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ORDINANCE NO. 07-005

AN ORDINANCE CREATING CHAPTER 1-7.7 (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEMS) OF THE CODE OF ORDINANCES OF ST. LUCIE COUNTY, FLORIDA, PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ADOPTION AND PROVIDING FOR CODIFICATION

WHEREAS, the Federal Clean Water Act requires states and their local governments to take steps to implement the National Pollutant Discharge Elimination System (NPDES.)

WHEREAS, Section 403.0885, Florida Statutes, authorizes the Florida Department of Environmental Protection to implement the NPDES program at the state level.

WHEREAS, St. Lucie County, Florida, currently holds an NPDES Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems (MS4.)

WHEREAS, requirements of this permit include development and implementation, through regulatory mechanisms, control measures to prevent pollution to the MS4 caused by:

1. Soil, sediment, and sediment related pollutants, such as may be carried by stormwater runoff.
2. Non-stormwater (illicit) discharges and connections.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida:

PART A. CREATION OF SECTION 1-7.7 (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEMS) OF SECTION 1-7

Section 1-7.7 of Chapter 1-7 of the Code of Ordinances of St. Lucie County, Florida, is hereby created to read as follows:

EDWIN M. FRY, Jr., CLERK OF THE CIRCUIT COURT
SAINT LUCIE COUNTY
FILE # 3061099 05/29/2007 at 03:22 PM
OR BOOK 2824 PAGE 2055 - 2067 Doc Type: ORDN
RECORDING: \$112.00

ARTICLE I
General

Section 1-7.7-1 Purpose

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of St. Lucie County and the environment through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System. The objectives of this chapter are:

- (1) To require erosion and sediment controls to reduce pollutants in any stormwater runoff to the MS4 from construction activities that result in a land disturbance of one acre or greater.
- (2) To effectively prohibit illicit discharges and connections to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

This chapter shall apply to all areas of unincorporated St. Lucie County, and all waters in said area, entering the MS4 through a "point source"; as defined in section 1-7.7-2, unless exempt under rule 62.624.200(2), F.A.C., or by an authorized enforcement agency.

Section 1-7.7-2 Definitions

For the purpose of this chapter, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the director of St. Lucie County designated to enforce this ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits.

Erosion and Sediment Control Plan. A set of plans prepared by or under the direction of a licensed engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a site during and after construction.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Discharge. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 1-7.7-15 of this ordinance.

Illicit Connections. Either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage and processed wastewater to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR Section 122.26(b)(14).

MS4 or Municipal Separate Storm Sewer System. Publicly owned conveyance or system of conveyance (i.e., ditches, curbs, catch basins, and underground pipes) designed to discharge stormwater to surface waters of the State.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

PPM. Parts per million.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Point Source. Any discernible, confined, and discrete conveyance, such as any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, or landfill leachate collection system from which pollutants are or may be discharged.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Regulated Waters. Waters of the United States as defined in 40 CFR § 122, as amended, and Waters of the State as defined in Chapter 403, F.S., as amended, that lie within St. Lucie County.

Storm Drainage System. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse. Any body of water, including, but not limited to lakes, ponds, rivers, streams, swales, ditches, and bodies of water delineated by the County.

Section 1-7.7-3 Responsibility for Administration.

St. Lucie County shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the County Engineer of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

Section 1-7.7-4 NPDES Permits Required.

Effective immediately upon final passage and adoption of this Ordinance, an NPDES Stormwater Phase II permit will be required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Any person who holds a National Pollutant Discharge Elimination (NPDES) permit which authorizes discharge to the Regulated Waters or to the County's MS4 shall provide proof of such permit to the County Engineer or Designee, prior to beginning construction of the project. All erosion, pollutant and sediment controls required by any applicable local, state, or federal permit, including elements of a Stormwater Pollution Prevention Plan required under a NPDES permit, shall be properly implemented, installed, operated and maintained.

Section 1-7.7-5 Accidental Discharges.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to St. Lucie County Engineer within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 1-7.7-6 Inspections and Monitoring.

