

ORDINANCE 2023-17

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING CHAPTER 21 "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF LAKE WALES, BY ADDING SECTIONS 21-98 TO 21-111 TITLED "STORMWATER QUALITY MANAGEMENT", RELATING TO THE IMPLEMENTATION OF DEFINITIONS, FINDINGS AND LEGAL AUTHORITY TO CONTROL DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4); PROVIDING THAT THIS ORDINANCE IS AN ADDITIONAL AND ALTERNATIVE METHOD; PROVIDING FOR ADJUSTMENTS AND APPEALS; PROVIDING NO LIABILITY FOR FLOODING; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF LAKE WALES, FLORIDA:

Sections 1. Chapter 21 "Utilities" of the Code of Ordinances of the City of Lake Wales (the "Code"), is hereby amended by adding Sections 21-98 thru 21-111, "Stormwater Quality Management" to read in full as follows:

21-98. Short title.

This article shall be known as the Lake Wales Stormwater Quality Management Ordinance.

21-99. Finding of facts.

The contribution of pollutants through discharges from storm sewer systems has a significant impact on the receiving waters in Lake Wales. Improperly treated discharges from industrial activities and interconnected municipal separate storm sewer systems (MS4s) and illicit discharges from spilling, dumping or disposal of material other than stormwater to the municipal separate storm sewer system will adversely affect the quality of waters receiving such discharges. The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Regulations, has mandated that municipalities provide the legal authority to control discharges to the municipal separate storm sewer system under the National Pollutant Discharge Elimination System (NPDES) in order to control the quality of discharges from the MS4. The City Commission of Lake Wales therefore finds it necessary and in the public interest, to protect the quality of waters receiving stormwater discharges from becoming contaminated, for the health, safety, and general welfare of the citizens of Lake Wales.

21-100. Applicability.

The regulations herein set forth shall apply to all areas within the corporate limits of Lake Wales.
Code provisions or ordinances within Lake Wales that are in conflict with the provisions of this article shall take precedence and shall be used to supplement the requirements of this article.

21-101. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. Use of the word "shall" means mandatory and not merely discretionary.

Best management practices (BMP's): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the MS4 or being discharged from the MS4 so as to protect or restore the quality of "waters of the United States."
BMP's include, but are not limited to treatment methods and practices to control; site runoff, spillage, leaks, sludge, waste disposal or runoff from raw material.

City Commission: Commissioners of Lake Wales, Florida.

Code of federal regulations (CFR): The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

City: "City" shall mean Lake Wales, a political subdivision of the State of Florida.

Discharge: "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying or dumping of any material.

Florida administrative code (FAC): An annotated official compilation of the rules and regulations of the State of Florida, published by the Florida Secretary of State.

Illicit discharge: Any discharge to a municipal separate storm sewer system or to waters of the United States that is not composed entirely of stormwater, with the exception of discharges which are exempt pursuant to section 12-110 of this article.

Industrial activities: Activities which are conducted on properties designated for Industrial Land Use in accordance with local comprehensive plans and at facilities identified by the U.S. EPA as requiring a NPDES stormwater permit under the definition of "Storm Water Discharge Associated with Industrial Activity" in Title 40, Section 122.26 of the Code of Federal Regulations or any modification or derivative thereof.

Inspection: "Inspection" includes, but is not limited to a review of all components of the stormwater management system, records on operation and maintenance of facilities and the results of any

monitoring performed for compliance with state, federal, and local regulations or permit conditions.

Municipal or municipality: "Municipal" or "municipality" shall include the incorporated city limits of Lake Wales, created by or pursuant to Florida law, which own or operate a municipal separate storm sewer system within Lake Wales.

Municipal separate storm sewer system (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) owned or operated by a municipality that discharges to waters of the United States and that is designed solely for collecting or conveying stormwater that is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2.

National pollutant discharge elimination systems (NPDES): The Federal program, implemented by the U.S. EPA, for controlling discharges from point source discharges directly into waters of the United States under the Clean Water Act.

Person: Any individual, partnership, firm, organization, corporation, association or other legal entity, whether singular or plural, as the context may require.

Stormwater: Surface runoff and drainage of water resulting from rainfall.

Waters of the United States: As defined by the U.S. Environmental Protection Agency (EPA) in Title 40, Section 122 of the Code of Federal Regulations or any modification or derivative thereof.

21-102. Control of stormwater discharges—Discharges to municipal system and United States waters.

- (a) The discharge of stormwater to an MS4 shall be controlled to the extent that such discharge will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any state or federal requirements. Discharges to waters of the United States shall be controlled to the extent that the discharge will not adversely impact the quality or beneficial uses of the receiving water.
- (b) Any person responsible for stormwater discharges determined by the municipality to be contributing to the impairment of waters of the U.S., either directly or through an MS4, shall provide corrective measures in accordance with a schedule approved by the municipality.

21-103. Discharges from industrial activities and construction sites.

