



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.1.

12/3/2024

### Subject:

Approval of an Amendment to Chapter 62, Article X, Division 6, Section 62-3751, Exhibit A - Stormwater Management Criteria; Subsections 4.6(d) and 4.6(j), Brevard County Code of Ordinances, to allow polypropylene pipe in the County right of way and provide for administrative waivers for inverted siphons.

### Fiscal Impact:

None

### Dept/Office:

Public Works & Planning & Development

### Requested Action:

Staff is requesting the Board of County Commissioners review and approve the attached proposed ordinance.

### Summary Explanation and Background:

On August 22, 2023, the Board of County Commissioners (the "Board") granted legislative intent and permission to advertise an ordinance amending Chapter 62 - Article X - Environmental Protection and Conservation, Division 6. - Stormwater Management Criteria - Sec. 62-3756, Exhibit A Subsections 4.6(d) and 4.6(j), of the Brevard County Code of Ordinances.

The Board granted legislative intent and permission to advertise the proposed ordinance:

Draft an ordinance amending Chapter 62 - Article X - Environmental Protection and Conservation, Division 6. - Stormwater Management Criteria - Sec. 62-3756, Exhibit A Subsection 4.6(d) and 4.6 (j) to accomplish the following:

- Allow for FDOT polypropylene pipe to be used in the County Right of Way.
- Allow staff to administratively approve inverted siphons within private sites subject to meeting certain criteria to mitigate maintenance concerns.

Presently the code restricts pipe materials within the County Right of Way to reinforced concrete pipe or PVC meeting DOT approval. In 2014, polypropylene pipe passed the needed testing to be accepted for 100-year side drain, cross drain and storm sewer applications for use by the Florida Department of Transportation. Staff at the request of Advanced Drainage Systems, Inc., have reviewed the current material requirements and observed how these pipes have performed since 2014. The proposed code change would allow FDOT approved polypropylene pipe as an additional pipe material option within the County Right of Way.

The current code also does not allow for the use of inverted siphons without a Board Approved waiver. The

development community has requested the code be streamlined to allow for inverted siphons within private sites and where maintenance concerns are mitigated. Staff coordinated with the development community on when inverted siphons could be acceptable. The proposed code change would allow staff to administratively approve inverted siphons on private sites subject to meeting certain maintenance design criteria.

Therefore, Staff requests approval of an amendment to Section 62-3751, Exhibit A, 4.6(d) and 4.6(j) as follows:

(d) Pipe materials. All pipes within public rights-of-way and saltwater or brackish outfalls shall be reinforced concrete pipe, polypropylene pipe, or PVC meeting FDOT approval. Other pipe materials may be used at other locations if soil conditions allow and with the approval of the reviewer. All steel pipe shall be completely bituminous coated. Round concrete pipe shall use "O" ring joints.

(j) Inverted siphons. Inverted siphons ~~shall not~~ may be permitted by administrative approval/waiver from the Brevard County Public Works Department reviewer under the following conditions:

1. Inverted siphons (bubble-up structures) shall not be located within public rights-of-way or in residential developments.
2. Flooding to offsite areas is prohibited. The upstream end of the inverted siphon shall provide reserve/emergency storage onsite for the rainfall from 25-year/24-hour storm event pursuant to Section 4.1 - Design Storm (Minimum) in this Exhibit A. Reserve/emergency storage can be provided within the parking lots outside of the accessible parking and accessible routes.
3. The structures on both ends of the inverted siphon shall include a minimum one-foot (1') deep internal sump.
4. A minimum fourteen-foot (14') wide paved access up to the structures on both ends of the inverted siphon shall be provided for maintenance.
5. A maintenance agreement shall be provided by the property owner that includes the maintenance frequency of the inverted siphon, the increased maintenance needs for the inverted siphon, and potential increased costs associated with such a system. The agreement shall also acknowledge that the County shall not be responsible for any maintenance obligations.