A. Authority for inspections. Whenever deemed necessary to make an inspection to enforce any provision of this chapter, or any regulation or permit issued under this chapter, or whenever an authorized official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this chapter or any regulation or permit issued under this chapter, 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 chapter, 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 1-7.7-6 shall state that the owner of 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 a search warrant or inspection warrant by a duly authorized court. 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 chapter, including but not limited to observation, random monitoring or sampling, 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 County's MS4 and may collect any samples deemed necessary at any time.

C. Requirements for self monitoring. The County Engineer or his designee may require any person engaging in any activity or owning any property, building or facility, to undertake reasonable monitoring and/or sampling of discharge to the County's MS4 and to furnish periodic reports.

Section 1-7.7-7 Enforcement

Notice of Violation. Whenever the County finds that a person has violated a prohibition or failed to meet a requirement of Section 1-7.7 (National Pollutant Discharge Elimination

Systems), the authorized enforcement agency may order compliance by written Notice of Violation to the responsible person. Such notice may require without limitation:

- A. Issuance of a Stop Work Order.
- B. The performance of monitoring, analyses, and reporting.
- C. The elimination of illicit connections or discharges.
- D. That violating discharges, practices, or operations shall cease and desist.
- E. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- F. The implementation of source control or treatment Best Management Practices (BMP).

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 1-7.7-8 Enforcement Measures.

If the violation of this Section 1-7.7 (National Pollutant Discharge Elimination System) has not been corrected pursuant to the requirements set forth in the Notice of Violation, then any violation of any provision of this chapter shall be subject to remedy and due process under the provisions of Chapter 1-2, Article III Code Enforcement Board.

Section. 1-7.7-9 Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section 1-7.7-7 (National Pollutant Discharge Elimination System). If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 1-7.7-10 Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

ARTICLE II

Construction Site Erosion and Sediment Control

Section 1-7.7-11 Findings.

A. During the construction process, disturbed soil is highly vulnerable to erosion by wind and water. Eroded soil endangers aquatic flora and fauna by reducing water quality and causing the siltation of habitat.

B. Eroded soil impedes flow and necessitates the maintenance of storm drainage systems, ditches, canals, swales and the dredging of water bodies. In addition, emissions of particulate matter caused by construction activities, demolition, or the stockpiling of particulate substances, may trespass on neighboring properties, and degrade air quality.

Section 1-7.7-12 Erosion and Sediment Control Plan.

No person may engage in construction activity until a plan has been submitted for erosion and sediment control and such plan has been approved by the County Engineer or designee. The plan must address all applicable BMP's for erosion control and shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a certified contractor shall be on site on all days when land disturbing activity takes place.

Section 1-7.7-13 Standards

A. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized. Clearing techniques that retain natural vegetation and drainage patterns shall be implemented to the satisfaction of the County Engineer or designee.

B. Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site and be maintained to project completion to the satisfaction of County Engineer or designee.

C. The angle for graded slopes and fills shall not be greater than the angle which can be retained by vegetative cover, or other adequate erosion-control, devices or structures (generally 4:1 or less). Slopes left exposed will, within ten (10) working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to prevent erosion.

D. Groundcover sufficient to restrain erosion must be planted or otherwise provided within ten (10) working days on portions of cleared land upon which further construction activity is not being undertaken within thirty (30) days of clearing.

E. Vegetative cover or other erosion control devices or structures used to meet these requirements shall be properly maintained during and after construction.

F. Temporary seeding or sodding, adequate covering, or chemical application, on exposed soils, including stockpiles of topsoil, sand, or other construction fill, shall be used where delays in construction of more than seven (7) days are anticipated.

G. The operator of any construction project that disturbs one acre or more, or is part of the larger common plan of development or sale which disturbs one acre or more, is required to obtain the proper stormwater permit from the Florida Department of Environmental Protection and to comply with all the terms and conditions of the permit, in addition to any County requirements. The operator shall maintain a copy of the permit onsite for review by any authorized official upon request.

