

ORDINANCE 02-27

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA RELATING TO THE CREATION OF WATER QUALITY STANDARDS AND MANAGEMENT PRACTICES; PROVIDING A SHORT TITLE; PROVIDING A PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR ADMINISTRATION AND ROLE OF THE DEPARTMENT; PROVIDING PROHIBITIONS; PROVIDING REPORTING REQUIREMENTS; PROVIDING FOR SITE REMEDIATION AND MONITORING; PROVIDING GENERAL REQUIREMENTS; PROVIDING STORMWATER MANAGEMENT SYSTEMS REQUIREMENTS; PROVIDING EROSION AND SEDIMENTATION CONTROL REQUIREMENTS; PROVIDING GROUNDWATER PROTECTION REQUIREMENTS; PROVIDING EXCAVATION AND FILLING REQUIREMENTS; PROVIDING FOR REIMBURSABLE COSTS; PROVIDING FOR ENFORCEMENT AND REMEDIES; PROVIDING FOR USE OF AWARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, authorizes the Board of County Commissioners of Alachua County, Florida, to provide standards which will ensure its citizens' health, safety and welfare; and

WHEREAS, the Board of County Commissioners of Alachua County, Florida, recognizes that the health, safety, and welfare of its citizens will be better served by implementing a Water Quality Ordinance;

WHEREAS, the Board of County Commissioners of Alachua County, Florida recognizes that the most effective way to implement a Water Quality Ordinance is through both an educational and regulatory program;

WHEREAS, the Board of County Commissioners finds it necessary and appropriate to adopt this ordinance in effort to comply with new requirements imposed on local governments pursuant to the United States Environmental Protection Agency's National Pollutant Discharge Elimination System program, including the Storm Water Phase II Final Rule requiring Illicit Discharge Detection and Elimination Minimum Control Measures, and Florida Department of Environmental Protection Rule Chapter 62-624, Florida Administrative Code;

WHEREAS, through the approval of the Alachua County Charter Amendment 1,

on November 7, 2000, the voters of Alachua County, Florida elected to give the Board of County Commissioners of Alachua County, Florida the authority to establish countywide standards for protecting the environment by prohibiting or regulating air or water pollution;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA;

Section 1. Title of chapter

This code shall be known and cited as the “Alachua County Water Quality Code.”

Section 2. Purpose and Intent

(1) The purpose of this chapter is the protection of public health, safety, welfare, and the environment through the regulation of the materials discharged into surface water, groundwater and stormwater management systems within incorporated and unincorporated Alachua County.

(2) It is the intent of the regulations in this chapter that they be liberally construed so as to effectively carry out this purpose in the interest of the public health, safety and welfare. If the provisions of these regulations conflict with other Alachua County ordinances or regulations, the more stringent limitations or regulations shall govern or prevail to the extent of the conflict.

Section 3. Definitions

Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, residuals, industrial sludge or waste disposal, or drainage from raw material storage.

Department means the Alachua County Environmental Protection Department.

Excavation means the disturbance or removal of earth materials.

Groundwater means water in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.

Hazardous materials means those materials listed in Section 353.26, "Materials regulated," of the Alachua County Hazardous Materials Management Code

Litter means any garbage, rubbish, trash, refuse, can, bottle, container, paper, tobacco product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

Municipal separate storm sewer system or MS4 means a conveyance or system of conveyances like roads with stormwater systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains: (a) owned or operated by the United States, a State, city, town, county, special district, association, or other public body (created pursuant to State Law) having jurisdiction over management and discharge of stormwater and which discharges to surface waters of the state; (b) designed or used for collecting or conveying stormwater; (c) which is not a combined sewer; and (d) which is not part of a Publicly Owned Treatment Works (POTW). POTW means any device or system used in the treatment of municipal sewage or industrial wastes of liquid nature which is owned by a "State" or "municipality." This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

NPDES means National Pollutant Discharge Elimination System (NPDES).

Person means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of Florida or any other state; any county of the state; and any governmental agency of the state or the federal government.