These changes have been recommended for approval by both the BCAC and LPA with a recommendation that the proposed language of 4.6(j)(1) be changed to "Inverted siphons (bubble-up structures) shall not be located within public rights-of-way or in or adjacent to residential developments."

## Clerk to the Board Instructions:



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

December 5, 2024

Rachel Sadoff  
County Clerk  
Brevard County  
Post Office Box 999  
Titusville, FL 32781-0999

Dear Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2024-30, which was filed in this office on December 5, 2024.

Sincerely,

Alexandra Leijon  
Administrative Code and Register Director

AL



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

December 4, 2024

**M E M O R A N D U M**

**TO:** Marc Bernath, Public Works Director

**RE:** Item H.1., Amendment to Chapter 62, Article X, Division 6, Section 62-3751, Exhibit A – Stormwater Management Criteria; Subsections 4.6(d) and 4.6(j), Brevard County Code of Ordinances

The Board of County Commissioners, in regular session on December 3, 2024, reviewed and adopted Ordinance No. 24-30, amending Chapter 62, Article X – Environmental Protection and Conservation, Division 6 – Stormwater Management Criteria, Section 62-3751 – adoption of Stormwater Management Criteria, Exhibit A – Stormwater Management Criteria; specifically, amending Subsection 4.6(d) of Exhibit A to allow for the use of polypropylene pines in Brevard County Right(s)-of-Way; and rejected Subsection 4.6(j). Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,  
BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*for: [Signature]*  
Kimberly Powell, Clerk to the Board

/ds

cc: Planning and Development Director  
County Attorney

**ORDINANCE NO. 2024- 30**

**AN ORDINANCE OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 62, ARTICLE X – ENVIRONMENTAL PROTECTION AND CONSERVATION, DIVISION 6 – STORMWATER MANAGEMENT CRITERIA, SECTION 62-3751 – ADOPTION OF STORMWATER MANAGEMENT CRITERIA, EXHIBIT A – STORMWATER MANAGEMENT CRITERIA; SPECIFICALLY, AMENDING SUBSECTION 4.6(d) OF EXHIBIT A TO ALLOW FOR THE USE OF POLYPROPYLENE PIPES IN BREVARD COUNTY RIGHT(S)-OF-WAY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in 1993, the Board of County Commissioners of Brevard County, Florida, hereinafter the “Board”, adopted certain stormwater management criteria under Chapter 62, Article X, Division 6 of the Brevard County Code, hereinafter the “Management Criteria”; and

**WHEREAS**, based on feedback from and requests by the development community, as well as after evaluation from County staff, it is determined that the updates to the Management Criteria outlined below will help make the development review process more flexible and allow staff to review and implement development projects in a more efficient fashion; and

**WHEREAS**, in 2014, the Florida Department of Transportation determined that polypropylene pipes could be used for side drain, cross drain, and storm sewer applications; and

**WHEREAS**, the Code currently restricts pipe materials within the County’s rights-of-way to reinforced concrete pipe or polyvinyl chloride, also referred to as PVC; and

**WHEREAS**, based on the best available data, which has been reviewed by County staff, it appears that polypropylene pipes will provide an alternative option to be used for such projects if the Management Criteria is modified to allow such material; and

**WHEREAS**, the Board has determined that the proposed amendment serves the public health, safety, and welfare of the citizens of Brevard County, while also allowing development projects to become more efficient.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, that the Management Criteria identified in Chapter 62, Article X, Division 6, Section 62-3751, Exhibit A of the Brevard County Code of Ordinances is hereby amended to read as follows:

Officially filed with the Secretary<sup>1</sup> of State on December 5, 2024.

