ground whether or not flowing through known and definite channels.~~
- (e) ~~Person shall mean any and all persons including but not limited to any individual, firm, association, organization, partnership, business trust, corporation, company, United States of America, the State of Florida and all the municipalities and public agencies thereof located within Miami Dade County.~~
- (f) ~~Reasonable beneficial use shall mean the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.~~
- (g) ~~Surface water shall mean water upon the surface of the earth whether contained in bounds created naturally or artificially or diffused. Water from a natural spring or well shall be classified as surface water when it exits from the spring or well onto the earth's surface.~~
- (h) ~~Water or waters of the County shall mean any and all waters on or beneath the surface of the ground including natural or artificial water courses, lakes, ponds or diffused surface water and water percolating, standing or flowing beneath the surface of the ground as well as all coastal waters in the geographic boundaries of Miami Dade County, Florida.~~
- (i) ~~Water shortage shall mean that situation within all or part of Miami Dade County, Florida wherein insufficient water is available to meet the requirements of the permit system or where the conditions are such as to require temporary reduction in the total use within the area to protect water resources from serious harm.~~
- (j) ~~Well shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, acquisition, development or artificial recharge of groundwater or removal of water from beneath the ground. The term well does not include sandpoint wells or any wells for the purpose of obtaining or prospecting for oil, natural gas, minerals or products of mining or quarrying or the inserting of media to dispose of oil brinds or to repressure an oil or natural gas bearing formation or~~

~~for storing petroleum, natural gas or other products.]]~~

>>(10) When an approved public water main has been made available and operative in any portion of the public right-of-way or easement abutting the property, the use of any on site domestic well system shall cease and connection shall be made to a public water main within ninety (90) days from the date that the Director or the Director's designee determines that the approved public water main is made available and operative. Thereafter, the use of the on-site well for domestic use shall be abandoned and the source of potable water for the residence or building shall be from the approved public water main.

Available, when used in Section 24-43.2 (10) shall mean the following:

- (a) Single Family Residence and Duplex: A public water main shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property, but not on the opposite side of a roadway divided by a raised median or on the opposite side of a roadway which has four (4) lanes or more.
- (b) For all other uses: A public water main shall be considered available if it is located within any portion of any public right-of-way or easement abutting the property.

(11) Definitions.

Director shall mean the Director of the Department of Environmental Resources Management with powers as provided by Section 24-7 of the Code.

Domestic use shall mean any use of water for individual personal needs or for household purposes such as drinking, bathing, eating, cooking or sanitation.

Emergency shall mean that situation where the public health, safety or welfare or the health of animals, fish or aquatic life or of a public water supply or recreational, commercial, industrial, agricultural or other reasonable use of water is immediately in danger or threatened by an insufficient supply, restricted source, deleterious quality or other conditions of the water within the County.

Groundwater shall mean water beneath the surface of the ground whether or not flowing through known and definite channels.

Person shall mean any and all persons including but not limited to any individual, firm, association, organization, partnership, business trust, corporation, company, United States of America, the State of Florida and all the municipalities and public agencies thereof located within Miami-Dade County.

Reasonable-beneficial use shall mean the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

Surface water shall mean water upon the surface of the earth whether contained in bounds created naturally or artificially or diffused. Water from a natural spring or well shall be classified as surface water when it exits from the spring or well onto the earth's surface.

Water or waters of the County shall mean any and all waters on or beneath the surface of the ground including natural or artificial water courses, lakes, ponds or diffused surface water and water percolating, standing or flowing beneath the surface of the ground as well as all coastal waters in the geographic boundaries of Miami-Dade County, Florida.

Water shortage shall mean that situation within all or part of Miami-Dade County, Florida wherein insufficient water is available to meet the requirements of the permit system or where the conditions are such as to require temporary reduction in the total use within the area to protect water resources from serious harm.

Well shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, acquisition, development or artificial recharge of groundwater or removal of water from beneath the ground. The term well does not include sandpoint wells or any wells for the purpose of obtaining or prospecting for oil, natural gas, minerals or products of mining or quarrying or the inserting of media to dispose of oil brinds or to repressure an oil or natural gas-bearing formation or for storing petroleum, natural gas or other products.<<

Section 3. Section 24-43.3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-43.3. Potable water standards.

- (1) GENERAL PROHIBITIONS. It shall be unlawful for any person, firm, corporation, private or public utility, to cause, permit or otherwise allow any potable water supply to breach the values set forth in Section 24-43.3(2).
- (2) POTABLE WATER STANDARDS FOR MIAMI-DADE COUNTY.
 - (a) Bacteriological quality; sampling. Compliance with the bacteriological requirements of these standards shall be based on examinations of samples collected at representative points throughout the distribution system. The frequency of sampling and the location of sampling points shall be established by the Director or the Director's designee after investigation of the source, method of treatment, and protection of the water concerned. In no event shall the frequency be less than as set forth below:

* * *

~~[[(q) — When an approved public water main is made available and operative in a public right of way or easement abutting the property, any existing individual potable water supply system, device, or equipment shall, within ninety (90) days, be abandoned and the source of potable water for the residence or building shall be from the approved public water supply main.]]~~

* * *

Section 4. 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 5. 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 6. 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:



Thomas H. Robertson