

ORDINANCE 00-02

FILED FOR RECORD
CLERK OF COUNTY
JAN 26 2 10 PM '02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RELATING TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4); PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR NPDES PERMITS; PROHIBITING AND LIMITING CERTAIN DISCHARGES, SPILLS AND DUMPING TO THE SYSTEM; PROVIDING FOR INSPECTIONS AND MONITORING; PROVIDING FOR ADMINISTRATIVE ORDERS; PROVIDING FOR ENFORCEMENT, PENALTIES AND CIVIL REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREAS EMBRACED; AND PROVIDING FOR FILING OF ORDINANCE AND AN EFFECTIVE DATE.

WHEREAS, the federal Clean Water Act (33 U.S.C. 1251, *et seq.*, hereinafter the "Act") as implemented by regulations of the U. S Environmental Protection Agency (EPA) adopted November 16, 1990 (40 CFR Part 122) requires the adoption of local ordinance provisions relating to the Municipal Separate Storm Sewer System (MS4); and

WHEREAS, the Board of County Commissioners of Manatee County Florida (hereinafter "Board") is empowered to manage, operate and control flooding and drainage pursuant to Section 125.01(1)(j), Florida Statutes; and

WHEREAS, Manatee County applied for and received a National Pollutant Discharge Elimination System (NPDES) permit for its MS4; and

WHEREAS, a condition of this permit is that non-stormwater discharges be effectively prohibited from entering the MS4; and

WHEREAS, the Board of County Commissioners hereby finds that this Ordinance is the least restrictive means necessary to achieve the aforementioned goals and promote and protect the public health, safety and welfare of the citizens of Manatee County, Florida; and

WHEREAS, compliance with this Ordinance does not eliminate the responsibility of complying with other applicable EPA, Florida Department of Environmental Protection (DEP) or Southwest Florida Water Management District (SWFWMD) regulations.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY FLORIDA THAT:

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

00-02 Municipal Separate Storm Sewer System (MS4)

SECTION 1. INTENT

This Ordinance is adopted by Manatee County for the purpose of maintaining efficient, economic and safe operation of the MS4, and for the protection of the health, safety and general welfare of the public within the County. This Ordinance is intended to prevent and abate pollution through regulation and control of connections and discharges to the Manatee County MS4 and to limit the use of the system to the conveyance, treatment, and disposal of stormwater through appropriate regulation and enforcement. The discharge standards contained herein were developed under the authority of Section 5 of the Act; 40 CFR sec.122; applicable DEP and SWFWMD regulations, and Chapter 125, Florida Statutes.

SECTION 2. DEFINITIONS

Unless the text specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- (a) **Act** - shall mean the Federal Water Pollution Control Act, as amended, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*
- (b) **Authorized Official** - shall mean any employee or agent of Manatee County authorized in writing by the County Administrator to administer or enforce the provisions of this Ordinance.
- (c) **County Administrator** - shall mean the County Administrator of Manatee County, Florida, or his/her designee.
- (d) **Discharge** - shall mean any direct or indirect introduction of any solid, liquid or gaseous matter.
- (e) **Municipal Separate Storm Sewer System (MS4)** - shall mean that system of conveyance owned by Manatee County used for collecting, storing and transporting stormwater, but not including any facilities intended to be used in accordance with applicable laws for collecting and transporting sanitary or other wastewater.
- (f) **NPDES** - shall mean a permit issued pursuant to Section 402 of the federal Water Pollution Control Act (33 U.S.C. 1342).
- (g) **Person** - shall mean any individual, partnership or co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity or other legal entity, or their legal representatives or agents. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

- (h) **Pollutant** - shall mean solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemicals, biological materials, radioactive materials, rock, sand, dirt, industrial materials and industrial wastes discharged into water or any other material capable of degrading local normal environmental conditions upon introduction into the environment.
- (i) **Prohibited Discharge** - shall mean any discharge or deposition to the MS4 that is not composed entirely of stormwater except for discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4 - NPDES Permit No. FL000036, or successor permits) and discharges described in Section 4(c) of this Ordinance.
- (j) **Shall** - when used, means that it is mandatory; but the term "may" when used, means that it is permissive.
- (k) **Site of industrial activity** - shall mean an area or facility used for manufacturing, processing, or raw materials storage, as defined under 40 CFR sec.122.26(a)(14) of regulations of the EPA and includes construction activity where five or more acres are subject to clearing, grading and excavation activities.
- (l) **Stormwater** - shall mean any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (m) **Waters of the State** - shall mean any surface water or groundwater located within the boundaries of the State or over which the State exercises jurisdiction.
- (n) **Yard waste** - shall mean an accumulation of leaves, grass, shrubbery cuttings, logs, tree limbs, brush, palm fronds, and other refuse attendant the care of lawns, shrubbery, vines and trees.

SECTION 3. NPDES PERMITS

Any person who holds a National Pollutant Discharge Elimination System (NPDES) permit, which authorizes discharge to the MS4, shall provide a copy of such permit to the County Administrator no later than the later of: sixty (60) calendar days after the effective date of this Ordinance or sixty (60) calendar days after issuance of said permits.