Pollutant: means any substance, contaminant, or man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of ground or surface water in quantities or levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, including outdoor recreation.

Sinkhole means a depression in the land's surface which has been created by dissolution of underlying limestone or other soluble rocks and the collapse of the overlying surficial material into the underlying solution cavities.

Stormwater means the flow of water which results from, and which occurs immediately following, a rainfall event.

Stormwater management system means the designed features of the property which collect, convey, channel, hold, inhibit or divert the movement of stormwater.

Surface waters means, but shall not be limited to, rivers, lakes, streams, springs, wetlands, and all other waters or bodies of water found on land surface.

Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to conduct groundwater from an aquifer or aquifer system to the surface by pumping or natural flow, to conduct waters or other liquids from the surface into any area beneath the surface of land or water by pumping or natural flow, or to monitor the characteristics of groundwater within an aquifer system(s). For the purposes of this chapter, geotechnical borings greater than 20 feet in depth shall be included in the definition of "well."

Well not in use means a well from which water has not been or cannot be withdrawn for a period of one year. This definition does not include properly maintained monitoring and backup publicly owned and operated supply wells.

Wetlands as defined in 373.019(17), Florida Statutes means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Section 4. Applicability

The requirements of this chapter are applicable to all persons within incorporated and unincorporated Alachua County.

Section 5. Administration and role of the department

The Alachua County Environmental Protection Department Director is hereby designated as the county officer responsible for the administration and enforcement of this code. The Department and its designated employees shall have the applicable powers and duties as designated in Chapter 73 of the Alachua County Code of Ordinances.

Section 6. Prohibitions

(a) It shall be unlawful and a violation of this code to discharge or cause or permit the discharge of any material into surface water, groundwater or stormwater management system within Alachua County that results in:

(1) A violation of the State of Florida's Surface Water Quality Standards found in F.A.C. 62-302 adopted and incorporated in this ordinance by reference for surface water quality standards, as may be amended from time to time.

(2) A violation of the State of Florida's Groundwater and Drinking Water Quality Standards found in F.A.C. 62-520 and 62-550 adopted and incorporated in this ordinance by reference for groundwater and drinking water quality standards, as may be amended from time to time.

(3) A violation of the State of Florida's Groundwater and Surface Water Cleanup Target Levels found in F.A.C. 62-777 adopted and incorporated in this ordinance by reference for groundwater and surface water quality standards, as may be amended from time to time.

(b) Exclusions: Discharges specifically authorized by, and in full compliance with, federal, state or local permits are not subject to the provisions of this code unless the Department can demonstrate a significant adverse environmental impact resulting from the permitted discharge.

Section 7. Reporting requirements

Any person owning or occupying a premise or facility who has knowledge of a discharge of pollutants from those premises or facilities or other type of evidence which might result in a violation of the prohibitions found in Section 6 of this Code shall immediately take action to abate the discharge of pollutants, and shall notify the Department within twenty-four (24) hours of the discharge of pollutants. Hazardous materials discharges shall be reported as prescribed in the Alachua County Hazardous Materials Management Code, Chapter 353, Alachua County Code.

Section 8. Site remediation and monitoring

The Department is authorized to order the cleanup, abatement, or monitoring or take such other actions as may be necessary to cause cleanup, abatement, or monitoring of discharges in violation of the prohibitions found in Section 6 of this Code. Administrative appeals to the requirements of this section shall be handled in accordance with the procedures outlined in Section 15.

Section 9. General requirements

(a) Dry weather runoff water

It shall be prohibited to discharge into surface waters or directly into ground waters through wells or sinkholes the following materials:

(1) Wastewater from cleaning or maintenance activities, including, but not limited to car washing, carpet cleaning, sidewalk, building, roads and parking lot cleaning.

(2) Chlorinated wastewater from swimming pools cleanup and pool water treatment materials, including diatomaceous earth.

(3) Wastewater, including water that has leached through waste materials including, but not limited to barrels, trash cans, dumpsters, and containers for food scrap or food grease recycling.

