

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE PALM BEACH COUNTY STORMWATER POLLUTION PREVENTION ORDINANCE: PROVIDING FOR SHORT TITLE, APPLICABILITY AND AUTHORITY; PROVIDING FOR A PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR REQUIREMENTS; PROVIDING FOR PROHIBITIONS; PROVIDING FOR MATERIALS MANAGEMENT PRACTICES; PROVIDING FOR MONITORING; PROVIDING FOR VIOLATIONS, ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEAL OF ORDINANCE NO. 93-15; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there is a need to protect Palm Beach County's surface water resources;

and

WHEREAS, stormwater runoff and non-stormwater discharges from the stormwater system are major contributors of pollution to Palm Beach County's canals, lakes, and estuaries; and

WHEREAS, the stormwater pollutant load must be reduced to maintain or restore beneficial uses of our water bodies; and

WHEREAS, non-stormwater discharges to the stormwater system represent a significant source of pollution in waters receiving such discharges; and

WHEREAS, materials that may contribute to contamination of stormwater runoff are often stored exposed to precipitation; and

WHEREAS, there are management practices available to reduce the potential for surface water quality degradation resulting from stormwater runoff; and

WHEREAS, the United States Environmental Protection Agency (EPA), empowered by the 1987 revision of the Clean Water Act, requires, through the National Pollutant Discharge Elimination System (NPDES) Permit Regulations for Stormwater Discharges, that Palm Beach County effectively prohibit non-stormwater discharges into the stormwater system; and

WHEREAS, the Florida Department of Environmental Protection was delegated the responsibility for the administration of the NPDES Program in 2000; and

WHEREAS, NPDES Permit FLS000018 for Palm Beach County, as amended, necessitates the revision of the County's Stormwater Pollution Prevention Ordinance.

1                   **NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
2                   **COMMISSIONERS OF PALM BEACH COUNTY FLORIDA, THAT:**  
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4                   **Section 1. SHORT TITLE: APPLICABILITY: AUTHORITY**

5                   1.01 This Ordinance shall be known as the "Palm Beach County Stormwater  
6                   Pollution Prevention Ordinance."

7                   1.02 Applicability. The provisions of this Ordinance shall apply to the following  
8                   stormwater systems:

- 9                   (a) All stormwater systems owned and operated by Palm Beach County,  
10                   except for stormwater systems in municipalities with legal authority  
11                   specifically providing enforcement of County stormwater systems.  
12                   (b) All stormwater systems owned and operated by the Florida Department  
13                   of Transportation in Palm Beach County pursuant to the provisions of  
14                   any valid joint participation agreement entered into between the Florida  
15                   Department of Transportation and Palm Beach County.  
16                   (c) All stormwater systems within unincorporated areas of Palm Beach  
17                   County

18                   1.03 This Ordinance is adopted under the authority of Article VII, Section 1 of the  
19                   Florida Constitution, Chapter 125, Florida Statutes (F.S.), and the Palm Beach County  
20                   Charter.  
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22                   **Section 2. PURPOSE**

23                   The purpose of this Ordinance is to improve the quality of stormwater discharges to  
24                   the stormwater system; to promote the use of pollution prevention practices by commercial  
25                   and industrial facilities; to provide an educational tool and increase public awareness of all  
26                   stormwater discharges; and to address the causes of non-point source pollution, which  
27                   degrade the quality of Palm Beach County's surface water resources on a source control  
28                   basis. The purpose of this ordinance is not to regulate discharge from one "Waters of the  
29                   State" into another "Waters of the State".  
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31                   **Section 3. DEFINITIONS.**

32                   3.01 The following definitions apply within this ordinance:

- 33                   (a) Agriculture, bonafide means any plot of land where the principal use  
34                   consists of raising of crops or raising animals, inclusive of aviculture  
35                   and aquaculture; the production of animal products, such as eggs,  
36                   honey or dairy products, or the raising of plant material inclusive of a

