

ORDINANCE NO. 2006-093

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO MANDATORY CONNECTION TO THE SARASOTA COUNTY UTILITIES SYSTEM; AMENDING ORDINANCE NO. 2000-079, AS AMENDED, AS CODIFIED IN SECTION 126-58 OF THE SARASOTA COUNTY CODE (THE "CODE") TO PROVIDE FINDINGS REGARDING WATER LINE EXTENSIONS AND DEPARTMENT OF HEALTH GUIDELINES REGARDING THE DISTANCE BETWEEN WATER WELLS AND SEWER LINES; TO REQUIRE COMPLIANCE WITH DEPARTMENT OF HEALTH WATER WELL/SEWER LINE GUIDELINES; TO PROVIDE FOR MONTHLY READINESS-TO-SERVE CHARGES FOLLOWING NOTICE PERIOD OF AVAILABILITY OF SEWER SERVICE OR COMPLIANCE WITH WATER WELL SET-BACK REQUIREMENTS; AND TO PROVIDE ENHANCED ENFORCEMENT; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

SECTION 1. This Ordinance hereby amends Ordinance No. 2000-079, as codified in Section 126-58 of the Sarasota County Code (the "Code"). In this Ordinance, new text is indicated by underlining and deleted text is indicated by ~~strike through~~.

SECTION 2. Section 126-58 of the Code is hereby amended as follows:

Section 126-58. Connection to the Sarasota County Utilities System.

(a) *Findings of fact.*

- (1) Pursuant to Article VIII, Section 1 (g) of the Florida Constitution, Section, 125.01 (1)(t), Florida Statutes, and Section 1.3 of the Sarasota County Charter, the Sarasota County Board of County Commissioners (the "Board") has all the powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors, and may enact County ordinances not inconsistent with general law necessary for the exercise of its powers.
- (2) Section 125.01 (1)(k), Florida Statutes, provides specific legislative authorization for counties to provide and regulate sewage collection and disposal, water supply and conservation programs.
- (3) Section 381.00655, Florida Statutes, as amended, ~~enforced by the State Health Department,~~ requires the owners of on-site sewage treatment and disposal systems to connect to an available publicly owned or investor-owned sewerage system within a specified period of time after receiving written notification.
- (4) The Sarasota Bay National Bay Estuary Program has published its Comprehensive Conservation and Management Plan for Sarasota Bay, entitled, "Sarasota Bay: Navigating a Course to Paradise Reclaimed," which recommends that specific actions be implemented by the

community in order to restore Sarasota Bay, including the Board's adoption of an ordinance requiring residents to hook up to central wastewater treatment when it becomes available, pursuant to state regulation.

- (5) The Sarasota County Wastewater Advisory Task Force recommended in their 1995 final report that sewer connection requirements be formalized by the Board prior to final design and construction of the County's central sewer system.
- (6) Policy 1.2.1 of the Public Facilities Plan of *Apoossee, the Revised and Updated Sarasota County Comprehensive Plan*, as adopted by Ordinance 89-18, as amended from time to time, directs Sarasota County to consider adoption of an ordinance requiring all buildings served by on-site sewage disposal systems to connect to central wastewater systems in accordance with applicable laws and codes.
- (7) In light of the financial and enforcement policy decisions inherent in adopting a wastewater treatment connection program, it is appropriate to limit applicability of this Ordinance to the Sarasota County Utilities System.
- (8) In order to promote, protect and improve the health, safety and welfare of the public, Sarasota County Ordinance No. 93-006, as amended from time to time, established the County's authority to enforce codes effective within the unincorporated areas of the County pursuant to code enforcement procedures set forth in that ordinance.
- (9) The Board, sitting as the Land Development Regulation Commission, has reviewed proposed Ordinance No. 2000- 079 and has found it consistent with *Apoossee, the Revised and Updated Sarasota County Comprehensive Plan*.
- (10) As a general Board policy, potable water line extensions are to be constructed concurrent with the construction of central sanitary sewer collection systems, thereby reducing repetitive construction impacts to public infrastructure and disruption to the ingress and egress to neighborhoods.
- (11) The potable water source for property owners not currently connected to the Sarasota County Utility System is a well. In order to prevent contamination of wells from sanitary sewer collection systems, the Florida Department of Health (DOH) has promulgated guidelines requiring property owners with existing wells located twenty-five (25) feet or less from a sanitary sewer line to properly Abandon the well and either relocate the well at a distance in excess of fifty (50) feet from the sanitary sewer lines or, if that is not feasible, to connect the property to a central water system. For those property owners who have wells greater than twenty-five (25) feet, but less than fifty (50) feet from a sanitary sewer

