

MEMORANDUM

GOC
Agenda Item No. 2B

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: December 12, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to environmental protection; amending sections 24-44 and 8CC-10 of the Code; requiring the posting of notice of contamination on property where any person resides or on vacant property; requiring certain information to be included in the posted notice; requiring laboratory results and other information to be provided to the County; providing for enforcement by civil penalty; providing for delayed enforcement

This substitute differs from the original version in that it applies the notice requirements to vacant properties and adds a Florida Department of Environmental Protection guideline as an additional basis for determining whether a property has contamination.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.



Abigail Price-Williams
County Attorney

for

APW/smm

Memorandum



Date:

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name in the "From:" field.

Subject: Fiscal Impact Statement for Ordinance Requiring Posting of Notice of Environmental Contamination

The proposed ordinance amends sections 22-44 and 8CC-10 of the Code of Miami-Dade County (Code) requiring that a notice of environmental contamination be posted on a property where any person resides or on any vacant property. Amendments also delineate the standards for such notice and set the requirement that certain information by parties responsible for the Site Rehabilitation Actions be submitted to the County. Furthermore, Section 8CC of the Code is amended to incorporate civil penalties for failure to post a notice, submit laboratory results and other violations of the new provisions.

Although the responsibility for issuing and meeting the standards of the notice falls on the party (ies) responsible for site rehabilitation, County staff is responsible for providing access to information on any requested public record, including records pertaining to the subject notices, as well as enforcing the provisions of the proposed ordinance. Implementation of this ordinance is not anticipated to create a fiscal impact to Miami-Dade County, as it will not result in additional staffing needs.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

Fis05717 171854

Memorandum



Date:

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is fluid and cursive, written over the printed name.

Subject: Social Equity Statement for Ordinance Requiring Posting of Notice of Environmental Contamination

The proposed ordinance establishes the requirement for a notice of environmental contamination by the party or parties responsible for site rehabilitation action pursuant to the rehabilitation requirements of Section 24-44(2) of the Miami-Dade County Code (Code) on property where any person resides on vacant property. This section of the Code will not apply to parties responsible for site rehabilitation strictly under the purview of Chapter 62-780 of the Florida Administrative Code (brownfields, petroleum sites, and drycleaners). The proposed ordinance sets the standards for the required notice, such as visibility, size, and information on the contaminants that are present in excess of allowable amounts, contact information for the party responsible for site rehabilitation, and County contact information regarding access to the public records on the property. Furthermore, the proposed ordinance also requires the party or parties responsible for site rehabilitation to submit to the County a copy of the notice, laboratory results, and a site sketch with the sampling locations confirming contamination. Lastly, the proposed ordinance amends Section 8CC of the Code to establish civil penalties for failure to post a notice, provide laboratory results and other violations of the new provisions.

The proposed ordinance will require that when contamination, subject to the requirements of Section 24-44(2), is discovered on property where any person resides, or on vacant property, the party or parties responsible for site rehabilitation post a notice on the subject site and notify the County. Currently, there are no requirements for such party or parties to post a notice or notify the County. When the Division of Environmental Resources Management in the Department of Regulatory and Economic Resources is made aware of contamination at a site, and the contamination poses a human health risk, the Division of Environmental Resources Management requires interim engineering controls to prevent the public's exposure to the contamination. Implementation of the proposed ordinance will benefit residents by increasing their awareness of the contamination and its location to further prevent the potential for contamination exposure. The cost of non-compliance will be borne by the party or parties responsible for site rehabilitation.

A handwritten signature in black ink, appearing to read "Jack Osterholt". The signature is fluid and cursive, written over a horizontal line.

Jack Osterholt
Deputy Mayor

171854

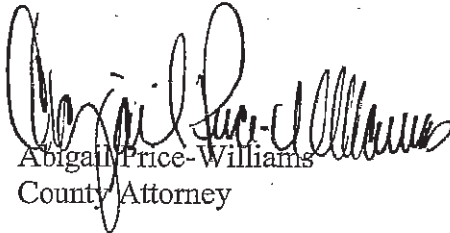


MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: July 18, 2017

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Substitute
Agenda Item No. 4(B)

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**
- Statement of social equity 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
Veto _____
Override _____

Substitute
Agenda Item No. 4(B)
7-18-17

ORDINANCE NO. _____

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 24-44 AND 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING THE POSTING OF NOTICE OF CONTAMINATION ON PROPERTY WHERE ANY PERSON RESIDES OR ON VACANT PROPERTY; REQUIRING CERTAIN INFORMATION TO BE INCLUDED IN THE POSTED NOTICE; REQUIRING LABORATORY RESULTS AND OTHER INFORMATION TO BE PROVIDED TO THE COUNTY; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING FOR DELAYED ENFORCEMENT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, information about environmental contamination should be readily accessible to residents of Miami-Dade County, to enable them to make informed decisions about their actions, and to avoid the contamination to the greatest extent possible; and