- 1 retail or a wholesale nursery.
- 2 (b) Authorized Official means any authorized agent or employee of the
- 3 County whose duty is to ensure compliance with the provisions of this
- 4 Ordinance, including, but not limited to, the Department of
- 5 Environmental Resources Management (ERM), Department of
- 6 Engineering and Public Works, Department of Planning, Zoning &
- 7 Building and the Palm Beach County Public Health Unit (PBCPHU).
- 8 (c) Best Management Practices (BMPs) means schedules of activities,
- 9 prohibitions of practices, maintenance procedures, and other
- 10 management practices to prevent or reduce the pollution of surface
- 11 waters. BMPs also include treatment requirements, operating
- 12 procedures, and practices to control site runoff, spillage or leaks, sludge
- 13 or waste disposal, or drainage from raw materials storage.
- 14 (d) Discharge means the direct or indirect release of any solid or liquid
- 15 material.
- 16 (e) Facility means the main structures and accessory structures which
- 17 store, handle, use or produce stormwater contaminants listed in Section
- 18 5. of this Ordinance.
- 19 (f) Groundwater and Natural Resources Protection Board means the
- 20 Board designated by the Board of County Commissioners of Palm
- 21 Beach County, to hear alleged violations of this Ordinance and other
- 22 State and Local laws protecting the groundwater and natural resources
- 23 of Palm Beach County.
- 24 (g) Illicit connection means any connection to the stormwater system that
- 25 allows any discharge that is not composed entirely of stormwater.
- 26 (h) Illicit discharge means any discharge to the stormwater system that is
- 27 not composed entirely of stormwater.
- 28 (i) Non-stormwater discharge means any release of solid or liquid material
- 29 that is not composed entirely of stormwater.
- 30 (j) Person means any individual, corporation, firm, association, joint
- 31 venture, partnership, municipality, government agency, political
- 32 subdivision, public officer, owner, lessee, tenant or any other entity
- 33 whatsoever or any combination of such, jointly or severally.
- 34 (k) Pesticide means any substance or mixture of substances intended for
- 35 preventing, destroying, repelling, or mitigating any insects, rodents,

nematodes, fungi, weeds, or other forms of plant or animal life, except viruses, bacteria, or fungi on or living in man or other animals, which the Florida Department of Agriculture and Consumer Services declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. This includes fungicides, herbicides, insecticides, nematocides and rodenticides.

(l) Responsible parties means the parcel owner, the parcel manager, or the discharger.

(m) Stormwater means the flow of water which results from, and which occurs immediately following, a rain event.

(n) Stormwater Pollution means the presence in stormwater of any one or more substances or contaminants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

(o) Stormwater Pollution Prevention Plan for Construction Activities means a plan prepared in accordance with good engineering practices, which identifies 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 insure the implementation of Best Management Practices (BMPs) that will be used to reduce the pollutants in stormwater discharge associated with construction activity.

(p) Stormwater System means the system of conveyances used for collecting, storing, and transporting stormwater.

(q) Wastewater means the combination of liquid and water-carried pollutants from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface runoff or leachate that may be present.

#### **Section 4. EXEMPTIONS**

4.01 Exempted Activities. The following discharges are exempt from the prohibitions and requirements of this Ordinance:

(a) Discharges permitted pursuant to Chapter 403, F.S., provided that a Water Pollution Operating Permit or Temporary Permit issued by the

- 1 Florida Department of Environmental Protection (DEP) is in effect.
- 2 (b) Wastewater discharges permitted by the DEP pursuant to State
- 3 administration of the NPDES Program shall also be exempted
- 4 provided that the permit issued by DEP remains in effect.
- 5 (c) Emergency discharges related to a wastewater utility sanitary sewer
- 6 conveyance system failure.
- 7 (d) The direct or indirect discharge as a result of the application of
- 8 pesticides, including maintenance herbicide application within
- 9 designated water management facilities or insecticide application
- 10 related to mosquito control activities, provided that the application is
- 11 performed in accordance with registered label instructions using only
- 12 chemicals approved for the particular use by the EPA or by the State
- 13 of Florida Department of Agriculture and Consumer Services, and in
- 14 accordance with all applicable state and federal rules and regulations.
- 15 (e) Discharges from on-site sewage disposal systems which are permitted
- 16 or approved by the PBCPHU, pursuant to the Unified Land
- 17 Development Code, Article 15.A.
- 18 (f) Discharges associated with dewatering operations which are permitted
- 19 by the South Florida Water Management District (SFWMD), provided
- 20 that the permit issued by SFWMD remains in effect, or the dewatering
- 21 operation is in compliance with the conditions of FAC 40E-20.302(3).
- 22 (g) Discharges from stormwater retention or detention facilities in
- 23 compliance with the conditions of all required Surface Water
- 24 Management Permits issued under the authority of SFWMD.
- 25 (h) Discharges from facilities with valid NPDES Permits for Discharges
- 26 Associated with Industrial Activities issued under the authority of EPA.
- 27 (i) Discharges from bonafide agricultural use activities.
- 28 (j) Miscellaneous discharges from the following sources: Flows from fire
- 29 fighting, water line flushing and other contributions; from potable water
- 30 sources; rising groundwaters; direct infiltration to the storm water
- 31 system; uncontaminated pumped groundwater; foundation and footing
- 32 drains; air conditioning condensation; individual residential car
- 33 washing; flows from riparian habitats and wetlands; and dechlorinated
- 34 swimming pool contributions.

