



ORDINANCE NO. 2003-58

FILED  
2003 NOV 21 PM 3:40  
CLERK OF COUNTY  
COLLIER COUNTY FLORIDA

**AN ORDINANCE OF COLLIER COUNTY, FLORIDA, AMENDING CHAPTER 110, ARTICLE II OF THE COLLIER COUNTY CODE OF LAWS AND ORDINANCES, WHICH AMENDMENT (1) EXCEPT FOR NAPLES PARK, PROHIBITS THE ENCLOSURE OF SWALES WITHIN THE PUBLIC RIGHTS-OF-WAY BUT PROVIDES GUIDELINES TO PERMIT THE ENCLOSURE OF SWALES ON A CASE-BY-CASE BASIS, AND (2) AUTHORIZES ONGOING INSPECTIONS OF, AND REQUIRES NECESSARY REPAIRS AND IMPROVEMENTS TO, EXISTING CULVERTS AND SWALE ENCLOSURES WITHIN THE PUBLIC RIGHT-OF-WAY; PROVIDES FOR INCLUSION IN THE COLLIER COUNTY CODE OF LAWS AND ORDINANCES; AND PROVIDES FOR AN EFFECTIVE DATE.**

WHEREAS, the current practice of permitting the enclosure of swales within the Public Rights-of-Way is detrimental to the efficient detention of storm water runoff and to the recharge of groundwater; and

WHEREAS, the Transportation Services Division has received numerous requests to enclose swales within the Public Rights-of-Way; and

WHEREAS, the Board of County Commissioners of Collier County, Florida does hereby find and determine that it is in the public interest and the health, safety and welfare of its citizens (1) to generally prohibit the enclosure of swales within the Public Rights-of-Way, (2) to allow the Transportation Administrator or his designee to review and approve deviations from this policy when documented by substantial competent evidence in accordance with approved guidelines, (3) to allow for the ongoing inspection of existing culverts and swale enclosures within the Public Rights-of-Way, and (4) to require necessary repairs and improvements to existing culverts and swale enclosures within the Public Rights-of-Way; and

WHEREAS, Ordinance No. 1998-1, known as the "Collier County Swale/Culvert Ordinance Naples Park," already regulates the issue of swale enclosures within the area known as Naples Park; and

WHEREAS, the Board of County Commissioners previously enacted Ordinance No. 2003-37, also cited as Chapter 110, Article II of the Collier County Code and Ordinances, which Ordinance, among other things, concerns the regulation of private construction in the Public Rights-of-Way, and

WHEREAS, the Board of County Commissioners of Collier County desires to amend Ordinance No. 2003-37 as follows: (1) except as specifically set forth in Ordinance No. 1998-1, to prohibit the enclosure of swales within the Public Rights-of-Way, but to allow the Transportation Administrator or his designee to review and approve deviations from this policy when documented by substantial competent evidence in accordance with approved guidelines; and (2) to authorize the ongoing inspection of, and to require necessary improvements and repairs to, existing culverts and swale enclosures within the Public Rights-of-Way.

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

**SECTION ONE: AMENDMENT.**

1. The following new section is hereby added to Chapter 110 of the Collier County Code and Ordinances:

Sec. 110-30. Enclosure of Swales. Except as specifically set forth in the "Collier County Swale/Culvert Ordinance Naples Park," set forth below in Sec. 110-41 et seq., the enclosure of swales within the Public Rights-of-Way is hereby prohibited. The Transportation Administrator or his designee is authorized to review and approve deviations from this policy when documented by substantial competent evidence in accordance with the guidelines set forth in the handbook. I n

addition, the Transportation Administrator or his designee will continually inspect existing culverts and swale enclosures within the Public Rights-of-Way to ascertain their condition and their effect on the roadside drainage system, and will require any necessary repairs and improvements to existing culverts and swale enclosures located within the Public Rights-of-Way.

2. The "Construction Standards Handbook for Work Within the Public Rights-of-Way, Collier County, Florida," adopted by Collier County Ordinance No. 2003-37, is hereby amended by adding as Appendix C to the handbook the "Collier County Transportation Services Division Right-of-Way Permitting and Inspection Section Criteria For Enclosure of Swales in the Right-of-Way," set forth in Exhibit "A" to this Ordinance.

3. The following Sections of the Collier County Code and Ordinances are hereby renumbered as follows:

Current **Sec. 110-30. Permits.**, is hereby renumbered to **Sec. 110-31. Permits.**

Current **Sec. 110-31. Removal of offending material.**, is hereby renumbered to **Sec. 110-32.**

**Removal of offending material.**

Current **Sec. 110-32. Rule of construction of this article.**, is hereby renumbered to **Sec. 110-33. Rule of construction of this article.**

Current **Sec. 110-33. Conflict and severability.**, is hereby renumbered to **Sec. 110-34.**

**Conflict and severability.**

Current **Sec. 110-34. Penalties.**, is hereby renumbered to **Sec. 110-35. Penalties.**

Current **Secs. 110-35—110-40. Reserved.**, are hereby renumbered **Sec. 110-36--110-40.**

**Reserved.**

Except as renumbered, these sections remain otherwise unchanged.