- (a) Stormwater from construction sites shall be controlled in such a way as to retain sediment onsite and prevent violations of state water quality standards. All erosion and sediment controls required

pursuant to the pollution prevention plan of a NPDES stormwater permit for construction or required pursuant to a state stormwater permit issued by either the Florida Department of Environmental Regulation or appropriate water management district shall be properly implemented, maintained and operated. The minimum acceptable requirements for construction sites are set forth in the Best Management Practices (BMP's) for Construction Activities, attached to Ordinance No. 21-111, and incorporated herein by reference.

- (b) Stormwater from areas of industrial activity shall be treated or managed onsite, using best management practices, prior to discharging to an MS4 or to U.S. Waters. All stormwater discharges from the site shall be of a quality which will not adversely impact the water quality or beneficial uses of the receiving water.
- (c) The owners of industrial facilities or construction sites which will discharge stormwater to an MS4, must provide written notification to the appropriate municipality prior to discharging.

21-104. Pollutant contributions from interconnected MS4's.

The discharge of stormwater between interconnected states, county or other municipal storm sewer systems shall not impair the quality of the discharge from the receiving storm sewer system. Owners of sections of an interconnected MS4 shall be responsible for the quality of discharge from their portion of the system and shall coordinate with the owners of the downstream segments prior to initiating any modifications to the system.

21-105. Control of non-stormwater discharges—Prohibition of illicit discharges.

Any discharge, other than stormwater, to an MS4 or to waters of the United States which is not exempt under section 21-110 of this article is considered an illicit discharge as defined in this article and is prohibited.

21-106. Reporting illicit discharges.

Upon discovery of an illicit discharge, persons responsible for the discharge shall report their findings immediately to the municipality in which the discharge occurs.

21-107. Control of illicit discharges.

Persons responsible for illicit discharges shall immediately, upon notification, initiate procedures to cease discharging or provide suitable containment facilities until modifications are made to properly treat the discharge, or a NPDES permit is obtained. Such procedures shall include a requirement to

obtain approval of a schedule for implementing proposed corrective measures from the appropriate municipality.

21-108. Maintenance of control structures.

Structural controls and other BMP's used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the original design or performance criteria. Operation and maintenance shall be done so as to assure treatment of stormwater or reduction in pollutants in stormwater discharges consistent with appropriate federal, state or water management district rules or permit requirements.

21-109. Variances.

Variances from specific requirements of this article shall be considered by the Public Works Director on a case by case basis to the extent that the granting of such variance will not adversely impact the quality of the receiving water or relieve a person from any federal, state or local requirements which may apply. Notification of variance application shall be provided to the owners of all MS4's within Lake Wales.

21-110. Exemptions.

The following activities shall be exempt from the requirements of this article:

- (1) Discharges from firefighting and emergency response activities employing best management practices.
- (2) Discharges which meet the water quality standards of Chapter 17-302 FAC.
- (3) Discharges from facilities in compliance with the conditions of all required NPDES permits issued under the authority of the U.S. Environmental Protection Agency.
- (4) The storage, use or disposal of fertilizers, pesticides, herbicides or other regulated substances in strict conformance with the EPA registration, manufacturer's label requirements and any applicable federal, state or local regulations.

21-111. Enforcement, penalties and proceedings for injunction.

- (a) Enforcement of this article shall be administered by Code Enforcement officers in Lake Wales. All persons in violation of this article shall address such violations immediately upon written notification by the appropriate Lake Wales authorities. Violations shall be addressed by

providing a written response to the authority issuing the notification, requesting approval of the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures.

- (b) Any person who violates any provision of this article may be issued a citation pursuant to Lake Wales Ordinance 12-221, the Lake Wales Citation Ordinance, as amended, or may be subject to prosecution before the codes enforcement board and shall be subject to the administrative fines and liens set forth in the applicable ordinance. Each day of noncompliance shall constitute a separate violation of the applicable ordinance.
- (c) Any person who violates any section of this article may be prosecuted and punished as provided by Section § 12-225. Penalties, of the Lake Wales Code of Ordinances. Each day of the violation shall constitute a separate offense punishable with a maximum civil penalty not to exceed five hundred dollars (\$500.00) per violation.
- (d) In addition to any fines which may be imposed by this article, persons responsible for a discharge which adversely impacts a receiving water shall be liable for all sampling and analytical costs incurred in monitoring the discharge, any 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 all receiving waters to the extent in which they were impaired.
- (e) In addition to the remedies provided herein, the appropriate City attorney is authorized to make application in circuit court for an injunction restraining any person from violating, or continuing to violate, any provisions of this article. Such application for injunction may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters.

Section 2. This Ordinance and the City's authority control of discharges to the municipal separate storm sewer system pursuant hereto shall be applicable throughout incorporated Lake Wales.

Section 3. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of Lake Wales, shall be liberally construed to effect the purposes hereof.

Section 4. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

Section 5. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the

extent of such conflict.

Section 6. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Lake Wales; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. This Ordinance shall take effect on the date of its passage and adoption by the City Commission.

PASSED AND DULY ADOPTED after second reading and public hearing this 6th day of June, 2023.



Jack Hilligoss, Mayor

ATTEST:

Jennifer Nanek, City Clerk