

ORDINANCE NO. 2006- 62

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ST. JOHNS, FLORIDA, RELATING TO THE IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM TO REDUCE POLLUTANT DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) IN COMPLIANCE WITH FEDERAL CLEAN WATER ACT; PROVIDING FOR FACTS AND PURPOSE; PROVIDING FOR JURISDICTION; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS; PROVIDING FOR THE PROHIBITION OF ILLICIT CONNECTIONS AND ILLICIT DISCHARGES INTO WATERS OF THE UNITED STATES AND STATE OF FLORIDA WITHIN ST. JOHNS COUNTY; PROVIDING FOR CONTROL OF DISCHARGES; PROVIDING FOR COMPLIANCE, INSPECTION, MONITORING, AND MAINTENANCE OF SYSTEMS; PROVIDING FOR REPORTING AND CORRECTION OF ILLICIT CONNECTIONS AND ILLICIT DISCHARGES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, St. Johns County, Florida ("the County") was designated by the United States Environmental Protection Agency as a regulated local government under Phase 2 of the National Pollutant Discharge Elimination System (NPDES) Stormwater Permitting Program with the revision to Title 40, Code of Federal Regulations, Part 122 on December 8, 1999; and,

WHEREAS, this designation requires the County to develop and implement a stormwater management program which will reduce stormwater pollutant discharges to the Municipal Separate Storm Sewer System (MS4); and,

WHEREAS, this designation requires the County to develop and implement an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to reduce pollutants in any stormwater runoff to the MS4; and,

WHEREAS, the County desires to implement this ordinance to fully comply with the requirements of the designation as a regulated local government under Phase 2 of the

National Pollutant Discharge Elimination System (NPDES) Stormwater Permitting Program.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

Section 1. Facts and Purpose.

- A. **Facts.** The above Recitals are hereby incorporated by reference and adopted as findings of fact and conclusions of law.
- B. **Purpose.** The purpose of this ordinance is to ensure the health, safety, and general welfare of the citizens of St. Johns County, 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 to the authority of section 403.0885 F.S.) by reducing pollutants in discharges and by prohibiting non-stormwater discharges to the storm drain system.

Section 2. Jurisdiction. This Ordinance shall apply to and be effective in the unincorporated area of St. Johns County.

Section 3. Definitions.

- A. **Authorized Connection** shall mean a physical point source to the County's MS4 which is authorized by the County.
- B. **Authorized Discharge** shall mean any direct or indirect discharge to the County's MS4, or Regulated Waters that is composed entirely of Stormwater, that is exempt as specified in Section 4 or that is authorized by St. Johns County.
- C. **Best Management Practices or BMPs** shall mean 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 County determines appropriate and necessary for the control of pollutants.

- D. **Clean Water Act (CWA)** shall mean the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto.
- E. **Commercial Activities** shall mean facilities and/or activities, which include but may not be limited to, any office, manufacturing, distribution, or warehousing operation, including all ancillary activities, as an entity that accommodates the direct or indirect exchange of goods or services.
- F. **Construction Activities** shall mean 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 St. Johns County Ordinance. Hand clearing as necessary for land surveying shall not constitute Construction.
- G. **County** shall mean the unincorporated areas of St. Johns County, Florida.
- H. **County Administrator** shall mean the Office of the County Administrator of St. Johns County, Florida or the County Administrator's designee.
- I. **Discharge** shall mean, but is not limited to, any release, spilling, leaking, seeping, pouring, emitting, emptying, or dumping, of any substance or material.
- J. **Illicit Connection** shall mean a physical point source to the County's MS4 which is not authorized by the County. Any connection in violation of a NPDES or MSGP permit or failure to notify the County Administrator of a connection to the County's MS4 prior to discharging constitutes an Illicit Connection.
- K. **Illicit Discharge** shall mean any direct or indirect discharge to the County's MS4, or Regulated Waters that is not composed entirely of Stormwater or which is not authorized by the County. Any discharge in violation of a NPDES or MSGP permit or failure to notify the County Administrator of a discharge to the County's MS4 prior to discharging constitutes an Illicit Discharge.
- L. **Industrial Activities** shall mean 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.
- M. **Land Development Regulations** shall have the same meaning as the same term in Section 163.3164, F.S., as amended, and the regulations as adopted by the County in Ordinance 99-51, as amended.