1           **Section 5.    REQUIREMENTS**

2                   5.01   Discharge Limitations. Discharge of substances or contaminants that  
3                   contribute to stormwater pollution in the stormwater system shall be reduced by responsible  
4                   parties to the maximum extent practical. Examples of such substances or contaminants  
5                   include, but is not limited to the following:

- 6                   (a)   Acids and Alkalis;  
7                   (b)   Animal carcasses;  
8                   (c)   Animal and pet waste;  
9                   (d)   Antifreeze or other automotive products;  
10                  (e)   Chemicals and Heavy metals;  
11                  (f)   Chemically treated cooling water;  
12                  (g)   Chlorinated water or chlorine;  
13                  (h)   Construction materials;  
14                  (i)   Degreasers, Solvents;  
15                  (j)   Drainage or leachate from solid waste containers  
16                  (k)   Flammable liquids;  
17                  (l)   Heated water;  
18                  (m)   Laundry waste;  
19                  (n)   Lawn clippings, leaves or branches;  
20                  (o)   Paints;  
21                  (p)   Pesticides and Fertilizers;  
22                  (q)   Petroleum products, including but not limited to oil, diesel, gasoline and  
23                  grease;  
24                  (r)   Recreational vehicle waste;  
25                  (s)   Sanitary sewage;  
26                  (t)   Silt;  
27                  (u)   Soaps;  
28                  (v)   Solid Waste;  
29                  (w)   Solids in quantities or of such size capable of causing interference or  
30                  obstruction to the flow in storm water management systems.  
31                  (x)   Steam cleaning waste;  
32                  (y)   Toxic, hazardous, biomedical, or poisonous solids or liquids.

33  
34                   5.02   NPDES Construction Activities Permit Requirements.

- 35                  (a)   Construction site operators for construction projects within  
36                          unincorporated Palm Beach County, which require NPDES  
37                          Construction Activities permit coverage, shall submit a Notice of Intent  
38                          (NOI) to the Florida Department of Environmental Protection, prior to  
39                          construction activities.  
40                  (b)   Construction site operators for construction projects, which require  
41                          NPDES Construction Activities permit coverage and discharge to the  
42                          Palm Beach County MS4, shall provide a copy of the Stormwater  
43                          Pollution Prevention Plan to ERM, prior to construction activities.  
44                  (c)   Construction site operators for construction projects within  
45                          unincorporated Palm Beach County, or discharge to the Palm Beach  
46                          County MS4 which obtain NPDES Construction Activities permit  
47                          coverage, shall maintain compliance with the erosion and sediment  
48                          control Best Management Practices (BMPs) required by the permit as  
49                          well as other permit conditions.

1                   **5.03 Stormwater Pollution Prevention Plan Requirements. Construction Site**

2                   Operators shall retain on-site the required Stormwater Pollution Prevention Plan, from the  
3                   time construction creates 1 acre or greater of disturbed soils until final site stabilization.

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5                   **Section 6. PROHIBITIONS**

6                   **6.01 Illicit Discharges, Spills and Dumping.**

7                   (a)    General Prohibitions. Except as set forth under Section 4.01(h) of this  
8                   Ordinance or in accordance with a valid NPDES permit, any non-  
9                   stormwater discharge to the stormwater system is prohibited.

10                  (b)   Specific Prohibitions. Except as set forth under Section 4.01(h) of this  
11                  Ordinance, any discharge to the stormwater system containing any  
12                  sewage, industrial waste or other waste materials, including those  
13                  listed in Section 5.01 of this Ordinance, or containing any materials in  
14                  violation of federal, state, county or other laws, rules, regulations is  
15                  prohibited.

16                  **6.02 Illicit Connections.** No person may maintain, use or establish any direct or  
17                  indirect physical connection to the stormwater system that results in any discharge in  
18                  violation of this Ordinance. This prohibition is retroactive and applies to connections made in  
19                  the past, regardless of whether made under a permit, or other authorization, or whether  
20                  permissible under laws or practices applicable or prevailing at the time the connection was  
21                  made.

22  
23                  **Section 7. MATERIALS MANAGEMENT PRACTICES**

24                  Non-residential facilities constructed after the effective date of this Ordinance in  
25                  unincorporated Palm Beach County shall be required to implement structural or non-  
26                  structural measures to prevent exposure of substances or contaminants, which cause or  
27                  contribute to stormwater pollution, to precipitation and subsequent entry into the stormwater  
28                  system. The required measures include, but are not limited to, covered storage, containment  
29                  or materials management practices.

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31                  **Section 8. MONITORING**

32                  Authority For Monitoring and Sampling. Upon reasonable belief that a violation  
33                  exists, any Authorized Official may establish, on any parcel, such devices as are necessary  
34                  to conduct sampling or metering of discharges to the stormwater system. During

any inspections made to enforce the provisions of this ordinance, any Authorized Official may take any samples deemed necessary. Within municipalities, sampling shall not proceed without notification of that municipality.