H. Waste generated on-site, including but not limited to: discarded building materials, concrete truck wash-out, chemicals, litter, and sanitary waste, must be stored, secured, or otherwise controlled to the maximum extent practicable to prevent adverse impacts to water quality.

Section 1-7.7-14 Exemptions.

Any emergency activity necessary for the protection of life, property, or natural resources; maintenance and repair work to the County's MS4, permitted mining operations, and existing nursery and agricultural operations conducted as a permitted main or accessory use, provided such activities do not contribute to any on-site generated erosion, or degradation of lands or water beyond the boundaries of the property or area are exempt from this chapter.

ARTICLE III
Illicit Stormwater Discharge and Connection

Section 1-7.7-15 Discharge Prohibitions.

No person shall discharge or cause to be discharged into the County Separate Storm Sewer System or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

A. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, de-chlorinated swimming pools (less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

B. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety and approved by the County Engineer or designee.

C. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or wastewater discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system and approved by the County Engineer or designee.

Section 1-7.7-16 Prohibition of Illicit Connections.

A. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

C. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Section 1-7.7-17 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 1-7.7-18 Suspension of MS4 Access.

A. Suspension due to Illicit Discharges in Emergency Situations. St. Lucie County may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of people, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

B. Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The County will notify a violator of the proposed termination of its MS4 access. The violator may petition the County for a hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the County Engineer or designee.

Section 1-7.7-19 Industrial, Commercial or Construction Activity Discharges.

A. Stormwater from areas of any Industrial, Commercial or Construction Activity shall be controlled, treated and managed on-site using best management practices so as not to cause an illicit discharge to the County's MS4 or Regulated Waters.

B. Authorized discharges to the County's MS4 shall be controlled so they do not impair the operation or contribute to the failure of the MS4 to meet any applicable local, state, or federal law or regulation.

C. Authorized discharges to Regulated Waters shall be controlled so that they do not adversely impact the quality or beneficial uses of those waters or result in violation of any applicable local, state, or federal law or regulation.

Section 1-7.7-20 Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash,

debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse or cause flooding to other properties. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 1-7-7.21 Interconnected MS4s.

Interconnected MS4s, including MS4s not owned by the County, shall be controlled and maintained so they do not impair the operation of or contribute to the failure of the receiving MS4 to meet any applicable local, state, or federal law or regulation. Owners of sections of an interconnected MS4 shall be responsible for the water quality within their portion of the system and shall coordinate with the owners of the downstream segments.

PART B. CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART C. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. This ordinance shall be applicable within recorded subdivisions in unincorporated St. Lucie County. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

PART D. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

PART E. EFFECTIVE DATE.

This ordinance shall take effect on receipt of official acknowledgment from the Office of the Secretary of State that this ordinance has been filed in that office.

PART F. ADOPTION.

After motion and second the vote on this ordinance was as follows:

Chairman Chris Craft	Aye
Vice Chairman Joseph E. Smith	Aye
Commissioner Charles Grande	Aye
Commissioner Paula Lewis	Aye
Commissioner Doug Coward	Aye

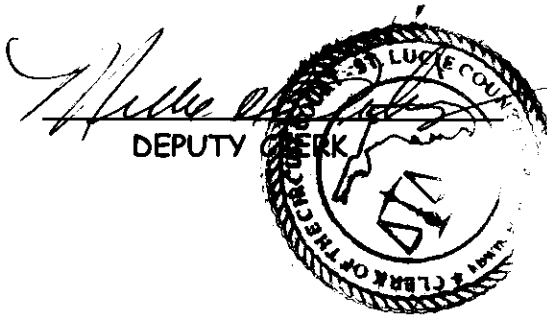
PART G. CODIFICATION.

Provisions of this ordinance shall be incorporated in the Code of Ordinances of St. Lucie County, Florida, and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Parts B through G shall not be codified.

PASSED AND DULY ADOPTED this 15 day of May, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA



DEPUTY CLERK

BY:

CHAIRMAN

APPROVED AS TO LEGAL FORM AND
CORRECTNESS:



COUNTY ATTORNEY