

MEMORANDUM

Agenda Item No. 7(H)

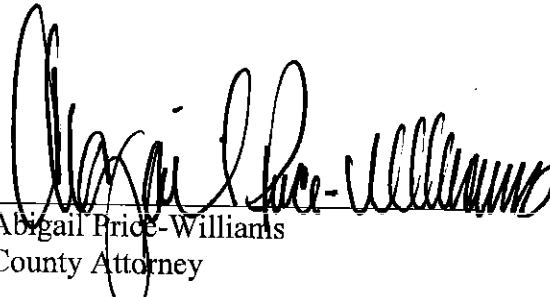
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: (Second Reading 2-19-20)
December 3, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to
environmental protection;
amending sections 24-15 and
24-25 of the Code; providing
plan approval requirements for
aboveground storage facilities
consistent with state rules and
regulations; adopting and
incorporating by reference
Chapter 62-762, Florida
Administrative Code, as may
be amended, relating to the
regulation of aboveground
storage facilities

The accompanying ordinance was prepared by the Regulatory and Economic Development Department and placed on the agenda at the request of Prime Sponsor Infrastructure and Capital Improvement Committee.


Abigail Price-Williams
County Attorney

APW/cp

Memorandum



Date: February 19, 2020

To: Honorable Chairwoman Audrey M. Edmonson
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: Ordinance Amending Sections 24-15 and 24-25 of the Code of Miami-Dade County, Providing Plan Approval Requirements for Aboveground Storage Tank Systems Consistent with State Rules and Regulations; Adopting Chapter 62-762, Florida Administrative Code, Relating to the Regulation of Aboveground Storage Tank Systems

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance amending Sections 24-15 and 24-25 of the Code of Miami-Dade County (Code), providing plan approval requirements for aboveground storage tank systems consistent with state rules and regulations and adopting Chapter 62-762, Florida Administrative Code, relating to the regulation of aboveground storage tank systems.

Scope

This ordinance involves environmental regulation throughout Miami-Dade County.

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). On December 5, 2017, the Board approved Resolution No. R-1181-17, ratifying the execution of Florida Department of Environmental Protection (FDEP) Contract No. GC911 (Contract), which compensates the County for the costs associated with implementation of Storage Tank System Compliance Verification Program activities performed pursuant to the Contract.

Track Record/Monitor

The Pollution Regulation Chief in the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM), Bernardo Bieler, P.E., will be responsible for monitoring this ordinance.

Social Equity

This ordinance is not anticipated to have a specific social equity benefit or burden as described under Ordinance No. 15-83. This ordinance will adopt Chapter 62-762 of the Florida Administrative Code to codify the regulation of aboveground storage tank systems as required under the Contract between the County and FDEP.

Background

The FDEP is the lead agency in the State of Florida for enacting regulations and adopting rules for the storage and operation of regulated substances contained in underground storage tank and aboveground storage tank systems. There are approximately 4,500 regulated storage tank systems within Miami-Dade County, which include approximately 2,400 underground storage tank systems and 2,100 aboveground storage tank systems. The regulation of these systems helps to provide critical protection of the County's groundwater by minimizing the occurrence and environmental risks associated with releases and discharges.

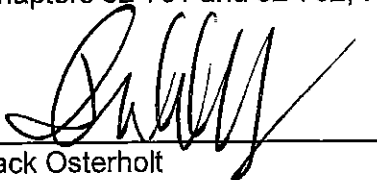
The regulations that govern underground and aboveground storage tank systems currently lie within Chapters 62-761 and 62-762, Florida Administrative Code (F.A.C.), respectively. Prior to June 21, 2004, the regulations for both systems were combined under one chapter, formerly Chapter 17-761, F.A.C., and amended to be titled Chapter 62-761, F.A.C. (Rule), and the County had adopted the former Chapter 17-761 and amended Chapter 62-761 regulations at that time.