SECTION 4. PROHIBITED DISCHARGES

- (a) **General Prohibitions** - Except as set forth under Section 4(c) of this Ordinance as in accordance with a valid NPDES permit, any discharge to the MS4 that is not composed entirely of stormwater is prohibited.

(b) **Specific Prohibitions** - Any discharge to the MS4 that contains any sewage, industrial waste or other waste materials, or contains 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 set forth in Chapter 62, Florida Administrative Code, in the waters of the United States, is prohibited.

(c) **Authorized Exceptions** - Unless they are identified as a source of pollutants to Waters of the United States, and unless they are otherwise spelled out in NPDES Permit No. FL5000036 or successor permits, the following discharges are exempt from the general prohibition set forth under Section 4(a) of this Ordinance.

In addition to the exemptions listed below, the County may allow other non-stormwater discharges to be permitted, on a case-by-case basis, pending proof (through analytical testing) by the responsible party to the County Administrator that the discharge will not pollute waters of the United States.

- water from water line flushing;
- water from landscape irrigation and lawn watering;
- diverted stream flows;
- rising groundwaters;
- uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
- uncontaminated pumped groundwater;
- discharges from potable water sources;
- water from foundation and footing drains;
- air conditioning condensate;
- water from springs;
- water from crawl space pumps;
- individual residential car wash water;
- flows from riparian habitats and wetlands;
- dechlorinated swimming pool discharges;
- filter backwash from residential swimming pools;
- street wash waters; and
- discharges or flows from emergency fire fighting activities.

(d) **Prohibited Connections** - No person may maintain, use or establish any direct or indirect connection to the MS4 that results in any discharge in violation of this Ordinance. This prohibition shall apply to connections made in the past, regardless of whether they were made under a permit or other authorization, or whether such were permissible under laws or practices applicable or prevailing at the time the connection was made.

SECTION 5. SPILLS AND DUMPING

- (a) **Specific Prohibitions** - The deposit or dumping of solid waste including, but not limited to yard waste, whether dumped or deposited directly or indirectly, into the MS4 is prohibited.
- (b) **Notification of Spills** - Any person who is responsible for any discharge to the MS4 in violation of this Ordinance shall immediately notify the County's Environmental Management Department, and 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 Director, Environmental Management Department, 202 6th Avenue East, Bradenton, Florida 34208, within three (3) calendar days.

SECTION 6. INSPECTIONS AND MONITORING

- (a) **Authority for Inspections** - Whenever it is necessary to make an inspection to enforce any of the provisions of this Ordinance, or a regulation or permit issued hereunder, or whenever an authorized official has cause to believe there exists any condition constituting a violation of any of the provisions of this Ordinance, or regulation or permit issued hereunder, 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 Ordinance or any regulations or permits issued hereunder; 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. 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 Ordinance, 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 metering of discharges to the MS4. During any inspections made to enforce the provisions of this Ordinance, or regulations or permits issued hereunder, 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 such reasonable monitoring of any discharge(s) to the MS4 and furnish periodic reports.

SECTION 7. ADMINISTRATIVE ORDER

The County Administrator may issue an order to any person requiring them to immediately cease any discharge, or eliminate any connection to the MS4, determined by the County Administrator to be in violation of any provision of this Ordinance, or in violation of any regulation or permit issued hereunder.

SECTION 8. PENALTIES

Failure to comply with the requirements of this Ordinance or any permit or approval granted or authorized hereunder shall constitute a violation of this Ordinance. Violation of the provisions of this Ordinance shall, upon conviction of the violator, be punished by a fine not to exceed Two Thousand Dollars (\$2,000) per day or by imprisonment in the County jail not to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Section 125.69, Florida Statutes. If a violation is continued, each day of such violation shall constitute a separate offense.

SECTION 9. CIVIL REMEDIES

In addition to the penalties provided in Section 8., above, the Board is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, or a citation issued pursuant to section 125.69, Florida Statutes, in order to prevent or abate violations of this Ordinance.

SECTION 10. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, it is the intent of the Board that the invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 11. AREAS EMBRACED

All areas within the legal boundaries of Manatee County, Florida, shall be embraced by the provisions of this Ordinance. This Ordinance shall be effective in those areas within the corporate limits of a municipality upon adoption of an interlocal agreement between the County and the affected municipality.

SECTION 12. FILING OF ORDINANCE; 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 within ten (10) days after enactment by the Board. This Ordinance shall become effective when the Ordinance is filed with the Secretary of State.

PASSED AND DULY ADOPTED, with a quorum present and voting, this 18 day of January, 2000.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: Stan Stephen
Chairman

ATTEST: R.B. SHORE
Clerk of the Circuit Court

Susan P. Romine D.C.



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 20 day of

January, 2000

R.B. SHORE
Clerk of Circuit Court

By: Susan P. Romine D.C.