

ORDINANCE NO. 166

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SOUTH PALM BEACH, FLORIDA, ADOPTING PROVISIONS RELATING TO USE OF THE STORMWATER SYSTEM; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the federal Clean Water Act (33 U.S.C. 1251 et seq.), as implemented by regulations of the U.S. Environmental Protection Agency adopted November 16, 1990 (40 CFR Part 122), make necessary to adoption of local ordinance provisions relating to the Stormwater System; and

WHEREAS the Town of South Palm Beach is seeking to comply with all provisions of federal and state law; and

WHEREAS, the Town Commission has conducted legally noticed public hearings and has provided all interested parties an opportunity to be heard on these ordinance provisions;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SOUTH PALM BEACH, FLORIDA AS FOLLOWS:

ARTICLE 1.0 PURPOSE AND DEFINITIONS

Section 1.1 Purpose and Intent

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

Section 1.2 Definitions

- (a) Authorized Official: any employee or agent of the Town of South Palm Beach authorized in writing by the Building Official to administer or enforce the provisions of this ordinance.
- (b) Discharge: any direct or indirect entry of any solid, liquid or gaseous matter.
- (c) Person: any natural individual, corporation, partnership, institution, or other entity.
- (d) 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 of the U.S. Environmental Protection Agency, as amended.

- (e) Stormwater: any stormwater runoff, and surface runoff and drainage.
- (f) Stormwater System: the system of conveyances used for collecting, storing, and transporting Stormwater owned by the Town of South Palm Beach but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.

ARTICLE 2.0 INDUSTRIAL ACTIVITY

Section 2.1 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.

Section 2.2 Specific Prohibitions

By adoption of industrial activity Stormwater regulations or by issuance of industrial activity Stormwater permits, or both, the Building Official 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 Building Official shall be in accordance with the applicable law.

Section 2.3 Administrative Orders

The Building Official may issue an order to any Person to immediately cease any Discharge determined by the Building Official to be in violation of any provision of this ordinance, or in violation of any regulation or permit issued hereunder.

Section 2.4 NPDES Permits

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

ARTICLE 3.0 ILLICIT DISCHARGES

Section 3.1 General Prohibitions

Except as set forth under Section 3.3 of this ordinance or as in accordance with a valid-NPDES permit, any Discharge to the Stormwater System that is not composed entirely of Stormwater is prohibited.

Section 3.2 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.

Section 3.3 Authorized Exceptions

Unless the Building Official determines that it is not properly managed or otherwise is not acceptable, the following Discharges are exempt from the general prohibition set forth under Section 3.1 of this ordinance: flows from fire fighting, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration to the Stormwater System, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, and dechlorinated swimming pool contributions.

Section 3.4 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 ordinance. 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.

Section 3.5 Administrative Order

The Building Official may issue an order to any Person to immediately cease any Discharge, or any connection to the Stormwater System, determined by the Building Official to be in violation of any provision of this ordinance, or in violation of any regulation or permit issued hereunder.

ARTICLE 4.0 SPILLS AND DUMPING

Section 4.1 General Prohibitions

Except as set forth under Section 3.3 of this ordinance or as in accordance with a valid NPDE permit, any Discharge to the Stormwater System that is not composed entirely of Stormwater is prohibited.

Section 4.2 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.

Section 4.3 Notification of Spills

As soon as any Person has knowledge of any Discharge to the Stormwater System in violation of this ordinance, such Person shall immediately notify the Building Official by telephoning (407-732-2635), 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 Building Official at (mailing address) within three calendar days.

Section 4.4 Administrative Order

The Building Official may issue an order to any Person to immediately cease any Discharge, or connection to the Stormwater System, determined by the Building Official to be in violation of any provision of this ordinance, or in violation of any regulation or permit used hereunder.

ARTICLE 5.0 ENFORCEMENT

Section 5.1 Injunctive Relief

Any violation of any provision of this ordinance, 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.

Section 5.2 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 ordinance, or of any regulation or permit issued hereunder.

Section 5.3 Enforcement Actions

The Building Official may take all actions necessary, including the issuance of notices of violation, the filing of court actions and/or referral of the matter to the local code enforcement board to require and enforce compliance with the provisions of this ordinance and with any regulation or permit issued hereunder.

ARTICLE 6.0 INSPECTIONS AND MONITORING

Section 6.1 Authority For Inspections

Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or 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 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 (a) if such property, building or facility is occupied, such Authorized Official shall first present proper credentials and request permission to enter, and (b) if such property, building or facility is unoccupied, such Authorized Official 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 search warrant by a duly authorized magistrate. 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.

Section 6.2 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 ordinance, or regulations or permits issued hereunder, any Authorized Official may take any samples deemed necessary.

Section 6.3 Requirements For Monitoring

The Building Official 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.

(Ed. note: Provisions required by 40 CFR, Sections 122.26(d)(1)(ii)(A),(B),(C),(E) and (F), and the Florida Interlocal Cooperation Act of 1969 (F.S.A. Section 163.01 et seq.).

ARTICLE 7.0 CODIFICATION

This ordinance shall be codified in the Code of Ordinances of the Town of South Palm Beach, Florida.

ARTICLE 8.0 REPEAL OF CONFLICTING ORDINANCES

All Ordinances, Resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed.

ARTICLE 8.0 SEVERABILITY

If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

ARTICLE 9.0 EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption.

PASSED ON FIRST READING THIS 27th DAY OF APRIL, 1993.

PASSED AND ADOPTED ON SECOND READING THIS 25 DAY OF MAY, 1993.

Margaret M. Roberts
Mayor

Beverly Savin
Vice Mayor

Sammy Rogers
Commissioner

Maurice [Signature]
Commissioner

Harry R. Feldman
Commissioner

ATTEST:

Margot K. Beck
Town Administrator