

COLLIER COUNTY LAND DEVELOPMENT CODE STAFF CLARIFICATION

ZONING & LAND DEVELOPMENT STAFF CLARIFICATION SC 06-05

DATE: 3 January 2007

LDC SECTION: 1.08.02 (Definitions), 2.04.00 (Permissible, Conditional and Accessory Uses in Zoning Districts), 5.02.00 (Home Occupations)

SUBJECT: High-capacity Fuel Tanks in Residential, Single-family and Estates Zoning Districts

INITIATED BY: Staff, based on request for clarification by Code Enforcement Investigator

BACKGROUND/CONSIDERATIONS: Code Enforcement has reported a number of complaints regarding high-capacity (500-plus gallon) gasoline and diesel fuel tanks being used in Estates zoning to support certain commercial businesses, such as hauling, lawn maintenance, excavation, and landscaping, being operated legally or illegally on the property.

While home occupations are permitted by Section 5.02.00, this section also says that the home occupation shall be clearly incidental to the use of the home for dwelling purposes and shall not change the character of the dwelling. Additionally, Subsection H states that "no on-premise use or storage of any hazardous material shall be kept in such an amount as to be potentially dangerous to persons or property outside the confines of the home occupation." This section would apply to towed fuel tanks or fuel tank trucks having a fuel capacity of greater than 250 gallons. Such commercial vehicles would be prohibited regardless of whether the owner possessed a valid home occupational license since the use would not be typically associated with a single-family home.

Section 1.08.02 defines an accessory use or structure as a use or structure located on the same lot or parcel and incidental or subordinate to the principal use or structure.

In discussing the situation with the Building Director, the Engineering Review Manager, and representatives of the Fire Department, Environmental Services Department and Pollution Control Department, it is the consensus that high-capacity fuel tanks, both above and below ground, constitute an unacceptable and unnecessary hazard within Single-family and Estates zoning districts, in particular in Golden Gate Estates, where storage of large amounts of combustible liquid could pose a additional threat to an area already highly vulnerable to brush fires. High-capacity fuel tanks must be emptied regularly to avoid contamination by rust particles, dirt, and water and can become varnished or gummy, clogging fuel lines and pumps, and there is no need for regular consumption of a high volume of fuel in connection with day-to-day activity associated with a single-family home..

For the purposes of this Staff Clarification, "high-capacity tank" is defined as any tank or container holding in excess of **250** gallons of fuel. This amount should be sufficient to power lawn tractors, lawn mowers, chainsaws, or other small motors typically used in a single-family home.

Fuel tanks providing heating oil to homes, gasoline or diesel fuel to emergency generators, and propane tanks are exempt from the provisions of this Staff Clarification; although all state and local permitting requirements will apply.

DETERMINATION (CLARIFICATION): It is the Zoning Director's determination that a high-capacity above ground or below-ground fuel tank is not a typical accessory use or structure incidental or subordinate to the principal use of a single-family home. Furthermore, the fact that the Code allows home occupations employing heavy vehicles and equipment powered by gasoline and diesel fuel does not justify the storage of large amounts of fuel in support of the home occupation. Such stockpiling would not be incidental to the use of the home and would be in violation of Subsection H, which addresses the storage of hazardous materials.

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