(4) Wastewater from water treatment equipment, including spent brine, from water softeners.

(b) Equipment maintenance and storage

(1) Equipment parts such as vehicle engines containing grease, oil or other hazardous materials shall not be stored in areas susceptible to stormwater runoff.

(2) Any machine, which is to be repaired or maintained in an uncovered outdoor area, shall be placed on an impervious surface and / or provisions shall be available to contain hazardous materials discharges.

(3) Machinery and equipment, including motor vehicles, which are leaking significant amounts of oil or fluids must be repaired or be stored in areas not susceptible to stormwater runoff.

(c) Removal of debris and residue

(1) All parking lots shall be routinely swept to remove debris.

(2) Litter shall not be discharged to a surface water body. Appropriate litter control practices shall be implemented to control litter entering surface water bodies.

(3) Landscaping waste including, but not limited to yard clippings, leaves and branches, shall not be discharged to a surface water body.

(d) Enforcement of residential violations

In addressing residential violations of Sections 9(a) – (c), County staff shall provide an educational approach that emphasizes environmental awareness in order to achieve compliance prior to initiating enforcement action with the use of the provisions of Chapter 24.

Section 10. Storm water management systems

(a) It shall be unlawful and a violation of this code for any person to introduce or cause to be introduced into a municipal separate storm sewer system (MS4) or a private stormwater management system any discharge that is not composed entirely of stormwater, with the exception of:

(1) A discharge specifically authorized by, and in full compliance with, National Pollutant Discharge Elimination System (NPDES) permits;

(2) A discharge specifically authorized by, and in full compliance with the Department;

(3) A discharge or flow resulting from fire fighting by the local authority having jurisdiction;

(4) The following non-stormwater discharges, provided they are not identified as a source of pollutants and approval is obtained from the stormwater management system owner:

(a) Rising ground waters;

(b) Uncontaminated ground water infiltration {as defined at 40 CFR 35.2005(20)} to separate storm sewers;

(c) Uncontaminated pumped ground water;

(d) Discharges from potable water sources;

(e) Foundation drains;

(f) Air conditioning condensate;

(g) Springs;

- (h) Footing drains;
- (i) Flows from riparian habitats and wetlands;
- (j) De-chlorinated swimming pool discharges;
- (k) Street wash waters.

(b) It shall be unlawful and a violation of this code for any person to establish, use, or maintain an illicit connection to a MS4 or private stormwater management system.

Section 11. Erosion and Sedimentation control

Erosion and sedimentation control BMPs shall be implemented at all excavations within incorporated and unincorporated Alachua County. The selected erosion and sedimentation control BMPs shall provide equal or better protection than those found in the current edition of “The Florida Stormwater, Erosion, and Sedimentation Control Inspector’s Manual”, compiled by the Florida Department of Environmental Protection.

Section 12. Groundwater protection

(a) All existing wells that are not in use or that pose a threat to groundwater quality shall be properly abandoned within 90 days of their identification. The Department will evaluate extensions or changes to this schedule on a case by case basis. Wells that pose a threat to groundwater include, but are not limited to, wells with deteriorated casings, wells that inter-connect aquifers allowing downward movement of poor quality water or contaminants, and other conditions, as determined by the department, that would allow water quality degradation.

The owner or operator of any well to be abandoned shall comply with the following requirements:

- (1) Obtain any water management district or FDEP permits required for proper well abandonment.
- (2) Provide the Alachua County Environmental Protection Department with 30 days notice of the proposed abandonment.
- (3) Properly abandon the well, using approved techniques to completely seal the well, in accordance with water management district rules and applicable local, state and federal requirements.
- (4) Provide the department with a copy of the permit (if required) and a copy of

the well completion report that has been submitted to the appropriate water management district.

(b) Aboveground and underground heating oil storage tank systems no longer in use shall be properly closed or upgraded to meet the requirements of the Alachua County Hazardous Materials Management Code, Chapter 353, of the Alachua County Code.