line, the DOH guidelines provide that the property owner must either raise the well casing twelve (12) inches above the existing grade or Abandon the well and either relocate the well at a distance in excess of fifty (50) feet from the sanitary sewer lines or, if that is not feasible, connect to a central water system.

12. Due to the potential for contamination of water wells from sanitary sewer collection systems and in furtherance of assuring compliance with DOH guidelines, the Board finds that water wells located twenty-five (25) feet or less from a sanitary sewer line and water wells located greater than twenty-five (25) feet, but less than fifty (50) feet from a sanitary sewer line with well casings that are less than twelve (12) inches above grade constitute a public nuisance.

- (b) *Applicability.* The provisions of this Section are applicable to connections to the Sarasota County Utilities System (the "Utility") only.
- (c) *Definitions.* For the purposes of this section, the following definitions shall apply:
- (1) *Abandon* shall mean the abandonment of an existing water well according to Section 54-385(j) of the Sarasota County Code or the abandonment of an Onsite Sewage Treatment and Disposal System ("OSTDS") according to Chapter 64E-6, section 64E-6.011, Florida Administrative Code.
 - (2) *Available* shall refer to that portion of the Sarasota County Utilities System (the "Utility") that is capable of being connected to the plumbing of a residential subdivision lot, a single or multi-family residence, or an Establishment, provided that:
 - a. The Utility is not under a Florida Department of Environmental Protection moratorium.
 - b. The Utility has adequate permitted capacity to accept the sewage to be generated by the residence or Establishment.
 - c. For a residential subdivision lot, a single or multi-family residence, or an Establishment, any of which that has an estimated sewage flow of 1,000 gallons per day or less, a wastewater line exists in a public easement or right-of-way that abuts the property line or is within 100 feet of the property line of the subdivision lot, residence, or Establishment and wastewater flow can reasonably be achieved by gravity, vacuum or low-pressure pump/pipe from the residence or Establishment to the sewer line on the vacuum collection system; and can reasonably be achieved by gravity, vacuum or low pressure pump/pipe from the residence or Establishment to the Utility.
 - d. For an Establishment with estimated sewage flows exceeding 1,000 gallons per day, with the exception of a residential subdivision lot, or single or multi family residence, a wastewater line, force main, or lift station exists in a public easement or right-

of-way that abuts the property of the Establishment or is within 150 feet of the property line of the Establishment as accessed via existing rights-of-way or easements.

- (3) *Board of County Commissioners* or *Board* shall mean the Board of County Commissioners of Sarasota County, Florida.
- (4) *Capacity Fee* shall be defined by Section 70-255 of the Sarasota County Code of Ordinances, as amended from time to time.
- (5) *Connection Charges* shall mean all Utility-imposed hook-up charges, exclusive of Capacity Fees and On-Lot Costs.
- (6) *Establishment* shall mean a building or buildings other than a single or multifamily residence.
- (7) *On-Lot-Costs* shall mean the cost of properly Abandoning an existing OSTDS on the property and constructing the necessary piping and appurtenances to connect the home or Establishment to the Available Central Wastewater Utility at the property line or easement line.
- (8) *On-Site Sewage Treatment and Disposal System ("OSTDS")* shall mean a system subject to Department of Health rule Chapter 64E-6, Florida Administrative Code, that contains a standard subsurface, filled, or mound drainfield system; a septic tank, an aerobic treatment unit; a laundry wastewater system; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy.
- (9) *Utility* shall mean any real property, attachments, fixtures, treatment plants, pumping stations, intercepting sewers, mains, laterals, vacuum lines, pressure lines, appurtenances, easements, rights or other real or personal property of the Sarasota County Utilities System, used and useful or having present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage and sewage effluent and residue.