WHEREAS, currently, the County requires that notice about contamination be provided only in certain limited situations, and, therefore, many residents may be unaware that contaminants are present on the property where they reside >>or in the surrounding area<<¹ and

WHEREAS, this Board wishes to require greater notification of contamination to County residents; and

¹ The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

WHEREAS, the notice obligations in this ordinance shall apply to all parties responsible for site rehabilitation actions, which is defined in Section 24-44(2)(d) to be “the discharger or, if the discharger is unknown or the contamination was the result of a previously unreported discharge, the property owner or operator who is subject to the provisions of Section 24-44(2)”;
and

WHEREAS, this ordinance would require the posting of clear, written notice of contamination on properties where any person resides >>or on vacant property<<, under certain circumstances, so that residents may be better informed of potential risks,

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

Section 1. Section 24-44 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:²

Sec. 24-44. – Clean-up Target Levels (CTLs) and Procedures for Site Rehabilitation Actions (SRAs).

* * *

(2) CLEAN-UP TARGET LEVELS (CTLs) AND PROCEDURES FOR SITES OR CONTAMINANTS OTHER THAN THOSE IDENTIFIED IN SECTION 24-44(1)

(a) Intent. To protect human health, public safety, and environmental resources using risk-based corrective action strategies and to establish the point at which a site rehabilitation action is determined to be accomplished.

² 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.

6

* * *

- (j) Point of compliance, notification, source removal, and assessment procedures shall be as follows:

* * *

>>(v) Notice of contamination on property where any person resides<< >>or on vacant property<< >>. When soil, groundwater, surface water, or sediment contaminant levels on property where any person resides exceed (i) CTLs<< >> << ~~or~~>> >>(ii) background concentrations determined in a background concentration study that has been approved by the Director or the Director's designee,<< >>or (iii) Threshold Effects Levels published in the Florida Department of Environmental Protection's guideline "Approach to the Assessment of Sediment Quality in Florida Coastal Waters" (dated November 1994),<< >>the party or parties responsible for SRAs must ensure that a notice of contamination is continuously and conspicuously posted on the property and provided to the Department.

- (1) The posted notice of contamination shall:

- a. Be clearly visible, easily readable, and immediately apparent upon viewing;
- b. Be at least 8½ inches x 11 inches in size and shall use a minimum font size of 12;
- c. Indicate that contaminants in excess of CTLs or applicable background concentrations are present on the property in the soil, groundwater, surface water, and/or sediments;

- d. Provide the contact information of a representative of the party or parties responsible for SRAs who can provide additional information about the contamination;
- e. Provide the contact information for the Department, including the website address for online environmental records that are maintained by the Department; and
- f. Provide the folio number for the property.
- g. Be posted as soon as possible.

(2) Within 10 days of the notice of contamination being posted on the property, the party or parties responsible for SRAs shall send to the Department:

- a. a copy of the notice;
- b. laboratory analytical results that comply with appropriate quality assurance protocols pursuant to Chapter 62-160, F.A.C.; and
- c. a site sketch drawn to scale that indicates the locations where the samples that resulted in the confirmation of contamination were obtained.

(3) The Director or the Director's designee may require such additional documentation related to the contamination or the notice be provided to the Department as the Director or Director's designee determines to be necessary.

- (4) The Director or the Director's designee may impose additional requirements to ensure that the notice of contamination serves its informational purposes, including, without limitation, requiring the notice to be posted in multiple locations on a property and requiring revisions to the notice to ensure that the required information is clearly conveyed.
- (5) The posting of a notice of contamination is not required for properties where the Director or the Director's designee has approved a site closure in the form of a "no further action" or a "no further action with conditions," or in circumstances determined by the Director or the Director's designee to be similar to such a site closure.
- (6) In addition to the posting requirements and any other requirements of this chapter, whenever a party or parties responsible for SRAs receives or has knowledge of laboratory analytical results that comply with appropriate quality assurance protocols pursuant to Chapter 62-160, F.A.C. and that indicate exceedances of CTLs or background concentrations, the party or parties responsible for SRAs shall submit such laboratory analytical results to the Department forthwith. This requirement shall not be construed to limit any party's obligations or liability under this chapter, including section 24-31.<<

The summary and conclusions of the approved site assessment report shall propose one of the following: no further action, no further action with conditions, monitoring only, risk assessment, or a remedial action plan.

* * *

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
	* * *	
>>24-44(2)(j)(v)	<u>Failure to post notice of contaminated site</u>	<u>500.00</u>
	<u>Failure to provide Department with laboratory results</u>	<u>500.00</u>
	<u>Other violations of subsection 24-44(2)(j)(v)</u>	<u>500.00<<</u>
	* * *	

* * *

Section 3. The requirements created in this ordinance related to posting notification of contamination ~~[[on properties where any person resides]]~~ shall not be enforced for a period of 60 days after the effective date of this ordinance.

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 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:

Richard D. Schevis
Abbie Schwaderer-Raurell

Prime Sponsor: Vice Chairwoman Audrey M. Edmonson

GBK
IDS