

ORDINANCE NO. 155

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HYPOLUXO, FLORIDA, AMENDING CHAPTER 50 OF THE TOWN CODE OF ORDINANCES, "UTILITIES," TO ADOPT A NEW ARTICLE III, "STORMWATER SYSTEM," TO IMPLEMENT STORMWATER CONTROL PROVISIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Florida Department of Environmental Protection ("FDEP") notified the Town that it was required to obtain a permit for municipal stormwater discharges under Phase II of the National Pollutant Discharge Elimination System ("NPDES") program promulgated by the United States Environmental Protection Agency ("EPA") and administered by the DEP; and

WHEREAS, in lieu of applying for its own permit, the Town has opted to join the existing NPDES Permit issued to the Palm Beach County – Municipal Separate Storm Sewer System Permittees ("NPDES Permit"); and

WHEREAS, the NPDES Permit requires that the Town comply with the provisions of the federal Clean Water Act (33 U.S.C. §1251 et seq.), as implemented by the EPA, which mandates the adoption of local ordinance provisions relating to stormwater systems; and

WHEREAS, the Town Council determines that the adoption of this ordinance is in the best interests of the health, safety and welfare of the citizens and residents of the Town of Hypoluxo.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HYPOLUXO, FLORIDA THAT:

Section 1. The foregoing "Whereas" clauses are hereby ratified as true and confirmed and are incorporated herein.

Section 2. The Town Council hereby amends Chapter 50, "Utilities," of the Town Code of Ordinances to adopt a new Article III, "Stormwater," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

ARTICLE III. STORMWATER.

Sec. 50-51. Title.

This article shall be known as the Town of Hypoluxo Stormwater Control Ordinance, and may be so cited.

Sec. 50-52. Purpose and intent.

The purpose of this article is to promote the health, safety and general welfare of the inhabitants of the Town of Hypoluxo. This article is intended to comply with federal and state law and regulations regarding water quality.

Sec. 50-53. Definitions.

When used in this article, the following words and terms shall have the meanings ascribed to them herein:

Authorized official. Any employee or agent of the town authorized by the mayor to administer or enforce the provisions of this article.

Discharge. Any direct or indirect entry of any solid, liquid or gaseous matter.

Person. Any natural individual, corporation, partnership, institution or other entity.

Site of industrial activity. Any area or facility used for manufacturing, processing or raw materials storage, as defined under 40 CFR Section 122.26(a)(14) of regulations the U.S. Environmental Protection Agency, as amended.

Stormwater. Any stormwater runoff, and surface runoff and drainage.

Stormwater system. The system of conveyances used for collecting, storing, and transporting stormwater owned by the town, but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.

Sec. 50-54. Industrial activity

(a) General prohibitions. Any discharge into the stormwater system in violation of any federal, state, county, municipal or other law, rule, regulation or permit is prohibited.

(b) Specific prohibitions. By adoption of industrial activity stormwater regulations or by issuance of industrial activity stormwater permits, or both, the Town of Hypoluxo may impose reasonable limitations as to the quality of stormwater (including without limitation the designation of maximum levels of pollutants) discharged into the stormwater system from sites of industrial activity. Any promulgation of such regulations and issuance of permits by the town shall be in accordance with applicable law.

(c) Administrative orders. The mayor or the mayor's designee may issue an order to any person to immediately cease any discharge determined by the mayor or the mayor's designee to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.

(d) NPDES permits. Any person who holds a National Pollutant Discharge Elimination System (NPDES) permit shall provide a copy of such permit to the town no later than the later of: sixty (60) calendar days after the effective date of this ordinance or sixty (60) calendar days after issuance.

Sec. 50-55. Illicit discharges

(a) General prohibitions. Except as set forth under subsection (c) below or as in accordance with a valid NPDES permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited.

(b) Specific prohibitions. Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits is prohibited.

(c) Authorized exceptions. Unless the mayor or the mayor's designee determines that it is not properly managed or otherwise is not acceptable, the following discharges are exempt from the general prohibition set forth under subsection (a) above.