~~(d) — Connection to the utility.~~

- ~~(1) — Notification. When the Utility is either Available or within one year of being Available, the Utility shall provide written notification by certified mail to the affected property owners of the connection requirements. This notice shall also include any information regarding financing that may be offered, and provide that:
 - ~~a. — At his/her own expense, the property owner will be required to properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes within ninety (90) calendar days of connection to the Utility; and~~
 - ~~b. — Subject to any financial programs which may be applicable, the property owner will be required to pay the specified Connection Charges and Capacity Fees in effect at the time of connection; and~~~~

~~(2) Available Utility. For those portions of the Service Area in which the Utility is Available at the time of adoption of this Section, the Utility must notify all affected owners of an OSTDS that:~~

~~a. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility within 365 days after receiving written notification that the Utility is Available for connection.~~

~~b. If the OSTDS needs repair or modification to function in a sanitary manner or to comply with the requirements of Sections 381.0065-381.0067, Florida Statutes or rules adopted under those Sections, the OSTDS owner must connect to the Utility within 90 days after receiving written notification that the Utility is Available.~~

~~(3) Newly Available Utility. For those portions of the Service Area in which the Utility was not Available at the time of adoption of this Section, no less than one (1) year prior to the anticipated date on which the Utility will become Available, the Utility must notify all affected OSTDS owners of the anticipated availability of the Utility and that:~~

~~a. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility within 365 days after receiving written notification that the Utility is Available for connection.~~

~~b. If the OSTDS needs repair or modification to function in a sanitary manner or to comply with the requirements of sections 381.0065-381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must connect to the Utility within 90 days after receiving written notification that the Utility is Available.~~

~~When the Utility is Available, the Utility must again notify the affected OSTDS owners that they will be required to connect within the timeframes indicated above.~~

(d) *Mandatory Connection to the Sarasota County Utilities System*

(1) *Connection to the Utility.*

a. OSTDS owners within the Service Area must connect to the Utility within the following time periods:

1. *Existing Available Utility.* For those portions of the Service Area in which the Utility is Available at the time of initial adoption of this Section:

aa. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility within 365 days after receiving written notification that the Utility is Available for connection.

bb. If the OSTDS needs repair or modification to function in a sanitary manner or to comply with the

requirements of Sections 381.0065--381.0067, Florida Statutes or rules adopted under those Sections, the OSTDS owner must connect to the Utility within ninety (90) days after receiving written notification that the Utility is Available.

2. *Newly-Available Utility.* For those portions of the Service Area in which the Utility was not Available at the time of adoption of this Section:

aa. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility within 365 days after receiving written notification that the Utility is Available for connection pursuant to subsection (2)a.2. herein.

bb. If the OSTDS needs repair or modification to function in a sanitary manner to comply with the requirements of sections 381.0065-381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must connect to the Utility within ninety (90) days after receiving written notification that the Utility is available.

b. At his/her own expense, the property owner shall properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes within ninety (90) calendar days of connection to the Utility.

c. Subject to any financial programs which may be applicable, the property owner shall pay the specified Connection Charges and Capacity Fees in effect at the time of connection.

