

ORDINANCE # 14-4

AN ORDINANCE AMENDING ORDINANCE 94-15 RELATING TO THE MANAGEMENT OF STORM SEWER SYSTEM DISCHARGES AND ENHANCING THE QUALITY OF SURFACE AND GROUND WATER RESOURCES; PROVIDING FOR A SHORT TITLE; PROVIDING FOR A STATEMENT OF PURPOSE, ESTABLISHING APPLICABILITY; PROVIDING FOR DEFINITIONS; CONTROLLING STORMWATER DISCHARGES TO THE COUNTY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM, WATERS OF THE STATE AND WATERS OF THE UNITED STATES; CONTROLLING THE DISCHARGE OF STORMWATER FROM INDUSTRIAL ACTIVITIES AND CONSTRUCTION SITES; CONTROLLING THE POLLUTANT CONTRIBUTION FROM INTERCONNECTED MUNICIPAL SEPARATE STORM SEWER SYSTEMS; PROVIDING FOR CONTROL OF NON-STORMWATER DISCHARGES; PROHIBITING ILLICIT DISCHARGES AND ILLICIT CONNECTIONS; PROVIDING FOR REPORTING AND CONTROL OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS TO THE COUNTY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM AND STATE AND U.S. WATERS; PROVIDING AUTHORITY TO PERFORM INSPECTIONS AND MONITORING FOR COMPLIANCE; PROVIDING FOR MAINTENANCE OF CONTROL STRUCTURES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT, PENALTIES AND PROCEEDINGS FOR INJUNCTION; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, amendments are required to Ordinance 94-15, the Hillsborough County Stormwater Quality Management Ordinance, including amendments to update the Ordinance to reflect the current Florida Administrative Code and to better comply with the requirements of the County's National Pollution Discharge Elimination System (NPDES) stormwater permit.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THIS 5th DAY OF February, 2014, AS FOLLOWS:

Hillsborough County Ordinance 94-15 is hereby amended to read as follows:

ARTICLE 1 - GENERAL PROVISIONS

SECTION 1-1 SHORT TITLE:

This Ordinance shall be known as the Hillsborough County Stormwater Quality Management Ordinance.

SECTION 1-2 STATEMENT OF PURPOSE:

The contribution of pollutants through discharges from storm sewer systems has a significant impact on the receiving waters in Hillsborough County. Improperly treated discharges from industrial activities and interconnected Municipal Separate Storm Sewer Systems (MS4s) and illicit discharge from spilling, dumping or disposal of material other than stormwater to a MS4 will adversely affect the quality of waters receiving such discharges. The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Regulations, has mandated that municipalities provide the legal authority to control discharges to their MS4s under the National Pollutant Discharge Elimination System (NPDES) in order to control the quality of discharges from their MS4. The Board of County Commissioners of Hillsborough County, Florida, therefore finds it necessary and in the public interest to protect the quality of waters receiving stormwater discharges for the health, safety, and general welfare of the citizens of Hillsborough County.

SECTION 1-3 APPLICABILITY:

The regulations herein set forth shall apply to all the unincorporated areas of Hillsborough County.

ARTICLE 2 - DEFINITIONS

SECTION 2-1 DEFINITIONS:

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as

to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. Use of the word “shall” means mandatory and not merely discretionary.