Deletions noted with ~~striketroughs~~  
Additions noted with underlines

**Section 1. Polypropylene Pipes.** Chapter 62, Article X – Environmental Protection and Conservation, Division 6 – Stormwater Management Criteria, Section 62-3751 – Adoption of Stormwater Management Criteria, Exhibit A Subsection 4.6(d) – Pipe Materials, Brevard County Code, is hereby amended to read as follows:

**4.6 Storm sewer and culvert design.**

...

(d) *Pipe materials.* All pipes within public rights-of-way and saltwater or brackish outfalls shall be reinforced concrete pipe, polypropylene pipe, or PVC meeting FDOT approval. Other pipe materials may be used at other locations if soil conditions allow and with the approval of the reviewer. All steel pipe shall be completely bituminous coated. Round concrete pipe shall use "O" ring joints.

...

**Section 2. Inclusion in Code.** It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 3. Severability.** If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 4. Effective Date.** This Ordinance shall become effective upon filing with the Office of Secretary of State of Florida.

**DONE, ORDERED, AND ADOPTED** in Regular Session, this 3rd day of December, 2024.

ATTEST

  
Rachel Sadoff, Clerk of Court

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

  
Rob Feltner, Chairman  
(as approved by the Board on Dec 3, 2024)



BOARD OF COUNTY COMMISSIONERS

## Business Impact Estimate

*This form must be uploaded into Granicus to be included in the agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the County's website by the time notice of the proposed ordinance is published.*

Proposed ordinance's title/reference:

Amendment to Chapter 62, Article X, Division 6, Section 62-3751, Exhibit A - Stormwater Management Criteria; Subsections 4.6(d) and 4.6(j), Brevard County Code of Ordinances, to allow polypropylene pipe in the County right of way and provide for administrative waivers for inverted siphons.

Pursuant to Section 125.66, Florida Statutes, a business impact estimate is **not** required if any of the following statements apply. Check all that apply and include this page in the agenda packet for the proposed ordinance under consideration.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  - b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  - c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  - d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of Section 125.66, Florida Statutes, and in the absence of an exemption listed above, the County hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

The proposed amendments serve the public health, safety, and welfare of the citizens of Brevard County, while also allowing development projects to become more efficient.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the County:

☐ *No direct economic impact is expected.*

Estimated impact:

Economic impact is indeterminable, however, additional flexibility in for site specific design and material options are expected to provide incremental cost savings to the development community.

3. Estimate of direct compliance costs that businesses may reasonably incur if enacted:

☒ *No direct compliance costs for businesses are reasonably expected.*

Estimated compliance costs:

4. Any new charge or fee imposed on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:

☒ *No new charges or fees will be imposed by the proposed ordinance.*

New charges or fees imposed:

5. Estimate of the County's regulatory costs, including estimated revenues from any new charges or fees that will be imposed on businesses to cover such costs:

☒ *No increase in County regulatory costs is expected.*



Estimated regulatory costs: Inspection and review methods will vary with design and product changes, however, it is not anticipated that additional resources will be needed.

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

These changes are anticipated to impact all businesses permitting and constructing new development within Brevard County.

7. Additional information that the Board of County Commissioners determines useful:

In 2014, polypropylene pipe (PPP) passed the needed testing to be accepted for 100-year side drain, cross drain and storm sewer applications for use by the Florida Department of Transportation. PPP is used widely across municipalities in the State of Florida. It is far superior to other plastic pipe material options. Staff have reviewed the current material requirements and observed how these pipes have performed since 2014. Staff reached out to FDOT and other municipalities to obtain feedback on maintenance performance and conducted site visits during installation.

Staff also reached out to the development community to discuss the challenges with inverted siphons and develop criteria that would allow these systems to be maintained in a manner that would allow them to successfully function.

December 3, 2024 Regular BOCC Meeting

Item: H.1

Motion By: KD

2<sup>nd</sup> By: TA

Commissioner	District	Yes	No
Delaney	1	/	
Goodson	2		/
Atkinson	3		/
Altman	5	/	
Feltner	4	/	

like  
choir  
choir

3/2