(c) Chemicals and fertilizers applied to lawns, gardens, golf courses, fields, and crops shall be applied following BMPs, such as 'Best Management Practices to Protect Groundwater from Agricultural Pesticides' (UF 1993), 'Silviculture BMPs' (FDACS 2000), 'Best Management Practices for Golf Course Maintenance Departments' (FDEP 1995), or other applicable BMPs.

(d) All sinkholes determined by the Department to represent a threat to groundwater quality must be properly managed. The responsible party shall contact the Department with a sinkhole management plan prior to any modifications to the sinkhole.

(e) All dairies in Alachua County must submit a groundwater monitoring plan for review and approval to the Department. Dairies within the unincorporated area of Alachua County and subject to the provisions of Section 361.40 of the Alachua County Code shall submit the groundwater monitoring plan as prescribed in section 361.40 of the Alachua County Code.

Section 13. Excavation and filling activities

(a) Excavation and filling activities which involve the removal or filling of more than 200 cubic yards of material at a single site (which is defined to be one parcel or a group of contiguous parcels under common ownership or control) must comply with the following standards:

(1) Water quality. Land excavation and/or land filling activities shall not have an adverse impact on surface water or groundwater quality. Activities shall conform to the requirements of applicable county regulations and to the requirements of the Florida Department of Environmental Protection. Specifically, all filling shall conform to the applicable requirements of chapter 62-701, Florida Administrative Code.

(a) Where excavation at depths below the top of the surficial aquifer system requires the use of dewatering procedures, such procedures shall not have an adverse effect on surface water or surface water or groundwater quality or on loss of storage in the surficial aquifer system.

(b) Filling shall not be allowed in surface water, except as provided in chapters 62-4 and 62-312, Florida Administrative Code. Filling shall not be allowed in

groundwater of the Floridan or intermediate aquifer systems. Filling may be allowed in groundwater of the surficial aquifer system, but shall be limited to clean soil or rock materials (sand, clay, or limestone). Filling in limestone pits or quarries shall be limited to clean soil or rock materials (sand, clay, or limestone). Exceptions to these standards may be considered if liners, leachate collection systems, and cover systems are proposed for a site.

(c) Disposal of the following categories of materials in excavation sites is prohibited:

(1) All types of solid waste (see chapter 62-701, Florida Administrative Code), and all hazardous materials and hazardous waste so designated by the United States Environmental Protection Agency, the Florida Department of Environmental Protection, and local health and environmental protection agencies.

(2) All bio-medical wastes that may cause pathogenic contamination of water resources.

(3) Industrial chemicals, petroleum products, putrescible household waste, and other materials that would contaminate permitted fill material.

(2) Water levels. Excavation and/or filling activities shall not significantly alter the existing hydrologic characteristics of the water levels of either surface water or groundwater on surrounding property. Where a problem is anticipated as a result of known soil and hydrological factors (i.e., because of physical conditions and/or experience with other excavation or filling sites in the area), de-watering potentials of land excavation operations shall be evaluated by conducting an on-site field investigation of horizontal permeability in materials that are representative of the section to be de-watered. Results of testing and impact analysis shall be certified by a qualified professional geologist or a professional engineer registered by the State of Florida. The findings of this analysis shall be submitted for review and approval to the Department.

Section 14. Reimbursable costs

Any person found to be in violation of any of the requirements of this code is responsible for reimbursement to the County of all investigative costs incurred by the County. Investigative costs shall include, but are not limited to, cost of equipment operation and maintenance associated with the investigation; cost of materials used in the investigation; personnel cost of contract services, waste disposal cost, laboratory costs, and Department's labor costs. The County shall submit an itemized invoice with all reimbursable costs to the person found to be responsible for the violation.

Section 15. Violations Enforcement, Judicial Remedies, Injunctive Relief and Administrative Appeals

(a) Violations Enforcement: The provisions of this ordinance may be enforced using the civil citation provisions of Chapter 162, Part II, Florida Statutes and Chapter 24 of the Alachua County Code. In addressing residential violations of Sections 9(a) – (c), County staff shall provide an educational approach that emphasizes environmental awareness in order to achieve compliance prior to initiating enforcement action with the use of the provisions of Chapter 24.