- A. BEST MANAGEMENT PRACTICES (BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the MS4 or being discharged from the MS4. BMPs include, but are not limited to, treatment methods and practices to control the discharge of pollutants.
- B. BOARD - The Board of County Commissioners of Hillsborough County, Florida.
- C. CLEAN WATER ACT (CWA) - Amendments, initially passed in 1972 by Congress, to the Federal Water Pollution Control Act and commonly referred to as the Clean Water Act (CWA).
- D. CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.
- E. CONSTRUCTION ACTIVITIES - Includes such activities as clearing, grading, and excavation activities except operations that result in the disturbance of less than one (1) acre of total land area which are not part of a larger common plan of development or sale.
- F. COUNTY - The unincorporated areas of Hillsborough County, a political subdivision of the State of Florida.
- G. COUNTY ADMINISTRATOR - The County Administrator or his/her designee.
- H. DISCHARGE - Includes, but is not limited to, any release, spilling, leaking, seeping, pouring, emitting, emptying or dumping of any substance or material.
- I. FLORIDA ADMINISTRATIVE CODE (FAC) - An annotated official compilation of the rules and regulations of the State of Florida, published by the Florida Secretary of State.
- J. ILLICIT CONNECTIONS - Point source discharges to the County’s MS4 or to waters of the State or U.S., which are not composed entirely of stormwater and are not authorized by an NPDES permit. Failure of an industrial facility or construction site to notify the County Administrator of a connection to the County’s MS4 constitutes an illicit connection.
- K. ILLICIT DISCHARGE - Any discharge to a MS4 or to waters of the State or U.S. that is not composed entirely of stormwater, with the exception of discharges which are exempt pursuant to Section 6-1 of this Ordinance. Any discharge in violation of a NPDES permit shall constitute an illicit discharge.

- L. **INDUSTRIAL ACTIVITIES** - Activities which are conducted on properties designated for Industrial Land Use in accordance with the Hillsborough County Comprehensive Plan and/or at facilities identified by the U.S. EPA as requiring a NPDES stormwater permit under the definition of “Storm Water Discharge Associated with Industrial Activity” in Title 40, Section 122.26 of the Code of Federal Regulations or any amendment thereto.
- M. **INSPECTION** - Includes, but is not limited to, any on-site physical examination of all facilities and grounds which may discharge to a MS4, a review of all records on operation and maintenance of facilities and the results of any monitoring performed for compliance with federal, state, and local regulations or permit conditions.
- N. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** - A conveyance or system of conveyances (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) owned or operated by a local government that discharges to waters of the State or United States or connects to other MS4s, that is designed solely for collecting or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2 or any amendment thereto.
- O. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)** - Means the federal program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the CWA. The term includes an “approved program.”
- P. **PERSON** - Any individual, partnership, firm, organization, corporation, association or other legal entity, whether singular or plural, as the context may require.
- Q. **POINT SOURCE** - Any discernible and confined conveyance, including but not limited to, any pipe, ditch, channel tunnel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.
- R. **POLLUTANT** - Includes, but is not limited to, dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discharged equipment; rock; sand; sediment; soil; yard waste (leaves, limbs, grass clippings, and the like); construction materials or waste; chlorine, bromine or other disinfectants; batteries; animal waste; soaps; animal carcasses; detergents or ammonia; petroleum products including but not limited to oil, gasoline, grease, fuel oil, or hydraulic fluids; antifreeze and other automotive products; chemically treated cooling water; food wastes; paints; recreational vehicle waste; pesticides, herbicides, or fertilizers; degreasers; solvents; steam cleaning wastes; and Industrial; municipal; and agricultural waste discharged into water.

- S. STORMWATER - Surface runoff and drainage of water resulting from rainfall.
- T. WATERS OF THE STATE – “Waters” as defined by Florida Statutes in Chapter 403, Part 1, Section 403.031 or any amendment thereto.
- U. WATERS OF THE UNITED STATES (U.S.) - As defined by the U.S. Environmental Protection Agency (EPA) in Title 40, Section 122 of the Code of Federal Regulations or any amendment thereto.

ARTICLE 3 – CONTROL OF STORMWATER DISCHARGES

SECTION 3-1 STORMWATER DISCHARGES TO THE MS4 AND STATE OR U.S. WATERS:

- A. Discharges to the County’s MS4 shall be controlled to the extent that such discharges will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any federal, state, or local requirements. Discharges to waters of the State or U.S. shall be controlled to the extent that the discharge will not adversely impact the quality or beneficial uses of the receiving water or result in violation of any federal, state or local laws.
- B. Any person responsible for discharges determined by the County to be contributing to the degradation of the County’s MS4 or the waters of the State or U.S., either directly or through a MS4, shall provide corrective measures in accordance with a schedule approved by the County and may be subject to paying fines and damages.

