

ORDINANCE

NUMBER 89-37

AN ORDINANCE REPEALING SECTIONS 3-5-111, 3-5-112, 3-5-113, 3-5-114, 3-5-115, 3-5-116, 3-5-131, 3-5-132, 3-5-133, 3-5-134, 3-5-135, 3-5-136, 3-5-137, CHARLOTTE COUNTY CODE; ESTABLISHING CHARLOTTE COUNTY STORMWATER MANAGEMENT ORDINANCE RELATING TO STORMWATER MANAGEMENT AND CONSERVATION, FLOOD PLAIN MANAGEMENT AND WETLAND PRESERVATION; REQUIRING STORMWATER PLAN APPROVAL AS A PRE-REQUISITE TO COMMENCEMENT OF ANY DEVELOPMENT ACTIVITY; DELINEATING THE CONTENT AND PERFORMANCE STANDARDS REQUIRED OF STORMWATER PLANS; SETTING FORTH DESIGN STANDARDS FOR STORMWATER PLANS; PROVIDING PROCEDURES AND PROVIDING A PENALTY.

Section 1. SHORT TITLE. This Ordinance shall be known and may be cited as the Charlotte County Stormwater Management Ordinance.

Section 2. FINDINGS. The Board of County Commissioners of Charlotte County, Florida, find it necessary in the interest of the public health, safety and welfare to control the following activities because of their adverse impacts upon the environment of the County:

- A. Increases of surface water runoff which have the potential of carrying pollutants into receiving water bodies, thereby degrading water quality and increasing the incidence and level of flooding upstream of tidal areas.
- B. Improper channeling of water which may increase the velocity of runoff, thereby causing erosion;
- C. The alteration of natural topography and/or removal of vegetation which may increase the possibility of erosion;
- D. Activities resulting in siltation of water bodies causing erosion which decreases their capacity to hold and transport water, and interfering with navigation.
- E. The construction of impervious surfaces which increases the quantity and velocity of surface runoff allowing less water to percolate into the soil and decreasing the recharge of ground waters;
- F. Uncontrolled surface water runoff which interferes with the maintenance of a salinity range in estuarine areas;

- G. Construction in the non-tidal flood plains which may decrease the functions of the flood plain in storing and conveying excess water;
- H. Destruction of wetlands which serve a valuable function in the ecosystem dynamics as well as flood attenuation and water quality enhancement;
- I. Destruction of certain isolated wetlands having significant biological value which are within current federal and state environmental protection jurisdiction.

Section 3. DECLARATION OF INTENT AND PURPOSE. In order to protect, maintain and enhance both the immediate and the long term health, safety, and general welfare of the citizens of Charlotte County, Florida, this Ordinance has the following objectives:

- A. To protect, restore, and maintain the hydrological, chemical, physical, and biological integrity of receiving waters;
- B. To encourage the design and construction of stormwater systems which approximate the function of the natural systems and which can be operated and maintained in an efficient and economical manner;
- C. To minimize the transport of pollutants to receiving waters;
- D. To maintain acceptable ground water levels;
- E. To maintain a range of salinity in estuarine areas;
- F. To minimize erosion and sedimentation;
- G. To prevent damage from flooding, while recognizing that natural fluctuations in water levels are beneficial;
- H. To regulate development in flood plains consistent with the functions of the flood plain;
- I. To streamline the review and permitting process while providing the County with sufficient information to regulate stormwater management;
- J. To protect isolated wetlands having significant biological value and which are within federal or state environmental protection jurisdiction;

Section 4. RELATIONSHIP TO THE COMPREHENSIVE PLAN. This Ordinance implements the following goals, objectives, and policies of the Charlotte County Comprehensive Plan:

DRAINAGE ELEMENT

Policy 3.3.2
Goal 4.0
Policy 4.3.2
Policy 4.4.1

CONSERVATION ELEMENT

Policy 2.1
Policy 2.2
Policy 7.1

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida.

