

Agenda Item 11
Meeting of 4/2/14

ORDINANCE 14-13440

AN ORDINANCE RELATING TO FILLING LAKES; AMENDING SECTION 52-92 (e), FILLING LAKES; ERECTING BUILDINGS OVER LAKE, OF CHAPTER 52, RESOURCE PROTECTION STANDARDS, OF THE CODE OF ORDINANCES, CITY OF NAPLES, IN ORDER TO AMEND THE FILLING PERMIT PROCESS AND PROVIDE BETTER PROTECTION FOR THE WETLAND HABITAT OF LAKES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 52-92 (e) of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and ~~strikeout~~ indicating deletions):

Sec. 52-92. Water resources generally.

. . .

(e) *Filling lakes; erecting buildings over lake.*

- (1) *Purpose; permit required.* It is hereby declared that the purpose of this subsection is to protect the littoral zones of the lakes within the city. Whether decorative or part of a private or public stormwater management system, the lakes provide a habitat for a variety of fishes, birds and other valuable organisms. Because a natural shoreline is an integral part of a functioning, balanced lake, alterations to the shoreline may be harmful to the ecology of the lake. With this understanding, the following provision is adopted: It shall be unlawful for any person to fill any portion of an existing lake or erect any building structure over an existing lake without first obtaining a permit from the City Council, unless the lake is already permitted by the South Florida Water Management District and is thereby subject to the Rules and Regulations adopted by that agency, including those that address lake filling and building structures. ~~or erect any building or portion thereof over any existing lake without first obtaining a permit from the city council.~~
- (2) *Definition.* For the purpose of this subsection, the term "filling" means placement of soil, sand, rock or other solid material into the water, or construction of shore stabilizing or protection structures such as riprap or block revetments or concrete, metal or wood bulkheads.
- (3) *Application for permit; approval.* A permit application shall be submitted to the city manager, who will evaluate the application and present it, along with a staff recommendation, to the city council for its consideration. The application must include a survey of the present shoreline and drawings

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illustrating plan and cross sectional views of the proposed filling activity. The application must include a detailed justification for the need for the filling activity and an evaluation of alternative methods of shoreline protection, such as the use of soil-stabilizing and erosion-preventing native wetland vegetation to prevent erosion, provide habitat, and improve water quality. While riprap may be appropriate in some locations for erosion control of steep banks, the use of riprap is discouraged as it hardens shorelines and reduces habitat value.

- a. If the city council shall find that the proposed activities or project will not violate any statute, zoning law, ordinance or other restrictions which may be applicable thereto; that no harmful obstruction to the stormwater management system within such area will arise from the proposed construction; that no significant biological or ecological adverse impact will result therefrom; that no harmful or increased erosion, shoaling or stagnant areas of water will be created thereby; and that no material injury or monetary damage to adjoining land will accrue therefrom, the application may be approved, or approved with conditions.
 - b. Where an application is approved, the city council may require, as a condition of the permit, that protective measures, including but not limited to turbidity screens, be employed to prevent harmful biological, ecological or hydrological impacts from occurring to the surrounding waters.
- (4) *Construction.* Construction and maintenance or repair of shore stabilizing or protection structures must be performed by licensed contractors as defined in section 10-231.
- (5) *Exemptions.* Maintenance or repair of existing shore protection structures shall be exempt from the requirements of this subsection, but shall require issuance of a permit from the building official.

Section 2. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 3. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall take effect immediately upon adoption at second reading.

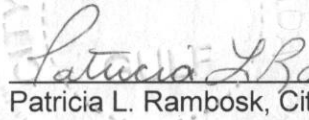
FIRST READING DECLARED THE 5TH DAY OF MARCH, 2014.

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PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 2ND DAY OF APRIL, 2014.

Attest:


Patricia L. Rambosk
Patricia L. Rambosk, City Clerk

John F. Sorey III
John F. Sorey III, Mayor

Approved as to form and legality:

Robert D. Pritt
Robert D. Pritt, City Attorney
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Date filed with City Clerk: 4-7-14