(1) Flows from fire fighting;

- (2) Water line flushing and other contributions from potable water sources;
- (3) Landscape irrigation and lawn watering;
- (4) Irrigation water;
- (5) Diverted stream flows;
- (6) Rising groundwaters;
- (7) Uncontaminated ground water infiltration to the stormwater system;
- (8) Uncontaminated pumped groundwater;
- (9) Foundation and footing drains;
- (10) Water from crawl space pumps;
- (11) Air conditioning condensation;
- (12) Springs;
- (13) Individual residential car washings;
- (14) Flows from riparian habitats and wetlands;
- (15) Dechlorinated swimming pool contributions;
- (16) Discharges from potable water sources;
- (17) Discharges from emergency firefighting activities;
- (18) Flows from uncontaminated roof drains; and
- (19) Uncontaminated residential pressure cleaning.

(d) *Illicit connections.* No person may maintain, use or establish any direct or indirect connection to the stormwater system that results in any discharge in violation of this article. This prohibition is retroactive and applies to connections made in the past, regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.

(e) *Administrative order.* The mayor or the mayor's designee may issue an order to any person to immediately cease any discharge, or any connection to the stormwater system, determined by the mayor or the mayor's designee to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.

Sec. 50-56. Spills and dumping

(a) *General prohibitions.* Except as set forth under section 50-55 of this article or as in accordance with a valid NPDES permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited.

(b) *Specific prohibitions.* Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits, is prohibited.

(c) *Notification of spills.* As soon as any person has knowledge of any discharge to the stormwater system in violation of this article, such person shall immediately notify the mayor by telephone and if such person is directly or indirectly responsible for such discharge, then such person shall also take immediate action to ensure the containment and clean up of such discharge and shall confirm such telephone notification in writing to the mayor within three (3) calendar days.

(e) *Administrative order.* The mayor or the mayor's designee may issue an order to any person to immediately cease any discharge, or connection to the stormwater system, determined by the mayor or the mayor's designee to be in violation of any regulation or permit issued hereunder.

Sec. 50-57. Enforcement

(a) *Injunctive relief.* Any violation of any provision of this article, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety or general welfare.

(b) *Continuing violation.* A person shall be deemed guilty of a separate violation for each and every day during any continuing violation of any provision of this article, or of any regulation or permit issued hereunder.

(c) *Enforcement actions.* The mayor or the mayor's designee may take all actions necessary, including, but limited to, the issuance of notices of violation, the filing of court actions and/or referral of the matter to the town code enforcement special master to require and enforce compliance with the provisions of this ordinance and with any regulation or permit issued hereunder.

Sec. 50-58. Inspection and monitoring.

(a) *Authority for Inspections.* Whenever necessary to make an inspection to enforce any of the provisions of this article, or any regulation or permit issued hereunder, or whenever an authorized official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this article, 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 article 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. Any request for permission to enter made hereunder shall state that the owner or person in control has the right to refuse entry, and that in such event that entry is refused, the authorized official may enter to make inspection only upon issuance of a warrant by a duly authorized magistrate or judge. 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 inspection shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this article, 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 establish on any property such devices as are necessary to

conduct sampling or metering of discharges to the stormwater system. During any inspections made to enforce the provisions of this article, or regulations or permits issued hereunder, any authorized official may take any samples deemed necessary.

(c) *Requirements for monitoring.* The mayor or the mayor's designee 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 stormwater system and to furnish periodic reports.

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Signature Page for Ordinance 155

Passed on first reading this _____ day of _____, 2004.

APPROVED: AYE NAY COUNCIL:

Mayor Kenneth M. Schultz

Vice-Mayor Ronald E. Young

Mark Hull

Karen C. Miller

ATTEST:

Michael C. Brown

Barbara Searls Ross, Town Clerk

Herbert F. Kahlert

Passed on second and final reading this _____ day of _____, 2004.

APPROVED: AYE NAY COUNCIL:

Mayor Kenneth M. Schultz

Vice-Mayor Ronald E. Young

Mark Hull

Karen C. Miller

ATTEST:

Michael C. Brown

Barbara Searls Ross, Town Clerk

Herbert F. Kahlert

Approved as to form and legal sufficiency:

Leonard G. Rubin, Town Attorney