Section 5. DEFINITITONS. As used herein, the following words shall have the following meanings:

- A. Attenuation - reduction of stormwater flow rate from developed intensity to pre-developed intensity.
- B. County Engineer - means the person so designated by the Board of County Commissioners and his duly authorized designees.
- C. Detention - refers to the collection and storage of surface water for subsequent controlled discharge.
- D. Development - the construction or installation of a structure or impervious surface, or the alteration of a drainage facility.
- E. Developer - means any person who engages in development or development activity either in his own behalf or as the agent of an owner of the property.
- F. Discharge or Discharge Point - means the point of outflow of water from a project site.
- G. Engineer of Record - is a professional Engineer registered in Florida, who is competent in the fields of hydrology and stormwater management control. The Engineer of Record is also any other professional Engineer designated by the original Engineer as his representative or, if the original Engineer is unavailable, designated by the owner/applicant.
- H. Erosion - is the weathering away of soil by the action of wind or water.

- I. Existing - means the average condition prior to any physical alteration of the site related to proposed development.
- J. Flood - is a temporary rise in the level of any water body or watercourse, which results in the inundation of areas not ordinarily covered by water.
- K. Ground Water - means water beneath the surface of the ground.
- L. Impervious Surface - means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. The term includes water bodies, streets, roofs, sidewalks, parking lots, and similar structure.
- M. Maintenance - means that action taken to restore or preserve the functional intent of any facility or system.
- N. Natural Systems - mean systems which predominately consist of or use those communities of plants and animals, which naturally occur on the land, in the soil or in the water.
- O. Owner - is the person in whom is vested the fee ownership, dominion, or title of property. This term may also include a tenant, if, under his lease, he is responsible for the maintenance of the property.
- P. Person - means any individual, governmental agency or entity.
- Q. Percolation - downward flow or infiltration of water through the pores or spaces of rock or soil.
- R. Permeability - the ease with which air, water or other fluids can move through soil or rock.
- S. Retention - refers to the collection and storage of runoff without subsequent surface discharge.
- T. Sediment - is solid material that is in suspension or has settled.
- U. Sedimentation Facility - means any structure or area which is designed to hold runoff water until suspended sediments have settled.
- V. Site - means any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.

- W. Stormwater Facility - means the whole or any part of the stormwater system.
- X. Stormwater System - is the system used for the management and conveyance of stormwater to the discharge point.
- Y. Structure - means anything constructed, erected, installed, or portable, the use of which requires a location on a parcel of land.
- Z. Swale - means a natural or man made drainage conveyance feature, which has a top width to depth ration equal to or greater than 8:1 or side slopes of equal to or greater than 4 feet horizontal to 1 foot vertical.
- AA. Treated stormwater discharge - Ch. 17-25 F.A.C.
- BB. Vegetation - means all plant growth, especially trees, shrubs, vines, ferns, mosses, and grasses.
- CC. Water -- includes any and all water on or beneath the surface of the ground. It includes the water in any watercourse, water body, or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters.
- DD. Watercourse - means any natural or artificial steam, creek, channel, ditch, canal, waterway, gully, ravine or wash in which water flows in a definite direction which has a definite channel, bed or banks.
- EE. Water Body - means any natural or artificial pond, lake, reservoir, or other area which ordinarily contains water and which has a discernible shoreline.
- FF. Wetland - an area consisting of plant species and soil types using vegetative index rule as defined in Ch. 17-4.022 F.A.C. by the Warren Henderson Wetlands Act and exceeds 1/2 acre.
- GG. Treated Stormwater Discharge - that runoff which has been managed in accordance with Chapter 17-25 F.A.C. as delegated to the water management districts.

Section 6. APPLICABILITY

- A. Any development not specifically exempted by Section 7 of this Ordinance.

Section 7. EXEMPTIONS. Exempt from this Ordinance are the following:

- A. One residential structure, on an individual site, used for housing.
- B. One duplex structure, on an individual site, used for housing.
- C. One tri-plex structure, on an individual site, used for housing.
- D. Storage building, sheds, swimming pools, and other accessory structures constructed on A, B and C above.
- E. Model home used for model home or single family housing. Additional temporary parking spaces may be installed provided a bond is posted and "Letter of Intent" given to insure removal when model home usage changes.
- F. Fences.
- G. Any proposal for a development activity causing insignificant impact upon the stormwater facility, as determined by the County Engineer.
- H. Agricultural related activities which cause insignificant hydrological impacts, as determined by the County Engineer.

Section 8. SPECIAL CASES.

