

ARTICLE VII. - STORMWATER SYSTEM

Sec. 70-300. - Purpose.

The purpose of this article is to ensure the health, safety and general welfare of the citizens of the city and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) and municipal separate storm sewer systems (Chapter 62-624 F.A.C., pursuant F.S. § 403.0885) by reducing pollutants in stormwater discharges and by prohibiting non-stormwater discharges to the city's municipal separate storm sewer system.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-301. - Jurisdiction.

This article shall be effective in the incorporated area of the city.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-302. - Definitions.

For the purpose of this chapter, the following definitions shall apply unless context clearly indicates or requires a different meaning. Where a word or words is not defined, its definition shall be found in Black's Law Dictionary, latest edition or in American Heritage College Dictionary, latest edition.

Authorized connection means a physical point source to the city's MS4 which is authorized by the city.

Authorized discharge means any direct or indirect discharge to the city's MS4, or regulated waters that is composed entirely of stormwater, that is exempt as specified in section 70-303 of the Code or that is authorized by the city.

Best management practices or *BMPs* means a schedule of activities, a prohibition of practices, maintenance procedures, and other management practices to prevent or reduce pollutants in the environment. "Best management practices" include, but are not limited to: Stormwater treatment facilities; operating and maintenance procedures; facility management practices to control runoff, spillage, leaks, waste disposal, or drainage from raw materials storage; erosion and sediment control practices; the prohibition of specific activities, practices, and procedures; and, any such provisions as the city determines appropriate and necessary for the control of pollutants.

Clean Water Act or *Act* means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto. In the case of an approved state program, it includes state program requirements.

Commercial activity means any activity conducted for compensation, direct or indirect, and any activity incidental thereto. The charging of fees by any person, whether or not resulting in a profit or gain, shall be deemed to constitute the receipt of compensation and any activities conducted by such person in consideration therefor shall be deemed to constitute a commercial activity.

Construction activities means any activity which results in the modification of surface features, including, but not limited to, grading, land clearing, or the placement or alteration of buildings, structures, or utilities, unless specifically exempted by this or any other applicable city ordinance. Land clearing as necessary for land surveying shall not constitute construction.

Discharge means, but is not limited to, any release, spilling, leaking, seeping, pouring, emitting, emptying, or dumping, of any substance or material.

Illegal connection means a physical point source to the city's MS4 which is not authorized by the city. Any connection in violation of a NPDES or MSGP permit or failure to notify the city manager of a connection to the city's MS4 prior to discharging constitutes an illegal connection.

Illegal discharge means any direct or indirect discharge, either solid or liquid, to the city's MS4, or regulated waters that is not composed entirely of stormwater or which is not authorized by the city. This includes solids such as leaves, grass clippings, tree branches, trash, etc. Any discharge in violation of a NPDES or MSGP permit or failure to notify the city manager of a discharge to the city's MS4 prior to discharging constitutes an illegal discharge.

Industrial activities means facilities and/or activities, which include but may not be limited to, any manufacturing, distribution, or warehousing operation, including all ancillary activities, as an entity that accommodates the direct or indirect exchange of goods or services.

Land development code means the city's Code and Lynn Haven ULDC, as amended.

Multi-sector generic permit (MSGP) means the multi-sector generic permit for stormwater discharge associated with industrial activity pursuant to provisions of F.S. § 403.0885, and applicable rules of the Florida Administrative Code (F.A.C.) and pursuant to the department's federally approved National Pollutant Discharge Elimination System (NPDES) stormwater regulatory program.

Municipal separate storm sewer system (MS4) means 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 United States or connects to other MS4s, that is designed solely for connecting or conveying stormwater, and that is not part of a publicly owned treatment works as defined by 40 CFR 122.2 or any amendment thereto.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program"; and is pursuant to provisions of F.S. § 403.0885, and applicable rules of the Florida Administrative Code (approved program).

Owner means any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building, land, or personal property, as appears by deed of record, agreement for deed, or properly executed contract for purchase.

Person means the state or any agency or institution thereof, the United States or any agency or institution thereof, or any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity and includes any officer or governing or managing body of the state; the United States; any agency; and any municipality, political subdivision, or public or private corporation.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Regulated waters means waters of the United States as defined in 40 CFR § 122.2, as amended, and waters as defined in F.S. § 403.031, as amended.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-303. - Exemptions.