**Section 9. VIOLATIONS. ENFORCEMENT. PENALTIES**

9.01 Failure to comply with the requirements of this Ordinance shall constitute a violation of this Ordinance, and may be punished as provided in Section 125.69 F.S. as may be amended.

9.02 Violations of the provisions of this Ordinance may also be punished, pursuant to Section 162.09 F.S., as may be amended.

9.03 In addition to the sanctions contained herein, the County may take any other appropriate legal action, including but not limited to, emergency injunctive action, to enforce the provisions of this Ordinance.

9.04 If the owner(s) of property which is subject to a violation of this Ordinance transfers the ownership of such property between the time the notice of violation was served and the time of a hearing and the alleged violator fails to make disclosure of said violation, the transfer creates a rebuttable presumption of fraud.

9.05 Violations of this Ordinance will be referred by ERM to the Groundwater and Natural Resources Protection Board (GNRPB) for enforcement through corrective actions and civil penalties. Any person who is a party to the proceeding before the GNRPB may appeal to the Circuit Court of Palm Beach County in accordance with applicable Florida Appellate Rules. Funds collected pursuant to administrative penalties levied by the GNRPB for violations of this Ordinance shall be deposited in the Palm Beach County Pollution Recovery Trust Fund, or such other place as may be designated by Resolution of the Board of County Commissioners.

**9.06 Consent Agreements.**

- (a) In order to provide an expeditious settlement that would be beneficial to the enforcement of this Ordinance and be in the best interest of the citizens of Palm Beach County, the Director of ERM is authorized to enter into voluntary consent (settlement) agreements with alleged violators. Any such agreement shall be a formal written consent agreement between ERM on behalf of Palm Beach County, by and through its Director, and any such alleged violators, and shall be approved as to form and legal sufficiency by the County Attorney's



Office. The agreement can be entered into at any time prior to the hearing by the GNRPB.

(b) Consent agreements may be issued by ERM with conditions that the alleged violator promises to:

1. Bring the parcel into compliance with this ordinance and maintain it in that condition;
2. Remit payment of a monetary settlement not to exceed the maximum amount allowed per violation, as set in this Ordinance;
3. Remit payment for costs and expenses of the County for investigation and enforcement; and
4. Any other remedies and corrective action deemed necessary and appropriate by the Director of ERM to ensure compliance with this Ordinance.

(c) The consent agreement shall not serve as evidence of a violation of this Ordinance and shall expressly state that the alleged violator neither admits nor denies culpability for the alleged violations by entering into such agreement. In addition, prior to entering into any such agreement, each alleged violator shall be apprised of the right to have the matter heard by the GNRPD in accordance with provisions of this Ordinance, and that execution of the agreement is not required.

(d) The consent agreement shall be valid and enforceable in a court of competent jurisdiction in Palm Beach County and shall abate any enforcement available to ERM for so long as the terms and conditions of such agreement are complied with. In the event the alleged violator fails to comply with the terms and conditions set forth in the executed agreement, the Director of ERM may either:

1. Consider the consent agreement void and pursue any remedies available for enforcement of the applicable provisions of the Ordinance; or
2. Initiate legal proceedings for specific performance of the consent agreement.

9.07 Funds collected pursuant to a consent agreement shall be deposited in the Palm Beach County Pollution Recovery Trust Fund.

1       **Section 10. REPEAL OF LAWS IN CONFLICT**

2               Ordinance No. 93-15 is hereby repealed in its entirety. All local laws and ordinances  
3       applying to Palm Beach County in conflict with any provisions of this Ordinance are hereby  
4       repealed to the extent of such conflict.

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6       **Section 11. SEVERABILITY**

7               If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for  
8       any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall  
9       not affect the remainder of this Ordinance.

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11       **Section 12. INCLUSION IN THE CODE OF LAWS AND ORDINANCES**

12               The provisions of this Ordinance shall become and be made a part of the code of  
13       laws and ordinances of Palm Beach County, Florida. The Sections of this ordinance may be  
14       renumbered or relettered to accomplish such, and the word "ordinance" may be changed to  
15       "section," "article," or any other appropriate word.

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17       **Section 13. EFFECTIVE DATE**

18               The provisions of this Ordinance shall become effective upon filing with the  
19       Department of State.

20               APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach  
21       County, Florida, on the 16th day of November, 20 04.

22  
23       ATTEST:  
24       DOROTHY H. WILKEN, CLERK

25               PALM BEACH COUNTY, FLORIDA,  
26       BY ITS BOARD OF COUNTY  
27       COMMISSIONERS

28  
29       By: Judith C. [Signature]  
30               Deputy Clerk

31               By: Tony [Signature]  
32               Chair

33       APPROVED AS TO FORM AND  
34       LEGAL SUFFICIENCY

35  
36  
37       By: [Signature]  
38               County Attorney

39  
40       EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_\_ day of  
41       \_\_\_\_\_, 2004.  
42