

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING ARTICLE VI, CHAPTER 58 OF THE PINELLAS COUNTY CODE RELATING TO STORMWATER POLLUTION; REVISING SECTION 58-236 RELATING TO DEFINITIONS; REVISING SECTION 58-237 RELATING TO INTENT; REVISING SECTION 58-239 RELATING TO CIVIL REMEDIES; REVISING SECTION 58-240 RELATING TO AREAS EMBRACED; REVISING SECTION 58-241 RELATING TO INSPECTIONS AND MONITORING; REVISING SECTION 58-242 RELATING TO ADMINISTRATIVE ORDERS; REVISING SECTION 58-243 RELATING TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS; REVISING SECTION 58-244 RELATING TO PROHIBITED DISCHARGES; REVISING SECTION 58-245 RELATING TO SPILLS AND DUMPING; REVISING SECTION 58-246 RELATING TO CONSTRUCTION SITES DISCHARGES; CREATING SECTION 58-247 RELATING TO PROHIBITED CONNECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARINGS AND WITH RESPONSIBLE AUTHORITIES.

SECTION 1. Article VI, Chapter 58 of the Pinellas County Code is hereby amended to read as follows:

**ARTICLE VI.
STORMWATER AND SURFACE WATER
POLLUTION**

Sec. 58-236. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Clean Water Act Amendments to the Federal Water Pollution Control Act, enacted by Congress in 1972, and commonly known as the Clean Water Act.

Authorized official means any employee or agent of the county authorized by the county administrator to administer or enforce the provisions of this article.

Best Management Practices or "BMPs" as stated in FAC 62-621.300(4)(a) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Construction means any on-site activity which will result in soil disturbance, including but not limited to the building, assembling, expansion, modification or alteration of the existing property, the

erection of buildings or other structures, or any part thereof, or land clearing.

County administrator means the county administrator of Pinellas County, Florida, or an authorized official.

Discharge means any direct or indirect introduction of any solid, liquid or gaseous matter into the separate storm sewer system or to any receiving waters of the county. This includes discharges from non point sources, diffuse runoff, leaching and atmospheric deposition.

FDEP means the Florida Department of Environmental Protection.

Illicit discharge means any discharge that is not composed entirely of stormwater except discharges identified as authorized exceptions pursuant to section 58-244(c) of this article.

NPDES means the National Pollutant Discharge Elimination System; a program established by the Environmental Protection Agency under the Clean Water Act.

NPDES Permit means an NPDES permit issued by FDEP, together with all conditions attached thereto.

Non-point Sources (NPS) means diffuse runoff without a single point of origin that flows over the surface of the ground by stormwater and is then introduced to surface or ground waters. NPSs include, but are not limited to, atmospheric deposition and runoff, or leaching from agricultural lands, urban areas, unvegetated lands, onsite sewage treatment and disposal systems, and construction sites.

Person includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, or public officer or any other entity whatsoever, or any combination of such, jointly or severally.

Receiving Waters of the County means surface waters of the county including but not limited to open channels, ponds, streams, creeks, lakes, swamps, wetlands located in Pinellas County unincorporated jurisdiction, as well as marine waters extending 3 leagues, or 9 miles from the coastline.

Separate storm sewer system or “MS4” as stated in FAC 62-624.200(8) means the system of conveyances owned or operated by the county used for collecting, storing, and transporting stormwater. Such conveyances may include but are not limited to roads with stormwater systems, storm drains, catch basins, curbs, gutters, ditches, constructed channels, or ponds.

Site of industrial activity means any area or facility used for manufacturing, processing or raw materials storage, or storage of finished products.

Stormwater means any surface runoff and drainage of water from land surfaces, including the surfaces of buildings and other hardened surfaces on the land, but does not include any industrial or commercial process water, sediment or contaminants introduced into water as a result of activities conducted on the site.

SWFWMD means the Southwest Florida Water Management District.

Sec. 58-237. Intent.

This article is adopted by the county for the purpose of maintaining efficient, economic and safe operation of the separate storm sewer system, and for the protection of the health, safety, and general welfare of the public within unincorporated county. This article is intended to prevent and abate pollution through the regulation and control of connections and discharges to the separate storm sewer system or receiving waters of the county and to limit the use of the separate storm sewer system to the collection, conveyance, treatment, and disposal of stormwater through appropriate regulation and enforcement. The prohibitive discharge standards contained in this article were developed under the authority of section 5 of the act and 40 CFR 122, applicable FDEP, SWFWMD regulations and applicable home rule power.

Sec. 58-238. Penalty for violation of article.

Failure to comply with the requirements of this article or any permit or approval granted or authorized under this article shall be punished as provided in section 1-8.

Sec. 58-239. Civil remedies.

(a) *Abatement.* In addition to the penalties provided in section 58-238 the board of county commissioners is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent, clean-up, or abate violations of this article.

(b) *Additional Penalties.* The board of county commissioners is also authorized in accordance with the Pinellas County Environmental Enforcement Act (compiled in article II of this chapter) to impose and recover a civil penalty for each violation of this article in an amount not more than \$10,000.00 for each offense. If a violation of this article is continued, each day of such violation shall constitute a separate offense.

Sec. 58-240. Areas embraced.