**SECTION TWO: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

**SECTION THREE: EFFECTIVE DATE.**

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 18<sup>th</sup> day of November, 2003.

ATTEST:  
DWIGHT E. BROCK, Clerk  
BY: Ann Genujolo  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

BY: Tom Henning  
Tom Henning, Chairman

This ordinance filed with the  
Secretary of State's Office on  
24 day of November 2003  
and acknowledgment of that  
filing received this 1st day  
of December 2003

By: Ann Genujolo D.C.  
Deputy Clerk

Approved as to form and legal  
sufficiency:  
Jeffrey A. Klatzkow  
Assistant County Attorney

## **Exhibit "A"**

### **Criteria for Enclosure of Swales in the Rights-of-way**

It is not normally desirable to replace an open grassed swale within a County right-of-way or easement with an enclosed storm drain pipe. Enclosing a swale can reduce stormwater storage volume and stormwater quality treatment capacity. However, it is understood that extenuating circumstances can occur that would make an enclosed system more desirable for health and safety considerations. For those instances where County staff, in responsible charge of making the decisions for swale enclosures, determine that there are sufficient circumstances to justify enclosing an existing swale or ditch, an application for a Right-of-Way Use Permit must be filed with the County. In order for the County to consider issuance of a permit for a swale enclosure, the following criteria must be met:

1. An existing conditions survey and a calculation of the existing cross-sectional swale area shall be provided. A pre and post enclosure evaluation shall be performed to demonstrate that post-enclosure volume is equal to or greater than pre-enclosure volume. A cross section and profile of the existing swale to be enclosed together with bottom and top width, side slopes, and depth shall be prepared and provided by a Florida registered professional engineer. If original design information is available, regardless of the existing condition, the required enclosure volume shall be based on the original swale design geometry and not the existing condition.
2. Any existing water quality pre-treatment has to be compensated either within the right-of-way or in the property, and it has to be in a dry detention area, at least 1' above the high seasonal water table (hswt). The detention area has to collect the runoff from the adjacent pavement that came to the existing swale. Plan and section views depicting an adequate proposed project grading plan which conveys roadway runoff from the edge of pavement into the dry detention area shall be provided. Grading plans must take into account the thickness of sod, typically 4", so as not to create a "step up" leaving a "bird bath" or ponding condition at the edge of pavement. An outlet with a 3" bleeddown orifice (Invert at hswt) shall be provided in the detention area. If the desired plan is to provide a shallow swale for water quality underlain by a storm drain pipe for water quantity, adequate inlets must be provided to the storm drain pipe. Within the urban portion of the County where the affected lot width is less than 100 feet, inlet spacing will be a minimum of one inlet between each driveway. Where lot widths are greater than 100 feet, or in the non-urban portions of the County, inlets shall be located between each driveway with additional inlets as needed to ensure that inlet spacing does not exceed 100 feet. The plans shall show a clearly defined way to get the stormwater from the dry detention area back to the enclosed swale.
3. Any existing water quantity that flows through the swale shall be compensated in a pipe with the capacity to handle that volume. Pipe size calculations indicating the equivalent, compensating volume proposed shall be provided. The minimum pipe size is 18 inches or equivalent.
4. Invert elevations of proposed and existing adjacent pipes, along with direction of flow shall be identified. Also adequate pipe coverage as per manufacturers

- recommendations for HS-20 loading shall be identified. For swale enclosures, the allowable pipe materials are steel reinforced concrete, aluminum, high density polyethylene (HDPE) and polyvinylchloride (PVC). Pipes must have a smooth interior wall and meet Florida Department of Transportation approved criteria. Steel pipe material is not acceptable.
5. The relationship between the normal seasonal high water table elevation, the bottom of the ditch, the invert of the proposed culvert, existing outfall invert (if possible), and typical direction of flow shall be shown. An actual normal seasonal high water table elevation should be called out on the proposed plan.
  6. If a control structure is located downstream of the system proposed to be enclosed, enclosure will be prohibited unless it can be shown that such enclosure will not adversely affect the water quality requirements set forth in the SFWMD Permit for the control structure.
  7. Because of potential larger pipe sizes required to adequately convey the existing storm water runoff, minimum cover requirements may place the proposed pipe invert below the normal seasonal high water table elevation. No credit shall be given for any proposed storage volume provided below the water table.
  8. The use of slotted pipe in rock trenches lined with geotextile fabric may be acceptable in certain locations for water quantity storage where stormwater quality pretreatment is provided and there is clearly insufficient land surface to provide the required dry detention volume. The use of slotted pipe in rock trenches lined with geotextile fabric is also allowable where previously permitted by the County or a State or Federal agency.
  9. All permits for swale or ditch enclosures shall contain explicit requirements for the property owner, successors or assigns to maintain the enclosure.

STATE OF FLORIDA)  
COUNTY OF COLLIER)

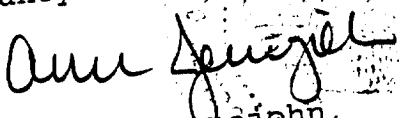
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2003-58

Which was adopted by the Board of County Commissioners on the 18th day of November, 2003, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 20th day of November, 2003.

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

  
By: Ann Jennejohn,  
Deputy Clerk

