

ORDINANCE 2008-06

AN ORDINANCE AMENDING THE WALTON COUNTY LAND DEVELOPMENT CODE CREATING CHAPTER 15, "DETECTION AND ELIMINATION OF INAPPROPRIATE DISCHARGES INTO THE STORM WATER SYSTEM;" ESTABLISHING REGULATIONS FOR CONTRIBUTIONS OF POLLUTANTS THROUGH STORM WATER DISCHARGE BY ANY USERS; PROHIBITING INAPPROPRIATE CONNECTIONS TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; RESOLVING CONFLICTING PROVISIONS; DETERMINING SEVERABILITY; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, F.S. delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizens; and

WHEREAS, Sections 163.3201 and 163.3202, Florida Statutes, require local governments to implement the provisions of their comprehensive plans through the adoption of land development regulations; and

WHEREAS, Walton County has adopted a Land Development Code in accordance with these statutes to ensure the County's orderly growth and development; and

WHEREAS, Walton County, to ensure the County's continued orderly growth and development, finds it prudent to amend its Land Development Code to respond to the changing needs and conditions within said county;

WHEREAS, this ordinance is to provide for the health, safety, and general welfare of the citizens of Walton County through the regulation of non

stormwater discharges to the storm drainage system; and

WHEREAS, the objectives of this ordinance are required for the renewal of Walton County's Municipal Separate Storm Sewer System (MS4) permit;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, that the Walton County Land Development Code be amended as follows:

Section 1: Chapter 15 of the Walton County Land Development Code is hereby adopted as follows:

CHAPTER XV DETECTION AND ELIMINATION OF INAPPROPRIATE DISCHARGES INTO THE STORM WATER SYSTEM

15.00.00 Inappropriate Discharge Detection and Elimination

15.00.01 Purpose, Intent

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Walton County 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 ordinance is not intended to burden or hamper normal agricultural activities which are consistent with Best Management Practices recommended by the USDA Natural Resources Conservation Service. This ordinance establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this ordinance are to regulate the contribution of pollutants to the MS4 through stormwater discharges by any user, prohibit un-permitted connections and discharges to the MS4, and to establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

15.01.00 Definitions:

The following terms shall have the stated meanings for the purpose of this chapter:

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good house keeping 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, as established by Walton County.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1551 et seq.), as amended.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, that 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 Connections: An illicit connection is defined as:

Either a drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system; or 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 that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Inappropriate Discharge: Any direct or indirect non-stormwater discharge to the storm drain system.

Industrial Activity: Activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 152.26 (b)(15).

Municipal Separate Storm Sewer System (MS4): The system of conveyances, including sidewalks, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, owned and

operated by Walton County and designed or used for collecting or conveying stormwater, but not used for collecting or conveying sanitary sewage.

National Pollutant Discharge Elimination System (NPDES) Stormwater

Discharge: A permit issued by the United States Environmental Protection Agency, 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 storm water.

Person: means 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.

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.

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 Management 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.

Unpermitted Connections: An unpermitted connection is defined as any drain or conveyance, whether on the surface or subsurface, that allows an inappropriate discharge to enter the storm drain system, including but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water 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 was previously allowed, permitted, or approved by an authorized enforcement agency, prior to the adoption of this ordinance, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an enforcement agency.

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

15.02.00 Discharge Prohibitions

The commencement, conduct or continuance of any unauthorized discharge to the storm drain system is prohibited. Therefore, no person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants.

The following discharges are exempt from this ordinance:

- a) water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn

watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

- b) Discharges or flow from firefighting and other discharges specified in writing by Walton County as being necessary to protect public health and safety.
- c) Discharges associated with dye testing after a verbal notification to Walton County prior to the time of the test.
- d) Any non-stormwater discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Florida Department of Environmental Protection or the United States Environmental Protection Agency (EPA), 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.

15.03.00 Prohibition of Unpermitted Connections

The construction, use, maintenance, or continued existence of unpermitted connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, unpermitted connections

made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- a) It is a violation of this ordinance if a person connects a line conveying sewage to the MS4 or allows such a connection to continue.
- b) Inappropriate connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of Walton County.
- c) Upon receipt of written notice of violation from Walton County and within a reasonable time period, the owner of property subject to the violation shall locate and identify any drain or conveyance that has not been documented in plans, maps, or equivalent, that is connected to the storm sewer system, to include any outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point, and provide such documentation of the location and identification to the County.

15.04.00 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.

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.