(b) Judicial remedies

(1) The County may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages to property including animal, plant, and aquatic life, caused by any violation.

(2) It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the County has failed to exhaust its administrative remedies, or has failed to hold an administrative hearing prior to the institution of a civil action.

(c) Injunctive relief. It is hereby found and declared that a violation of the provisions of this code constitutes an irreparable injury to the citizens of Alachua County. The county may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this code or order; to enjoin any violation of this code; and to seek injunctive relief to prevent injury to the soils, air, and water, including animal, plant, and aquatic life, in the county and to protect human health, safety, and welfare caused or threatened by any violation.

(d) Administrative Appeals.

(1) An adversely affected party or alleged violator may seek an evidentiary hearing before an impartial administrative hearing officer to contest administrative decisions made by the Department pursuant to this code. The hearing officer shall make findings of fact and conclusions of law. The decision of the hearing officer is subject to judicial review under Florida law.

(2) No person may apply to a court for relief from a decision of the Department unless he or she has first exhausted the remedies provided herein.

(3) A person requesting an appeal shall file this request in writing along with the appropriate fee for such petition to the Department within fifteen (15) days of the final decision made by the Department.

(4) The written request for appeal shall include a sworn statement of the particular facts and the basis for the appeal, the specific code provision alleged to be applied in

error, the different result which would occur if the appropriate provisions were correctly applied, and the particular relief sought.

(5) The Department shall schedule the appeal before the hearing officer, and shall provide to the hearing officer a staff report on the actions taken by the Department.

(6) The hearing officer shall consider the record, testimony by the applicant, members of the Department, any substantially affected persons, and any other appropriate witness, and the error alleged. Based on this information the hearing officer shall either sustain or reverse the decision appealed by giving a written explanation for his or her decision.

(7) Any person requesting an administrative appeal under Section 15 of this chapter will be responsible for all costs associated with the administrative appeal if the hearing officer upholds the original determination of the Department.

Section 16. Use of awards

(a) Any money recovered by the county in an action against any person who has caused pollution in the county in violation of this code or state law shall be used for water quality improvement projects in Alachua County.

(b) There is hereby created the Alachua County Water Quality Trust Fund, which is to be supervised and used by the county for water quality monitoring and improvement projects and programs to the extent of money available in the fund. The fund shall consist of all money specified in subsection (a).

Section 17. Severability

It is the declared intent of the board of county commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this chapter.

Section 18. Inclusion in the Code


It is the intention of the Board of Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 19. Effective date

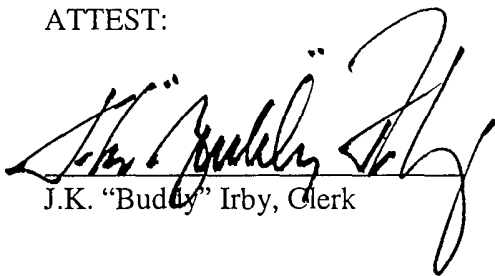
A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment by the Board of County Commissioners, and shall take effect January 1, 2003.

DULY ADOPTED in regular session, this 27 day of August, A.D., 2002

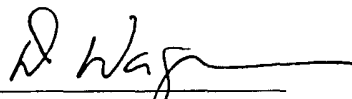
BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: 
Robert Hutchinson, Chair

ATTEST:

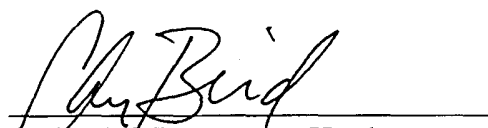

J.K. "Buddy" Irby, Clerk

APPROVED AS TO FORM:


David Wagner, County
Attorney

(SEAL)

DEPARTMENT APPROVAL
AS TO CORRECTNESS


Chris Bird, Department Head