- N. **Multi-Sector Generic Permit (MSGP)** shall mean the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity pursuant to provisions of Section 403.0885, F.S., 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.
- O. **Municipal Separate Storm Sewer System (MS4)** shall mean 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.
- P. **National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permits** shall mean General, group, and individual stormwater discharge permits which regulate facilities defined in federal NPDES regulations pursuant to Sections 307, 402, 318, or 405 of the Clean Water Act, and pursuant to provisions of Section 403.087, F.S., and applicable rules of the Florida Administrative Code.
- Q. **Owner** shall mean 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 or land, as appears by deed of record, agreement for deed, or properly executed contract for purchase.
- R. **Person** shall mean any individual, corporation, firm, company, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the United States and any officer, agent, or employee thereof, and any organized group of Persons whether incorporated or not.
- S. **Pollutant** shall have the same meaning as Pollution as defined in Chapter 403, Florida Statutes.
- T. **Regulated Waters** shall mean Waters of the United States as defined in 40 CFR §122, as amended, and Waters of the State as defined in Chapter 403, Florida Statutes, as amended, that lie within St. Johns County.
- U. **Shall, may:** The word "shall" is mandatory; "may" is permissive.

- V. State shall mean the State of Florida.
- W. Stormwater shall mean any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

Section 4. Exemptions.

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

1. Water line flushing;
2. Landscape irrigation;
3. Diverted stream flows;
4. Rising ground waters;
5. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
6. Uncontaminated pumped ground water;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensate;
10. Irrigation water;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;
14. Lawn watering runoff;
15. Water from individual residential car washing;
16. Flows from riparian habitats and wetlands;
17. Dechlorinated swimming pool discharges;
18. Residual street wash water; and,
19. Discharges or flows from fire fighting activities.

Section 5. 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 County's MS4 or Regulated Waters, shall provide a copy of such permit to the County Administrator no later than sixty (60) calendar days after the effective date of this Ordinance or thirty (30) calendar days after the issuance of said permits.

- B. Authorized Discharges to the County's MS4 shall be controlled so that they do not impair the operation of the County's MS4 or contribute to the failure of the County'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.

Section 6. Prohibition of Illicit Connections and Illicit Discharges.

Illicit Connections and Illicit Discharges are prohibited. Owners and/or Persons responsible for or currently operating an Illicit Connection or Illicit Discharge shall provide corrective measures in accordance with Section 10.

Section 7. 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 Illicit Discharge to the County'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 County's Land Development Regulations, shall be properly implemented, installed, operated, and maintained.
- C. Authorized Discharges to the County's MS4 shall be controlled so that they do not impair the operation of the County's MS4 or contribute to the failure of the County's MS4 to meet any applicable local, state, or federal law or regulation.
- D. 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.

Section 8. Control of Pollutant Contributions From Interconnected MS4s.

Interconnected MS4s shall be controlled so that they do not impair the operation of or contribute to the failure of the receiving MS4 to meet any applicable local, state, or federal law or regulation. Owners of sections of an interconnected MS4s shall be responsible for

the quality within their portion of the system and shall coordinate with the Owners of the downstream segments.

Section 9. Compliance.

- A. County personnel shall be granted access to inspect facilities or activities discharging or suspected of discharging to the MS4 or Regulated Waters in order to effectuate this Ordinance and to investigate potential violations of this Ordinance. All structures and processes that allow discharges, and all records concerning them, shall be made accessible to County personnel for monitoring of the quality of the discharges.
- B. Structural controls and other BMPs used to reduce or eliminate Pollutants in discharges shall be operated and maintained at all times by the Person owning and/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.

Section 10. Reporting and Correction of Illicit Connections and Illicit Discharges.

- A. Persons responsible for and/or currently operating known Illicit Connections or Illicit Discharges shall immediately initiate procedures to cease discharging and provide suitable containment facilities. Such procedures shall include a requirement to obtain approval from the County Administrator of a schedule for implementing proposed corrective measures.
- B. The construction, use, maintenance or continued existence of Illicit Connections to the County's MS4 is prohibited. This prohibition includes Illicit Connections made prior to the effective date of this Ordinance, 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 Illicit Connections shall initiate procedures to cease discharging and remove said Illicit Connection. Such procedures shall include a requirement to obtain approval from the County Administrator of a schedule for implementing proposed corrective measures including authorized containment, and cleanup of any discharge.
- C. As soon as a Person responsible for and/or currently operating a Commercial, Industrial or Construction Activity obtains information of a suspected Illicit Discharge or Illicit Connection to the MS4 or Regulated Waters from said Activity, then all necessary actions shall be taken to locate the Illicit Discharge or Illicit Connection and, upon discovery,

immediately initiate procedures to cease the Illicit Discharge and/or remove the Illicit 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 County Administrator 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 County may require, by written notice, that any Owner and/or Person engaged in any activity or owning or operating any facility that may cause or contribute to Illicit Connections or Illicit Discharges to the County's MS4 or Regulated Waters to undertake at said Owner's and/or Person's expense such monitoring and analysis and furnish such reports to the County as deemed necessary to determine compliance with this Ordinance.
- E. All Owners and/or Persons in violation of this Ordinance shall address such violations immediately. Violations shall be addressed as set forth in this Section by providing a written response to the County Administrator, 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 County Administrator.
- 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 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 of the Regulated Waters.
- G. If the Owner and/or Person responsible for a violation fails to take corrective action approved by the County Administrator, the County has the right to take remedial action. The Owner and/or Person responsible for the Illicit Discharge or Illicit Connection shall reimburse all costs incurred by the county in taking such actions.