(2) *Compliance with Department of Health Water Well Setback Requirements*

a. Florida Department of Health (DOH) guidelines for water wells within Sarasota County require that all water wells located twenty-five (25) feet or less from a sewer line must be abandoned and plugged, and all water wells located more than twenty-five (25) feet and less than fifty (50) feet from a sewer line must be either abandoned and plugged or the well casing raised twelve (12) inches above existing grade.

b. Within ninety (90) calendar days of receiving notice from the County, that his/her water well is located twenty-five (25) feet or less from an existing or proposed sewer line, the property owner, at his/her own expense, must properly Abandon and plug the existing water well in accordance with applicable DOH guidelines and

either relocate the well in compliance with DOH guidelines or connect to a central water system.

c. Within ninety (90) days of receiving notice from the County that his/her water well is more than twenty-five (25) feet, but less than fifty (50) feet from an existing or proposed sewer line, the property owner, at his/her own expense, must: (i) raise the well casing of the water well twelve (12) inches above the existing grade in accordance with applicable DOH guidelines; or (ii) properly Abandon and plug the existing water well and either relocate the well in compliance with DOH guidelines or connect to a central water system.

(e) Notification to Property Owners. The County shall provide written notification by certified mail or hand delivery to the affected property owners as follows:

(1) Existing Available Utility. For those portions of the Service Area in which the Utility is Available at the time of initial adoption of this Section, the Utility must notify all owners of an OSTDS that:

a. If the OSTDS is properly functioning, the property owner must connect to the Utility within 365 days after receiving written notification that the Utility is Available for connection.

b. If the OSTDS needs repair or modification to function in a sanitary manner or to comply with the requirements of Sections 381.0065 - 381.0067, Florida Statutes or rules adopted under those Sections, the property owner must connect to the Utility within ninety (90) days after receiving written notification that the Utility is Available.

(2) Newly-Available Utility. For those portions of the Service Area in which the Utility was not Available at the time of initial adoption of this Section, the County shall provide the following notices to all OSTDS owners within the Service Area by certified mail or hand delivery:

a. First Notification. The first notification shall be mailed or delivered no less than one (1) year prior to the anticipated date on which the Utility will become Available, notifying all OSTDS owners within the Service Area of the anticipated availability of the Utility and that:

1. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility within 365 days after receiving written notification that the Utility is Available; and

2. If the OSTDS needs repair or modification to function in a sanitary manner to comply with the requirements of sections 381.0065-381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must connect to the Utility within ninety (90) days after

receiving written notification that the Utility is Available;
and

3. If the property owner has a water well located twenty-five (25) feet or less from the proposed Utility line, the property owner, at his/her own expense, will be required to properly Abandon and plug the existing water well in accordance with applicable DOH guidelines and either relocate the well in compliance with DOH guidelines or connect to a central water system; and
 4. If the property owner has a water well located twenty-five(25) feet, but less than fifty (50) feet from the proposed Utility line, the property owner, at his/her own expense, will be required to either: (1) raise the well casing of the water well twelve (12) inches above the existing grade in accordance with applicable DOH guidelines; or (2) properly Abandon and plug the existing water well and either relocate the well in compliance with DOH guidelines or connect to a central water system; and
 5. At his/her own expense, the property owner will be required to properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes within ninety (90) calendar days of connection to the Utility; and
 6. Subject to any financial programs outlined in the notice, the property owner will be required to pay the specified Connection Charges and Capacity Fees in effect at the time of connection.
- b. Second Notification. The Second Notification shall be mailed or delivered to only OSTDS owners within the Service Area who have a water well that falls within the following two (2) categories:
1. If the water well is located twenty-five (25) feet or less from the sewer line, within ninety (90) days of receiving this second notification, the property owner, at his/her own expense, must properly Abandon and plug the existing water well in accordance with applicable DOH guidelines and either relocate the well in compliance with DOH guidelines or connect to a central water system.
 2. If the water well is located twenty-five (25) feet, but less than fifty (50) feet from the sewer line, within ninety (90) days of receiving this second notification, the property owner, at his/her own expense, must either: (1) raise the well casing of the water well twelve (12) inches above the existing grade in accordance with applicable DOH

guidelines; or (2) properly Abandon and plug the existing water well and either relocate the well in compliance with DOH guidelines or connect to a central water system.