The following activities as set forth in Chapter 62-624.200, F.A.C, as amended, shall be exempt from the requirements of this chapter to the extent that these discharges meet state water quality standards:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters;
- (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensate;
- (j) Irrigation water;
- (k) Springs;
- (l) Water from crawl space pumps;
- (m) Footing drains;
- (n) Lawn watering runoff;
- (o) Water from individual residential car washing;
- (p) Flows from riparian habitats and wetlands;
- (o) De-chlorinated swimming pool discharges;
- (r) Residual street wash water; and
- (s) Discharges or flows from firefighting activities.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-304. - NPDES permits.

- (a) Any person who holds a National Pollutant Discharge Elimination System (NPDES) permit which provides for an authorized connection and/or authorized discharge to the city's MS4 or regulated waters, shall provide a copy of such permit to the city manager no later than 60 calendar days after the effective date of this chapter or 30 calendar days after the issuance of said permits.
- (b) Authorized discharges to the city's MS4 shall be controlled so that they do not impair the operation of the city's MS4 or contribute to the failure of the city's 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.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-305. - City permits and development review process.

- (a) Construction activities shall be subject to the permitting procedures and site plan requirements as defined in chapter 6 and chapter 10 of the Lynn Haven ULDC [Appendix C of this Code]; specifically, sections 6.04.00; 6.04.02; 6.04.03; 6.04.04; 10.01.03; and 10-01-07, and identifies development permits required by the city together with the bodies that review and approve them.
- (b) Stormwater, erosion and sediment control site plans shall be required in accordance with section 6.04.04 of the Lynn Haven ULDC [Appendix C of this Code] as well as any applicable local, state, or federal law or regulation. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharge associated with construction activity. In addition, the plan shall describe and ensure the implementation of best management practices which will be used to reduce the pollutants in stormwater discharge associated with construction activity and to assure compliance with the terms and conditions of this chapter and the city's permit. Facilities must implement the provisions of the stormwater pollution prevention plan required under this chapter as a condition of the city's permit. Failure to develop and implement a stormwater pollution prevention plan in accordance with the requirements of this chapter shall be unlawful and a violation of the city's permit.
- (c) The city may charge the applicant a reasonable fee for the cost of reviewing the adequacy of stormwater, erosion and sediment control plans. The amount of the fee, if any, shall be shown in appendix A of the Code.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-306. - Inspections.

- (a) An authorized employee of the city, or the city's designee shall be permitted to enter any building, structure, or property for the purpose of inspecting facilities or activities discharging or suspected of discharging to the MS4 or regulated waters in order to enforce this chapter and to investigate potential violations of this chapter. All structures and processes that allow, contribute, or are exposed to stormwater discharges, and all records concerning them, shall be made accessible or available to authorized personnel

for monitoring of the quality of existing or potential stormwater discharges. Consent to such access shall be obtained from a person of suitable age and discretion therein or in control thereof. If such consent is refused, the city may seek enforcement pursuant to law.

- (b) 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) 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.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-307. - Prohibition of illegal connections and illegal discharges.

Illegal connections and illegal discharges are prohibited. Owners or persons responsible for or currently operating an illegal connection or illegal discharge shall immediately stop and provide corrective measures in accordance with section 70-311 of the Code.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-308. - Discharges from commercial, industrial or construction activities to the MS4 or regulated waters.

- (a) Stormwater from areas of any commercial, industrial or construction activities shall be controlled, treated and managed on-site using BMPs so as not to cause an illegal discharge to the city's MS4 or regulated waters.
- (b) 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 and the city's land development code, shall be properly implemented, installed, operated, and maintained so as to effectively prevent polluted stormwater discharges.
- (c) On-site disposal and temporary storage of construction-related materials and wastes at construction sites such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste shall be controlled through effective implementation of best management practices so as to effectively prevent mixing with stormwater, which may result in polluted stormwater discharges.
- (d) Authorized discharges to the city's MS4 shall be controlled so that they do not impair the operation of the city's MS4 or contribute to the failure of the city's MS4 to meet any applicable local, state, or federal law or regulation.

- (e) 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.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-309. - Control of pollutant contributions from interconnected MS4s and privately owned stormwater facilities.

Stormwater flows from interconnected MS4s and privately-owned stormwater facilities shall be controlled so that they do not impair the operation of or contribute to the failure of the receiving MS4 and privately-owned stormwater facilities to meet any applicable local, state, or federal law or regulation. Owners of an interconnected MS4 and privately-owned stormwater facilities shall be responsible for the quality within their portion of the system and shall coordinate with the owners of the downstream (receiving) interconnected MS4.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-310. - Application and performance.