- A. Any development located within a subdivision or other area that has a County approved master stormwater system is only subject to review for compliance with parameters of the approved master Stormwater Management Plan.
- B. For projects less than 10 acres in size or having less than 2 acres of impervious area, the design criteria shall be in accordance with Section 10.
- C. As an alternative to review of a stormwater plan by the County Engineer, the applicant may submit an approved surface water management permit from either SWFWMD (Chapters 40D-4 and 40D-40, F.A.C.) or SFWMD (Chapters 40E-4 and 40E-40, F.A.C.) and the plans and conditions of said permit will be issued as a permit under this ordinance subject to compliance and enforcement of this ordinance. This alternative does not allow the applicant to commence a regulated activity without approval of the County Engineer.

Section 9. STORMWATER PLAN. It shall be unlawful to engage in any development activity prior to obtaining approval of a stormwater plan by the County Engineer in accordance with the provisions hereof.

Section 10. MINIMUM DESIGN STANDARDS FOR STORMWATER PLANS.

- A. The design for the stormwater management facility shall be consistent with the requirements of the SWFWMD and furthermore shall include hydrologic analysis acceptable to the County Engineer. Design of control structures shall be based on a twenty-five (25) year twenty-four (24) hour event. Design of facilities upstream of control structures shall be designed in accordance with 5-year, 24-hour event.
- B. All stormwater calculations, reports, and plans shall be signed and sealed by a Florida Registered Professional Engineer.
- C. Stormwater pond slopes above actual water surface and swales shall be stabilized.
- D. Temporary detention of stormwater runoff in parking lots shall not exceed nine inches (9") in depth.
- E. Construction of private stormwater storage facilities are prohibited in public rights-of-way and/or easements.
- F. Artificial watercourses shall be designed, considering soil type to prevent erosion.
- G. Stormwater outfalls should discharge into a County approved drainage system. Whenever the discharge structure/outfall pipe does not abut a County/State or similar facility, the applicant shall submit documentation demonstrating legal rights to convey discharge across private property.
- H. Use of grading contour lines are encouraged.

Section 11. PERFORMANCE STANDARDS FOR STORMWATER PLAN. To ensure attainment of the objectives of this Ordinance and that performance standards will be met, the design, construction, and maintenance of stormwater systems shall be consistent with at least the following standards:

- A. Channeling untreated runoff directly into off-site water bodies is prohibited;
- B. Discharge of runoff from detention ponds shall not exceed the calculated pre-development rate, or rate determined by a basin study, whichever is less, as determined by the County Engineer;
- C. The banks of detention and retention areas shall be stabilized and maintained to the approved design;
- D. Vegetated areas shall be created, or where practicable, retained in their natural state along with the banks of all watercourses, water bodies, or

wetlands. The width of these areas shall be sufficient to prevent erosion, trap the sediment or overload runoff, provide access to the water body and allow for periodic flooding without damage to structures;

- E. Intermittent watercourses such as swales and ditches shall be vegetated;
- F. The use of the stormwater facilities and vegetated buffer zones as open space, recreation and conservation areas shall be encouraged; and wetlands, lakes, and other natural water bodies shall not be used as primary sediment traps;
- G. Those areas, which are not to be disturbed, shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected.
- H. Control of erosion by sedimentation facilities shall be established prior to development and receive regular maintenance to ensure that they continue to function properly;
- I. Disturbed areas shall be re-vegetated, stabilized and protected from erosion as soon as possible;
- J. Design to resist saltwater intrusion by adhering to applicable best management practices;
- K. Stormwater facilities are required to be maintained to design parameters;

Section 12. CONTENTS OF THE STORMWATER PLAN. All stormwater plans must be signed and sealed by a Florida Professional Engineer. These plans will present, at the minimum:

- A. The existing hydrological conditions of the site and of receiving water shall be described where appropriate, including the following:
 - 1. The direction, flow rate, and volume of flow of surface water runoff under pre-development conditions.
 - 2. The location of areas on the site where surface waters collect.
 - 3. A description of all watercourses, wetlands, and water bodies on or adjacent to the site.
 - 4. Groundwater levels including seasonal fluctuations, using U.S. Soil Conservation Service (SCS) methodology or other appropriate means. (Give elevations based on National Geodetic Vertical Data (NGVD) wherever possible.