c. Third Notification. The Third Notification shall notify all OSTDS owners within the Service Area that the Utility is Available and that:

1. If the OSTDS is properly functioning, the OSTDS owner must connect to the Utility within 365 days; and
2. If the OSTDS needs repair or modification to function in a sanitary manner to comply with the requirements of sections 381.0065-381.0067, Florida Statutes or rules adopted under those sections, the OSTDS owner must connect to the Utility within ninety (90) days; and
3. At his/her own expense, the property owner will be required to properly Abandon any existing OSTDS in accordance with applicable County and state laws and codes within ninety (90) calendar days of connection to the Utility; and
4. Subject to any financial programs outlined in the notice, the property owner will be required to pay the specified Connection Charges and Capacity Fees in effect at the time of connection.

(f) Monthly Readiness-to-Serve Charge.

(1) Wastewater. Monthly readiness-to-serve charges in effect at the time shall commence upon connection to the Utility, provided, however, if the property is not connected to the Utility within the notice period specified in the notification received from the County pursuant to subsection (e) above, the monthly readiness-to-serve charge in effect at that time shall commence the day following expiration of the notice period.

(2) Water. Monthly readiness-to-serve charges in effect at the time shall commence upon connection to the Sarasota County water system; provided, however, if, after receiving notification from the County that the water well must be either abandoned and plugged or the well casing raised and neither action has been taken within the 90-day notice period, the monthly readiness-to-serve charge in effect at that time shall commence the day following expiration of the notice period.

(g) Financing Program. By resolution, the Board may establish financing programs to lessen the financial impact on OSTDS owners; and/or to allow for installment payments for prepaid connection fees.

(h) ~~Enforcement. The provisions of this Section shall be enforced through the procedures for code enforcement established by Sarasota County ordinance or by the initiation of any other action available by law in a court of competent jurisdiction. Violations of this Ordinance may be enforced by the following remedies, which are cumulative and may be pursued simultaneously or consecutively:~~

- ~~(1) Code enforcement action pursuant to Chapter 2, Article VIII of the Sarasota County Code for which each day or fraction thereof that the violation continues shall be considered a separate offense;~~
- ~~(2) Treated as a misdemeanor and, upon conviction, punishment by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the County Jail not to exceed sixty (60) days or any other remedy available under the law;~~
- ~~(3) Complaint for injunctive relief filed in the Twelfth Judicial Circuit in the State of Florida;~~
- ~~(4) Termination of any current utility service being provided by Sarasota County to the property until such time as compliance is achieved.~~
- ~~(5) Any other civil or criminal remedy available at law.~~

SECTION 3. Severability. It is the intent of the Board that the provisions of this Section shall be severable and, accordingly, the invalidity of any part of this Section shall not affect the validity of any other part. Invalidity of any rule, regulation, agreement, or resolution adopted under authority of this Section shall not invalidate this Section or any other rule, regulation, agreement, or resolution similarly adopted.

SECTION 4. Effective Date. This Ordinance shall take effect upon filing with the Office of the Secretary of State of Florida

PASSED AND DULY ADOPTED by The Board Of County Commissioners Of Sarasota County, Florida, this 13th day of December, 2006.

**BOARD OF COUNTY
COMMISSIONERS OF SARASOTA
COUNTY, FLORIDA**

By: [Signature]
Chairman

ATTEST:

KAREN E. RUSHING, Clerk of Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

By: [Signature]
Deputy Clerk

STATE OF FLORIDA
COUNTY OF SARASOTA
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE WITNESS MY HAND AND OFFICIAL SEAL THIS DATE December 14 2006
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA
[Signature]