Section 11. Enforcement and Penalties.

This Ordinance may be enforced by any method prescribed by law, including injunctive relief and the provisions of Chapter 162, Florida Statutes, and any ordinances enacted thereunder.

Section 12. Severability.

It is the intent of the Board of County Commissioners of St. Johns County, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section 13. Effective Date.

This Ordinance shall take effect upon its being filed with the Secretary of State of Florida.

PASSED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA this 16th day of May, 2006.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

James E. Bryant

By: James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk of Court REVISION DATE May 19, 2006

By: Robin L. Platt
Deputy Clerk
Effective Date: May 24, 2006

THE ST. AUGUSTINE RECORD

PUBLISHED EVERY MORNING MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **CHARLES BARRETT**

who on oath says that he is an Accounting Clerk of the St. Augustine Record,

a daily newspaper published at St. Augustine in St. Johns County, Florida:

that the attached copy of advertisement, being **DISPLAY ADVERTISEMENT**

in the matter **NOTICE OF PUBLIC HEARINGS USE OF LAND**

was published in said newspaper in the issues of

May 5, 2006, 2006.

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, for a period of one year preceding the first publication of the copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me this **5TH** day of **MAY, 2006.**

by *Charles Barrett* who is personally known to me
or who has produced **PERSONALLY KNOWN** as identification.

Patricia A. Bergquist

(Signature of Notary Public)



(Seal)

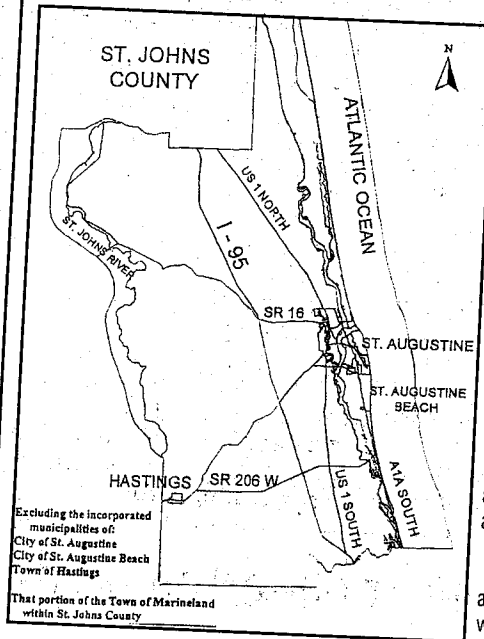
Patricia A. Bergquist
My Commission DD27988
Expires December 18, 2009

PATRICIA A. BERGQUIST

**NOTICE OF PUBLIC HEARINGS
OF THE ST. JOHNS COUNTY BOARD OF COUNTY
COMMISSIONERS ON ESTABLISHMENT OF
ORDINANCE/ REGULATIONS AFFECTING THE
USE OF LAND**

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, at regular meetings on Tuesday, May 2, 2006 at 9:00 a.m. and Tuesday, May 16, 2006 at 5:30 p.m. in the County Auditorium at the County Administrative Complex, 4020 Lewis Speedway (County Road 16-A and U.S. 1 North), St. Augustine, Florida, will hold public hearings to consider adoption of the following proposed ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ST. JOHNS, FLORIDA, RELATING TO THE IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM TO REDUCE POLLUTANT DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) IN COMPLIANCE WITH FEDERAL CLEAN WATER ACT; PROVIDING FOR FACTS AND PURPOSE; PROVIDING FOR JURISDICTION; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS; PROVIDING FOR THE PROHIBITION OF ILLICIT CONNECTIONS AND ILLICIT DISCHARGES INTO WATERS OF THE UNITED STATES AND STATE OF FLORIDA WITHIN ST. JOHNS COUNTY; PROVIDING FOR CONTROL OF DISCHARGES; PROVIDING FOR COMPLIANCE, INSPECTION, MONITORING, AND MAINTENANCE OF SYSTEMS; PROVIDING FOR REPORTING AND CORRECTION OF ILLICIT CONNECTIONS AND ILLICIT DISCHARGES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.



The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the St. Johns County Administration Complex, 4020 Lewis Speedway (CR 16A and U.S. #1), St. Augustine, Florida and may be examined by parties interested prior to the said public hearings. Please take note that the proposed ordinance is subject to revision prior to the hearing or adoption. All parties having any interest in said ordinance will be afforded an opportunity to be heard at the public hearings.

If a person decides to appeal any decision made with respect to any matter considered at the hearings,

such person will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 209-0650 at the St. Johns County Courthouse, 4010 Lewis Speedway, Room 276, St. Augustine, FL 32084. For hearing impaired individuals: Telecommunication Device for the Deaf (TDD): Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of the meeting.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND, ITS CLERK

By: Patricia DeGrande, Deputy Clerk