5. A map and description of the 100-year flood plain.
 6. Plans shall be at a scale acceptable to the County Engineer.
 7. Elevations in flood plains shall be NGVD.
 8. A current boundary description is required as prepared by a Professional Land Surveyor.
 9. A site plan is required showing any easements of record.
 10. The Engineer of Record shall provide a soil percolation rate and an estimated wet season groundwater elevation and shall describe the methodology used, determining each and shall be consistent with the application submittal.
 11. Provide a topographic survey, which is needed to accommodate review of stormwater management facilities.
 12. Dimensions used in stormwater computation shall be shown on plans.
 13. Other information and data may be required by the County Engineer.
- B. All components of the stormwater system and measures for the detention, retention or infiltration of water and control structures shall be described where appropriate, including:
1. The channel, direction, flow rate, and volume of surface water that will be conveyed from the site, with a comparison of pre-development conditions;
 2. Detention and retention areas, including plans for discharge of contained water;
 3. A plan for the control of erosion and sedimentation which specifies the type and location of control measures, the stage of development at which they will be put into place or used and provisions for the maintenance of them.
 4. Any other information which the Engineer of Record and the County Engineer consider necessary for an evaluation of a proposed development.

- C. The County Engineer, after reviewing the stormwater plan, may require additional information to evaluate the plan on its impact on water resources and/or maintenance of the stormwater system.
- D. Certificate of substantial compliance with the plan signed and sealed by Professional Engineer.

Section 13. PERMIT APPLICATION REVIEW

- A. All applications for stormwater approval shall be filed in the office of the County Engineer which office shall note thereon the date of filing. If the County Engineer determines that the stormwater plan complies with this Ordinance, the Engineer shall approve the stormwater plan by noting on the face of the stormwater plan his approval, the date of his approval and his signature. If, however, the County Engineer determines that the stormwater plan does not comply with this Ordinance, he shall note on the face of the stormwater plan the reasons therefore, the date of such determination and his signature.
- B. The County Engineer shall act on the application within thirty (30) calendar days from the date of filing. Except, however, if the County Engineer requests more information from the applicant, the thirty (30) calendar days shall not begin to run until such date as the information is received from the applicant by the County Engineer.
- C. APPROVAL REQUIRED. Except for development activity on any single family lot associated with the allowed use of said lot). It shall be unlawful to engage in any development (activity) specified in Section 6 or present a plat for recording prior to obtaining approval of a (stormwater) construction plan by the County Engineer in accordance (with the provisions hereof) with appropriate regulations and fees.
- D. After the County Engineer shall have determined whether or not the proposed stormwater plan complies with this Ordinance, he shall provide due written notice to the applicant that he intends to issue or deny the stormwater permit. The decision of the County Engineer will become final unless a Notice of Appeal to the Board of County Commissioners is filed within fifteen (15) days after entry of the Notice of Intent and receipt thereof by the applicant.
- E. If stormwater approval is not obtained within one year of initial submission, or extension requested by the Engineer of Record, the applicant must initiate a new application.

Section 14. APPEAL. The applicant may appeal the decision of the County Engineer. Upon the filing of a Notice of Appeal, the County Engineer promptly shall

provide notice of the date, time and place of the hearing before the Board of County Commissioners. Notice will be published at least thirty (30) days prior to the hearing, and the hearing will be held within forty-five (45) days of the filing of the Notice of Appeal.

Section 15. VARIANCE.

- A. Any owner, agent, leasee or occupant of land may apply in writing to the Board of County Commissioners for a variance from the requirements or restrictions of this Ordinance. Applications shall be submitted through the County Engineer, stating the specific grounds and the relief requested.
- B. The Board of County Commissioners may grant variances from the terms of this Ordinance which will not significantly impair attainment of the Ordinance objectives.

Section 16. ENFORCEMENT. It shall be the responsibility of Charlotte County Engineering to monitor those stormwater management controls specified within this Ordinance. A Stop Work Order may be issued by the County Engineer when determined that a sufficient violation has occurred.

Section 17. PENALTIES. Violations of this Ordinance shall be punishable as provided by general law.

Section 18. SEVERABILITY

- A. In the event this Ordinance conflicts with other applicable law, the more restrictive shall apply. Repeals Section 3-5-111 thru 3-5-116 and 3-5-131 thru 3-5-137 of Charlotte County Code.
- B. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion.

Section 19. EFFECTIVE DATE - This Ordinance shall take effect upon receipt of acknowledgement of its filing in the office of the Secretary of State, State of Florida.

PASSED AND DULY adopted this 31st day of May, 1989.

(EFFECTIVE DATE JUNE 29, 1989)