



ORDINANCE NO. 2001 - 27

AN ORDINANCE OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 74-50, AS AMENDED, TO ADD MAXIMUM OFF-SITE DISCHARGE STANDARDS APPLICABLE TO THE HARVEY BASIN AND THE WIGGINS BAY BASIN; ALSO ADDING A NEW PROVISION (7.H) TO AUTHORIZE CORRECTION OF PROBLEMATIC SURFACE WATER RUN-OFF FROM SINGLE-FAMILY RESIDENTIAL LOTS CAUSED BY ELEVATING THE LOT SUBSEQUENT TO CONSTRUCTION OF THE SINGLE FAMILY RESIDENCE; PROVIDING FOR INCLUSION INTO THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 74-50, as amended by Ordinance No. 90-10, contains "Local Design Criteria" that specifies Allowable Post-Development Discharge Formulas for Collier County Canals, which formulas limit the allowable maximum off-site discharge into canals; and

WHEREAS, a study prepared by Johnson Engineering, Inc., dated February 1997, recommends that the off-site discharge within the Harvey Basin be limited by formula; and

WHEREAS, a study prepared by Agnoli, Barber and Brundage, Inc., dated April 1997, recommends that the off-site discharge within the Wiggins Pass Basin be limited by formula; and

WHEREAS, the maximum off-site discharge limitation formulas as indicated by the above referenced two studies have not been incorporated into Ordinance No. 74-50, as amended by Ordinance No. 90-10; and

WHEREAS, Staff has recommended that discharge limitations applicable to the Harvey Basin and the Wiggins Pass Basin be incorporated into Ordinance No. 74-50, as amended by Ordinance No. 90-10; and

WHEREAS, filling, grading or otherwise raising the elevation of single-family residence lots subsequent to initial construction of the residence seldom requires a permit from Collier County; and

WHEREAS, from time-to-time a single-family residence lot is elevated to an extent that the rise in elevation causes problematic additional surface water to flow off of the lot onto land owned by another; and

WHEREAS, no existing ordinance provision authorizes Staff to mandate correction of such additional surface water flows; and

WHEREAS, Staff proposes that a new provision be added to this Ordinance to grant Staff authority to have such situations corrected provided the lot elevating activities occur subsequent to the effective

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date of this Ordinance and occur subsequent to the initial construction of the respective single-family residence; and

WHEREAS, the Board concurs with Staff's recommendations.

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

SECTION ONE. Paragraph 7. and 7.A of Article II, Section 2.01 of Ordinance No. 74-50, as amended by Ordinance No. 90-10, is hereby amended to read as follows:

"7. In accordance with the provisions of Chapter 40E-4, Florida Administrative Code, Section 40E-4.091(1)(a) and the "Basis of Review for Surface Water Environmental Resource Permit Applications within the South Florida Water Management District—April, 1987" ~~Section 3.2~~ August, 2000" Section 6.0, as those two documents may be amended from time to time, the following local design criteria shall be used in Collier County:

A. ~~Section 3.2.1.2~~ 6.2.: Discharge Rate – Offsite discharge contributed by a development is limited to amounts which will not cause adverse off-site impacts. These amounts may be determined by: (most restrictive applies)

- a) ~~Historic pre-development discharges rates~~;
- b) ~~Amounts~~ Rates determined in previous SFWMD permit actions;
- c) ~~Amounts~~ Rates specified in SFWMD criteria (Basis of Review Appendix 2):
- d) ~~Amounts~~ Rates based on system capacity for selected County primary outfall canals, unless special engineering studies are provided by a Registered Professional Engineer, shall be as follows:

**ALLOWABLE POST-DEVELOPMENT DISCHARGE FORMULAS
FOR COLLIER COUNTY CANALS**

CANAL	ALLOWABLE RUNOFF	DESIGN FREQ./DUR.
AIRPORT ROAD NORTH SUBBASIN (North of Vanderbilt Beach Rd.)	25.6 CSM (0.04 cfs/acre)	25 year/ 3 day
AIRPORT ROAD SOUTH SUBBASIN	38.4 CSM (0.06 cfs/acre)	25 year / 3 day

(South of Vanderbilt
Beach Rd.)