The provisions of this article shall embrace all unincorporated areas within the legal boundaries of Pinellas County, Florida, as well as receiving waters of the county.

Sec. 58-241. Inspections and monitoring.

(a) *Authority for inspections.* Whenever necessary to make an inspection to enforce any provisions of this article, or regulation or permit issued under this article, or whenever an authorized official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this article, or regulation or permit issued under this article, any authorized official may enter any property, building or facility at any reasonable time to inspect the same or to perform any duty related to enforcement of the provisions of this article or any regulations or permits issued under this article; provided, that:

(1) If such property, building or facility is occupied, such authorized official shall first present proper credentials and request permission to enter; and

(2) If such property, building or facility is unoccupied, such authorized official shall

make a reasonable effort to locate the owner or other person having charge or control of the property, building or facility, and shall request permission to enter.

Any request for permission to enter made under this section shall state that the owner or person in control has the right to refuse entry, and that in such event that entry is refused, the authorized official may enter to make inspection only upon issuance of an inspection warrant by a court of competent jurisdiction. If the owner or person in control refuses permission to enter after such request has been made, the authorized official is hereby authorized to seek assistance from any court of competent jurisdiction in obtaining entry. Routine or area-wide inspections shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this article, including but not limited to random sampling and sampling in areas with evidence of stormwater contamination, non-stormwater discharges, or similar factors.

(b) *Authority for monitoring and sampling.* Any authorized official may install and maintain such devices as are necessary to conduct sampling or monitoring of discharges to the separate storm sewer system. During any inspections made to enforce the provisions of this article, or regulations or permits issued under this article, any authorized official may take any samples deemed necessary.

(c) *Requirements for monitoring.* The county administrator may require any person engaging in any activity or owning any property, building or facility, including but not limited to a site of industrial activity, to undertake reasonable monitoring of any discharge to the separate storm sewer system and to furnish periodic reports.

(d) *State Inspections.* As part of the NPDES program, FDEP officials may also at any given time, request permission to inspect any site or facility for NPDES compliance.

Sec. 58-242. Administrative order.

The county administrator may issue an order to any person to immediately eliminate any connection or cease any illicit discharge to the separate storm sewer system, determined by the county administrator or authorized official to be in violation of any provision of this article, or in violation of any regulation or authorization issued under this article.

Sec. 58-243. NPDES permits.

NPDES permits. Any person who by Florida State Statutes is required to hold an NPDES permit, which authorizes discharge to the county's separate storm sewer system, shall provide a copy of such permit to the county administrator or designee no later than 60 calendar days after the effective date of this article or 60 calendar days after issuance of the permit.

Sec. 58-244. Prohibited discharges.

(a) *General prohibitions.* Except as set forth under subsection (c) of this section or in accordance with a valid NPDES permit, any discharge to the separate storm sewer system or to any receiving waters of the county that is not composed entirely of stormwater is prohibited.

(b) *Specific prohibitions.* In addition to the general prohibitions set forth in subsection (a) of this section, any discharge to the separate storm sewer system or to any receiving waters of the

county containing any chemicals, petroleum products, automotive fluids of any kind, sewage, industrial waste, sediment, construction or building materials, yard waste or other waste materials, or containing any materials in violation of federal, State, county, municipal, or other laws, rules, regulations, orders or permits, or which causes or contributes to a violation of State water quality standards contained in Chapter 62, Florida Administrative Code, in the waters of the United States, is prohibited.

(c) *Authorized exceptions.* The following discharges are exempt from the general prohibition set forth under subsection (a) of this section provided they meet State water quality standards as provided in Rule 62-302, F.A.C.: flows from firefighting, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration of groundwater to the separate storm sewer system, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, uncontaminated air conditioning condensation, springs, individual residential car washing, non-particulate filter backwash from residential swimming pools, flows from riparian habitats and wetlands, and discharges permitted under a valid NPDES permit.

Sec. 58-245. Spills and dumping.

(a) *Notification of spills.* Any person who is responsible for any discharge to the separate storm sewer system or any receiving waters of the county in violation of this article shall immediately notify the county . Such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such telephone notification in writing to the county within three calendar days.

Sec. 58-246. Construction site discharges

Construction sites must be contained to the maximum extent practicable using BMPs to prevent vehicle track out, accidental discharge or run-off of construction materials, including but not limited to sediment, mud, soil, sand, rubble, concrete, or any other building or site materials.

Sec. 58-247. Prohibited connections

No person may maintain, use or establish any direct or indirect connection to the separate storm sewer system that results in any discharge in violation of this article. This prohibition applies to connections made in the past, regardless of whether made under a permit or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.

Sec. 58-248. Liability for violation of article

Whenever a violation of this article occurs or exists, or has occurred or existed, any person, individually or otherwise, who has a legal, beneficial or equitable interest in the facility or instrumentality causing or contributing to the violation, or who has a legal, beneficial or equitable interest in the real property upon which such violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for such violation. This provision shall be construed to impose joint and several liability upon all persons, individually or otherwise, who, although such persons may no longer have any such legal, beneficial or equitable interest in such facility or instrumentality or real property,

did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur. This provision shall be liberally construed to protect the separate storm sewer system and receiving waters of the county and to accomplish the purposes of this article.

SECTION 2. Severability

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

SECTION 3. Effective Date

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

SECTION 4. Inclusion Clause

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

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