On June 21, 2004, the Rule was further amended to separate the regulatory requirements for underground and aboveground storage tank systems. Regulations pertaining to underground storage tank systems remained in Chapter 62-761, F.A.C., and Chapter 62-762, F.A.C., was created to contain the regulations for aboveground storage tank systems. At the time that the Rule was amended to separate the regulations for underground storage tank and aboveground storage tank systems, the corresponding amendment to Chapter 24 was never made to adopt the Chapter 62-762, F.A.C., portion of the regulations pertaining to aboveground storage tank systems. However, the affected facilities were still required to comply with the provisions of Chapter 62-762, F.A.C. This ordinance will simply adopt Chapter 62-762, F.A.C., by reference in Section 24-25 of the Code.

Since 1987, DERM has performed Storage Tank System Compliance Verification Program activities within the geographical boundaries of Miami-Dade County under contractual agreements with the FDEP. The current Contract Number GC911 between FDEP and the County was executed then ratified by the Board in 2017, will be in effect for 10 years, and requires the County to have and maintain provisions adopting both Chapters 62-761 and 62-762, F.A.C., during the term of the Contract. Failure to maintain such requirements in the County Code may result in the unilateral termination of the Contract by FDEP.

This ordinance also amends Section 24-15 of the Code to require that the review and approval of plans submitted to DERM for the installation, repair, modification, expansion, replacement or permitting of an aboveground storage tank system shall be consistent with the regulations contained in Chapter 62-762, F.A.C. The provisions for plan reviews conducted in accordance with the regulations contained in Chapter 62-761, F.A.C., for underground storage tank systems, are already contained in Section 24-15 of the Code.

This ordinance will allow DERM to continue performing Storage Tank System Compliance Verification Program activities under the Contract in accordance with the provisions contained in Chapters 62-761 and 62-762, F.A.C.



Jack Osterholt
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(H)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- _____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(H)
2-19-20

ORDINANCE NO. _____

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 24-15 AND 24-25 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING PLAN APPROVAL REQUIREMENTS FOR ABOVEGROUND STORAGE FACILITIES CONSISTENT WITH STATE RULES AND REGULATIONS; ADOPTING AND INCORPORATING BY REFERENCE CHAPTER 62-762, FLORIDA ADMINISTRATIVE CODE, AS MAY BE AMENDED, RELATING TO THE REGULATION OF ABOVEGROUND STORAGE FACILITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. Section 24-15 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 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 dates delineated in Section 24-4 shall comply with the requirements herein contained, and that any 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.

* * *

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.

- (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 or the Director's designee. No building permit shall be issued by the County or any municipality unless the application therefor or the plans for construction of the proposed aboveground storage facility show the approval of the Director 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 aboveground storage facilities specified in said plans shall be constructed in compliance with the requirements of this chapter, chapter 62-762 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 aboveground storage facility shall notify the Department a minimum of two working days prior to the commencement of installation, repair, modification, expansion or replacement of any aboveground 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.<<
- (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 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 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 2. Section 24-25 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 24-25. Violations of rules and regulations of the State of Florida Department of Environmental Protection, Florida Department of Health, and the United States Environmental Protection Agency.

- (1) All of the following rules and regulations are hereby adopted and are incorporated herein by reference hereto as same may be amended from time to time:
 - (a) Chapter 62-160 of the Florida Administrative Code
 - (b) Chapter 62-550 of the Florida Administrative Code
 - (c) Chapter 62-713 of the Florida Administrative Code
 - (d) Chapter 62-761 of the Florida Administrative Code
 - (e) >>Chapter 62-762 of the Florida Administrative Code
 - (f)<< Chapter 62-770 of the Florida Administrative Code
 - >>(g)<<[[(\$)] Chapter 62-777 of the Florida Administrative Code

>>(h)<<[[(g)]] Chapter 62-782 of the Florida
Administrative Code

>>(i)<<[[(h)]] Chapter 62-785 of the Florida
Administrative Code

>>(j)<<[[(+)] Chapter 64E-6 of the Florida Administrative
Code

>>(k)<<[[(+)] Chapter 64E-8 of the Florida Administrative
Code

* * *

Section 3. 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 4. 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 5. 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:

Abbie Schwaderer-Raurell

APW
ASR