15.05.00 - Industrial or Construction Activity Discharges

The operator of any facility required to have an industrial or construction activity NPDES stormwater discharge permit shall submit a copy of the Notice of Intent (NOI) to the Walton County along with the required Stormwater Pollution Prevention Plan (SWPPP) at the same time the operator submits the original Notice of Intent to the FDEP or EPA, as applicable. Any person subject to such permit shall comply with all provisions of the permit and provide proof of compliance to the County prior to any discharge into the MS4. It shall be considered a violation of this ordinance if a person subject to such permit does not submit a copy of the Notice of Intent or proof of compliance with the permit to Walton County prior to any discharge. The copy of the Notice of Intent and Stormwater Pollution Prevention Plan may be hand-delivered or mailed to Walton County at:

Walton County Public Works Department,

Notice of Intent to Discharge Stormwater

Attention: Director of Public Works

Walton County Florida

116 Montgomery Circle

15.06.00 Compliance Monitoring

The owner of facilities subject to regulation under this ordinance shall allow Walton County to enter and inspect as often as may be necessary to determine compliance at the facility with the provisions of this ordinance. Unreasonable delays in allowing or refusal to allow the County to access a permitted facility is a violation of a stormwater discharge permit and of this ordinance. All owners of regulated facilities shall:

a) Make the necessary arrangements to allow access to the County if there are security measures in force at the facility that require proper identification and clearance;

b) Allow the county ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit, and the performance of any additional duties as defined by state and federal law;

c) Allow the county to set up on any permitted facility such devices necessary, in the sole discretion of the county, to conduct monitoring and sampling of the facility's stormwater discharge.

d) Install monitoring equipment as required by the county;

e) Maintain all sampling and monitoring equipment in a safe and proper operating condition at the operator's expense, to include the calibration

of equipment to measure stormwater flow and quality;

f) Remove and keep clear, at the operator's expense, any temporary or permanent obstruction to safe and easy access to the facility upon the written or oral request of the County.

15.07.00 Search Warrant for Compliance Monitoring

If an owner or operator of a facility subject to the provisions of this ordinance refuses access to any part of the premises, the county may apply for the issuance of a search warrant from any court of competent jurisdiction. The county must demonstrate probable cause that there may be a violation of this ordinance or a need to inspect and sample discharge from the facility to verify compliance with this ordinance or to protect the overall public health, safety, and welfare of the community.

15.08.00 Use of Best Management Practices

Walton County shall adopt and identify best management practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of

these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an unpermitted discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

15.09.00 Notification of Spills

Any person responsible for a facility or operation or responsible for emergency response for a facility or operation who becomes aware of or receives information of any known or suspected release of materials that result or may result in unauthorized discharges or pollutants discharging into stormwater, the storm drain system, or waters of the United States, shall take all necessary steps, pursuant to the County's BMPs, to discover, contain, and cleanup such discharge. In the event of such a discharge of hazardous materials, said person shall immediately notify the appropriate emergency response agencies via emergency dispatch services.

In the event of a release of non-hazardous materials, said person shall notify the county in person or by phone or facsimile, no later than 5:00 p.m.

on the next business day. If notification is made in person or by phone, the person responsible for the facility or operation shall confirm that notification by sending a written notice addressed and mailed to Walton County within seven [7] business days of the phone or in person 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 five [5] years.

15.10.00 Violations, Enforcement, Penalties

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Violations of the provisions of this ordinance may be enforced pursuant to Chapter 12 of the Walton County Land Development Code, or otherwise as provided by law.

Whenever Walton County finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, Walton County Code Enforcement may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- a) The performance of monitoring, analyses, and reporting;
- b) The elimination of illicit connections or discharges;
- C) That violating discharges, practices, or operations shall cease and

desist;

- d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- e) Payment of a fine to cover administrative and remediation costs; and
- f) The implementation of source control or treatment BMPs.
- g) 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 will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

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 Walton County to seek cumulative remedies.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent

or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the county by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition 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.

In lieu of enforcement proceedings, penalties, and remedies authorized

by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory action(s), such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$375.00 per day and/or imprisonment for a period of time not to exceed one year.

The authorized enforcement agency may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 3. CONFLICT.

The requirements of this ordinance are supplemental to the requirements of any other ordinance, rule, regulation, or other provision of law. If any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision imposes higher

protective standards by human health and the environment shall control.

SECTION 4. APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 5. ADMINISTRATION.

The Walton County Department of Public Works shall administer, implement, and assist with enforce of the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

SECTION 6. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 7. 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 8. SUSPENSION OF MS4 ACCESS.

Suspension due to Illicit Discharges in Emergency Situations.

Walton 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 persons, 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.

SECTION 9. 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 authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and 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 authorized enforcement agency.

SECTION 10. SEVERABILITY.

The provisions of this ordinance are severable. If any provision, clause, sentence, or paragraph of this ordinance or the application of it to any person, establishment, or circumstances shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions or application of this ordinance.

SECTION 11. EFFECTIVE DATE.

This ordinance shall take effect immediately upon approval by the
County Commission.

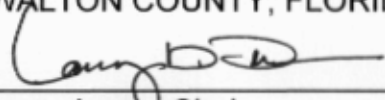
Duly enacted, by the Board of County Commissioners of Walton

County, Florida, at a regular meeting on the 22nd of January
2008.


BOARD OF COUNTY COMMISSIONERS
WALTON COUNTY, FLORIDA

Attest:

for:



Larry Jones, Chair
Walton County Board of County Commissioners


for Regina Clark
Martha Ingle
Clerk of Court

New language is underlined