- (a) All territory within the city and the surrounding localities served by the city's MS4 shall be governed by this chapter to the extent permitted by law.
- (b) Structural controls and other BMPs used to reduce or eliminate pollutants in stormwater discharges shall be operated and maintained at all times by the person(s) owning or operating the facility or activity so as to function in accordance with the permitted design or performance criteria of all applicable permits and regulations.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-311. - Reporting and correction of illegal connections and illegal discharges.

- (a) Persons responsible for or currently operating known illegal connections or illegal discharges shall immediately initiate procedures to cease discharging and provide suitable containment facilities. Such procedures shall include a requirement to obtain approval from the city manager of a schedule for implementing proposed corrective measures.
- (b) The construction, use, maintenance or continued existence of illegal connections to the city's MS4 is prohibited. This prohibition includes illegal connections made prior to the effective date of this chapter, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. Immediately upon

discovery, persons currently operating an illegal connection shall initiate procedures to cease discharging and remove said illegal connection. Such procedures shall include a requirement to obtain approval from the city manager of a schedule for implementing proposed corrective measures including authorized containment, and cleanup of any discharge.

- (c) As soon as a person responsible for or currently operating a commercial, industrial or construction activity obtains information of a suspected or potential illegal discharge or illegal connection to the MS4 or regulated waters from said activity, then all necessary actions shall be taken to locate the illegal discharge or illegal connection and, upon discovery, immediately initiate procedures to prevent or cease the illegal discharge and/or remove the illegal connection. Further, a schedule for implementing additional proposed corrective measures including authorized containment and cleanup of any discharge shall be submitted in writing to the city manager for approval prior to implementation. In the event of a discharge of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).
- (d) The city may require, by written notice, that any owner or person engaged in any activity or owning or operating any facility that may cause or contribute to illegal connections or illegal discharges to the city's MS4 or regulated waters to undertake at said owner's or person's expense such monitoring and analysis and furnish such reports to the city as deemed necessary to determine compliance with this chapter.
- (e) All owners or persons in violation of this chapter shall address such violations immediately. Violations shall be addressed as set forth in this section by providing a written response to the city manager, outlining the temporary and permanent measures that have or will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures. Corrective actions are subject to the approval of the city manager.
- (f) Persons responsible for a discharge which adversely impacts a regulated water shall be liable for all sampling and analytical costs incurred in monitoring the discharge; any city, county, state or federal fines imposed as a result of the discharge; and the cost of removing or properly treating the discharge for complete restoration of the quality the regulated waters.
- (g) If the owner or person responsible for a violation fail to take corrective action approved by the city manager, the city has the right to take remedial action as provided in section 70-313 of this Code. The owner or person responsible for the illegal discharge or illegal

connection shall reimburse all costs incurred by the city in taking such actions and satisfy all liens imposed for the remedial action.

(Ord. No. 1059, § 1, 6-26-18)

Sec. 70-313. - Enforcement and penalties.

- (a) Any person, firm or corporation violating the provisions of this chapter may be punished as provided by section 1-13 of General Ordinances.
- (b) This chapter may be enforced by any method prescribed by law, including injunctive relief and the provisions of F.S. ch. 162, and chapter 2 of this Code.
- (c) If the owner fails to remedy the violation within the time allotted in section 70-311 causing the city to perform or cause to be performed the work necessary to remedy the violation, the city shall bill the owner the city's cost of bringing the real property into compliance. The aforesaid costs shall include all costs to the city, including direct salary, salary overhead (fringe benefits), inspection costs, administration costs, billing costs and penalties. If the owner fails to pay this bill within 30 days of mailing of said bill, the city shall then assess the total amount of costs against the real property improved. Said assessment shall constitute a lien as any special assessment on the property and shall bear the maximum interest rate as permitted by law. In the event that such lien is not paid, the city may enforce and collect such lien as the collection and enforcement of any special improvement liens as provided by the Charter or the laws of Florida.
- (d) If a violation of this chapter is continued, each day of such violation shall constitute a separate offense.
- (e) The city manager or his authorized agent shall enforce this chapter, and is authorized to pursue all civil and criminal remedies, including a stop work order, for such violations.

(Ord. No. 1059, § 1, 6-26-18)