SECTION 3-2 STORMWATER DISCHARGES FROM INDUSTRIAL ACTIVITIES AND CONSTRUCTION ACTIVITIES:

- A. Stormwater from construction sites shall be controlled in such a way as to retain sediment on-site and prevent violations of state water quality standards or NPDES permits. All erosion, pollution, and sediment controls required pursuant to the pollution prevention plan of a NPDES stormwater permit for construction or required pursuant to a state stormwater permit issued by either the Florida Department of Environmental Protection or the Southwest Florida Water Management District shall be properly implemented, maintained and operated.
- B. Stormwater from areas of industrial activity shall be treated or managed on-site, using best management practices, in accordance with NPDES permits, prior to

discharging to the County's MS4 or to waters of the State or U.S. All stormwater discharges from the site shall be of a quality which will not adversely impact the water quality or beneficial uses of the receiving water.

- C. The owners or operators of industrial facilities or construction sites which will discharge stormwater to the County's MS4 or to waters of the State or U.S. must provide written notification of connection to the County prior to discharging.

SECTION 3-3 CONTROL OF POLLUTANT CONTRIBUTIONS FROM INTERCONNECTED MS4s:

The discharge of stormwater between interconnected state, county or other MS4s shall not impair the quality of the discharge of the receiving MS4. Owners of sections of an interconnected MS4 shall be responsible for the quality of discharge from their portion of the system and shall coordinate with the owners of the downstream segments prior to the connections into their systems.

ARTICLE 4 – CONTROL OF NON-STORMWATER DISCHARGES

SECTION 4-1 PROHIBITION OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS:

Any discharge, other than stormwater, to the County's MS4 or to waters of the State or U.S. which is not exempt under Section 6-1 of this Ordinance, and any connection which is not composed entirely of stormwater or specifically permitted through an NPDES permit, is considered an illicit discharge or an illicit connection and is prohibited.

SECTION 4-2 REPORTING ILLICIT DISCHARGES OR ILLICIT CONNECTIONS:

Upon discovery of an illicit discharge or an illicit connection, persons responsible for the discharge or the connection shall report their findings by telephone immediately to the County and follow within 48 hours with written notification.

SECTION 4-3 CONTROL OF ILLICIT DISCHARGES OR ILLICIT CONNECTIONS:

Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease discharging or provide suitable containment facilities. Such procedures shall include a requirement to obtain approval from the County Administrator of a schedule for implementing proposed corrective measures.

ARTICLE 5 - INSPECTION AND MAINTENANCE OF SYSTEMS

SECTION 5-1 INSPECTION AND MONITORING FOR COMPLIANCE:

County personnel shall be granted access for inspection of facilities discharging or suspected of discharging to the County's MS4 or waters of the State or U.S. in order to effectuate the purposes of this Ordinance and to investigate violations or potential violations of any of the terms herein. All structures and processes which allow discharges to the County's MS4, as well as records concerning them, shall be made accessible to County personnel for monitoring of the quality of the discharges.

Upon reasonable belief that a violation exists, County personnel or their authorized representatives may establish on the property being investigated such devices as are necessary to conduct sampling or metering of discharges to the County's MS4 or waters of the State or U.S., and take any samples deemed necessary to determine if a violation exists, and the nature and extent of such violation.

SECTION 5-2 MAINTENANCE OF CONTROL STRUCTURES:

Structural controls and other BMP's used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the permitted design or performance criteria in compliance with NPDES or other permit conditions. Operation and maintenance shall be done so as to assure treatment of stormwater or reduction in pollutants in stormwater discharges consistent with appropriate federal, state, water management district, or local rules or permit requirements.