COCOHATCHEE CANAL BASIN	25.6 CSM (0.04 cfs/acre)	25 year/ 3 day
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LELY CANAL BASIN	38.4 CSM (0.06 cfs/acre)	25 year / 3 day
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HARVEY BASIN	35.2 CSM (0.055 cfs/acre)	25 year / 3 day
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WIGGINS PASS BASIN	83.2 CSM (0.13 cfs/acre)	25 year / 3 day
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- e. In all other areas of the County off-site discharge shall not be in excess of 0.15 cfs/acre.

Variations to the above requirement may be allowed with County staff approval based upon special engineering studies prepared by a Registered Professional Engineer. Unless otherwise specified by previous SFWMD permits or SFWMD criteria, a stormwater event of a 3 day duration and 25 year return frequency shall be used in computing off-site discharges. Allowable discharges will be designated by SFWMD on a case by case basis upon request.

SECTION TWO. A new Paragraph 7. H is added to Article II, Section 2.01 of Ordinance No. 74-50, as amended, to read as follows:

H. Raising Elevation of Single Family Residence Lot Subsequent to Construction of the Residence. Subsequent to the construction of a single-family residence on the respective lot (parcel of land), it shall be a violation of this Ordinance to cause “additional surface water” to run onto any real property owned by another landowner by filling, grading or otherwise raising the elevation of the respective water source single family residence lot. This provision shall not apply to the extent that such filling, grading or other land elevating acts occur concurrently with the initial construction of the single-family residence. This provision shall not apply to the extent that such filling, grading or other land elevating acts are mandated by statute, ordinance, rule or regulation. In the context of this provision “additional surface water” shall be limited to surface water that exceeds the historic surface water flows from the respective single-family residence lot. If the historic surface water flows are exceeded because of such filling, grading or other actions, it shall be the responsibility of the owners of such water source lot to eliminate the flow of such additional surface water by construction of a depression, such as a swale, or by other appropriate measures. If such grading, filling or other lot elevating actions come to the attention of Staff prior to their completion, Staff may issue a stop work order if Staff reasonably believes that such filling, grading, or other lot elevating acts are likely to cause a violation of this provision, in which event the landowner of the water source lot shall either provide evidence that completion of the planned elevation of the lot will not cause a

violation of this provision, or shall be required to modify the planned lot elevating activities to eliminate the anticipated flow of additional surface water, by construction of a depression, such as a swale, or by some other appropriate measures. If the elevation of the lot is raised by such filling, grading or other lot elevating actions and it is proven that thereafter additional surface water flows off of the lot onto land owned by another landowner, it shall be a rebuttable presumption that such additional surface water run-off was caused by that elevation of the water source single-family residence lot. Anyone who claims to be "grand fathered" against application of this provision (by alleging that the respective grading, filling, or other lot elevating actions were completed prior to the effective date of this provision) shall have the burden of proving the allegation.

SECTION THREE: CONFLICT AND SEVERABILITY.

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any 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 such holding shall not affect the validity of the remaining portions.

SECTION FOUR. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

This Ordinance shall be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish that result, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word.

SECTION FIVE. EFFECTIVE DATE.

This Ordinance shall be effective upon receipt by the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this 22nd day of May, 2001.

ATTEST:
Dwight E. Brock, Clerk

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: Ellie Hoffman
Deputy Clerk

By: James D. Carter
James D. Carter, Ph.D., Chairman

Attest as to Chairman's signature only.

Approved as to form and legal sufficiency

Tom Palmer
Thomas C. Palmer,
Assistant County Attorney

This ordinance filed with the Secretary of State's Office the 29th day of May, 2001 and acknowledgement of that filing received this 4th day of June, 2001

By: Ellie Hoffman
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 2001-27

Which was adopted by the Board of County Commissioners the 22nd day of May, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 23rd day of May, 2001.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Ellie Hoffman

By: Ellie Hoffman,
Deputy Clerk

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DEPARTMENT OF STATE
TALLAHASSEE FLORIDA

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