ARTICLE 6 – EXEMPTIONS

SECTION 6-1 EXEMPTIONS:

The following activities shall be exempt from the requirements of this Ordinance:

- A. Discharges from:
 - water line flushing;
 - landscape irrigation;
 - uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
 - uncontaminated pumped ground water;
 - discharges from potable water sources;
 - air conditioning condensate;
 - irrigation water;

- springs;
 - lawn watering;
 - individual residential car washing;
 - dechlorinated swimming pools;
 - flows from riparian habitats and wetlands;
 - street wash waters;
 - discharges or flows from emergency fire fighting activities, and emergency response activities employing best management practices;
 - reclaimed water line flushing authorized pursuant to a permit issued under the authority of Rule 62-610, F.A.C.; and
 - flows from uncontaminated roof drains.
- B. Discharges which meet the water quality standards of Chapter 62-302 FAC, and any amendment thereto.
- C. Discharges from facilities in compliance with the conditions of all required NPDES permits issued under the authority of the U.S. Environmental Protection Agency or the Florida Department of Environmental Protection.

ARTICLE 7 - ORDINANCE ADMINISTRATION

SECTION 7-1 ENFORCEMENT, PENALTIES AND LEGAL PROCEEDINGS:

- A. This Ordinance shall be administered by the County Administrator. All persons in violation of this Ordinance shall address such violations immediately upon written notification by the County. Violations shall be addressed by providing a written response to the County Administrator or designee, outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures. Proposals for corrective action shall be subject to the approval of the County Administrator or designee.
- B. The County Administrator is authorized to designate staff who may issue cease and desist orders in the form of written notices of violation to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased immediately based upon the following conditions:
1. In a situation that may have a serious effect on the health, safety, or welfare of the public or the environment, including the operation of and quality of stormwater in the County's MS4.

2. When irreversible or irreparable harm may result, in the reasonable opinion of the County Administrator or designee; and immediate cessation of the activity is necessary to protect the public or the environment; including the operation of and quality of stormwater in the County's MS4.
- C. Any person who violates any section of this Ordinance may be subject to prosecution before the Hillsborough County Code Enforcement Board and may be subject to administrative fines and liens, or other penalties, as set forth in Chapter 162, Florida Statutes, or Hillsborough County Code of Ordinances and Laws, Part A, Chapter 14, as amended. Each day of non-compliance shall constitute a separate violation.
 - D. Any person who violates any section of this Ordinance may be prosecuted and punished as provided by Section 125.69, Florida Statutes. Each day of the violation shall constitute a separate offense, punishable by a fine or by imprisonment in the County jail, or by both such fine and imprisonment to the limits as set forth in Section 125.69, Florida Statutes.
 - E. In addition to any fines which may be imposed by this Ordinance, persons responsible for a discharge which adversely impacts a receiving water may be liable for all sampling and analytical costs incurred in monitoring the discharge, any state or federal fines imposed as a result of the discharge and the cost of removing and/or properly treating the discharge for complete restoration of the quality of all receiving waters.
 - F. If the person(s) responsible for a violation fails to take action(s) required in 7-1.E, the County has the right to take remedial action. All costs incurred by the County in taking such actions shall be reimbursed by the person(s) responsible for the illicit discharge or illicit connection.
 - G. In addition to the remedies provided herein, the County is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any person from violating, or continuing to violate, any provisions of this Ordinance. In addition, the County may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs.
 - H. The County may elect any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of another.
 - I. Any fines or other funds received as a result of enforcement under this Ordinance which are not used for specific purposes set forth in this Ordinance shall be deposited

in the Stormwater Management Utility Trust Fund, as established under the Hillsborough County Code of Ordinances and Laws, Part A, Section 24-90, and any amendments thereto.

SEVERABILITY - If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

INCLUSION IN THE HILLSBOROUGH COUNTY CODE – The provisions of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately numbered to conform to the uniform numbering system of the Hillsborough County Code.

EFFECTIVE DATE – A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after the enactment of this Ordinance, and this Ordinance shall become effective upon filing.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board at its regular meeting of Feb. 5, 2014, as the same appears of record in Minute Book 453 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 6th day of February, 2014.

PAT FRANK, CLERK

By: Beverly Anne Miller
Deputy Clerk

Approved as to form and legality

[Signature]
Assistant County Attorney

