

**ORDINANCE NO. 2006-10**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, RELATING TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4); PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR NPDES PERMITS; PROVIDING FOR CONTROL OF STORMWATER DISCHARGES; PROVIDING FOR THE PROHIBITION OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS; PROVIDING FOR INSPECTION MONITORING AND MAINTENANCE OF SYSTEMS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND CERTAIN EXCEPTIONS; AND FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**

**SECTION 1 – GENERAL PROVISIONS**

**A. Short Title:**

This ordinance shall be known as the Hernando County "NPDES Ordinance."

**B. Intent:**

1. This ordinance is enacted under the home rule power of the County to ensure the health, safety, and general welfare of the citizens of Hernando 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 stormwater discharges to the maximum extent practicable and by prohibiting non-stormwater discharges to the storm drain system.

2. Hernando County has been designated by the United States Environmental Protection Agency as a regulated local government under Phase 2 of the National Pollutant Discharge and Elimination System (NPDES) Stormwater Permitting Program with the revision to Title 40, Code of Federal Regulations, Part.

3. 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 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.

4. Hernando 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 and Elimination System (NPDES) Stormwater Permitting Program.

**C. Applicability:**

This ordinance shall apply to all of the unincorporated areas of Hernando County.

**D. 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 into Regulated Waters caused by said person. This ordinance shall not create liability on the part of Hernando County, or any agent or employee thereof for any damages that result from any person's reliance on this ordinance or any administrative decision lawfully made hereunder.

**E. Citations.**

Citations herein shall be considered to cite to the statute, rule or regulation in effect at the time this ordinance is adopted and to any amended or successor statute, rule or regulation.

**SECTION 2 – DEFINITIONS**

***Best Management Practices (BMP)*** – A schedule of activities, a prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from stormwater; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-stormwater, waste disposal, and drainage from raw materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such provisions as the County determines appropriate and necessary for the control of pollutants.

**Clean Water Act (CWA)** - The Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.).

**Construction Activities** - shall mean any and all activities resulting 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 Hernando County Ordinance. Hand clearing as necessary for land surveying shall not constitute Construction Activities.

**County** – The term "County," "the County" or "this County," shall mean Hernando County, a political subdivision of the State of Florida.

**County Administrator** – The County Administrator or designee.

**Department** – The Florida Department of Environmental Protection, or DEP.

**Discharge** – Includes, but is not limited to, any release, spilling, leaking, seeping, pouring, emitting, emptying, or dumping, of any substance or material.

**Illicit Connection** – 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.

**Illicit Discharge** – Any direct or indirect discharge to the County's MS4 or to Regulated Waters that is not composed entirely of stormwater, unless exempt pursuant to Section 7 of this Ordinance. Any discharge in violation of a NPDES permit shall constitute an illicit discharge.

**Industrial Activities** – Activities which are conducted on properties designated for Industrial Land Use in accordance with the Hernando County Comprehensive Plan or other final zoning action, and/or 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 amendment thereto, and under the provisions of Section 403.0885, Florida Statutes, and applicable rules of the Florida Administrative Code pursuant to the Department's federally-approved National Pollutant Discharge Elimination System (NPDES) stormwater regulatory program.

**Inspection** – Includes, but is not limited to, any on-site physical examination of all facilities and grounds which may discharge to Regulated Waters, a review of all

records on operation and maintenance of facilities and the results of any monitoring performed for compliance with local, state, and federal regulations and permit conditions.

***Maximum Extent Practicable*** – A case-by-case analysis considering all relevant factors for determining whether programs to reduce the discharge of pollutants have been optimized to the highest degree possible, including management practices, control techniques and system, design and engineering methods, and such other provisions as may be reasonably determined appropriate for the control of pollutants.

***Municipal Separate Storm Sewer System (MS4)*** – 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 Regulated Waters 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 (POTW) as defined by 40 CFR 122.2 or any amendment thereto.

***National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits*** - 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 Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code pursuant to the Department's federally-approved National Pollutant Discharge Elimination System (NPDES) stormwater regulatory program.

***Nontechnical and technical words*** - Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

***Ordinance*** - The word "ordinance" shall mean any ordinance of Hernando County and all amendments thereto.

***Owner*** - The word "owner" applied to a building or land, shall include any owner, 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.

***Person*** - The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

**Pollutant** - Anything that 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, and accumulations, which 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 (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

**Shall, may** - The word "shall" is mandatory; "may" is permissive.

**State** - The term "state," "the state" or "this state" shall mean the State of Florida.

**Stormwater** - Any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

**Regulated Waters** - 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 Hernando County, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

**Written or in writing** - The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or otherwise.

### **SECTION 3 – NPDES PERMITS**

Any person who holds a National Pollutant Discharge Elimination System (NPDES) permit, which authorizes stormwater discharge to the County's MS4, shall provide a copy of such stormwater discharge permit to the County Engineer no later than sixty (60) calendar days after the effective date of this Ordinance or sixty (60) calendar days after the issuance of said stormwater discharge permits.

### **SECTION 4 – CONTROL OF STORMWATER DISCHARGES**

#### **A. Stormwater Discharges to the MS4 and to Regulated Waters:**

1. 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. 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.

2. Any person responsible for discharges determined by the County to be contributing to the degradation of the County's MS4, Regulated Waters, or Waters of the State of Florida, either directly or through the a MS4, shall provide corrective measures in accordance with a schedule approved by the County and may be subject to paying fines and damages.

**B. Stormwater Discharges from Industrial Facilities:**

Stormwater from areas of industrial activity shall be treated and managed on-site using BMPs to protect water quality prior to discharge to the County's MS4, Regulated Waters or Waters of the State. All erosion, pollution, and sediment controls required by any applicable local, state, or federal permit, including elements of a Storm Water Pollution Prevention Plan required under a NPDES permit, shall be properly implemented, installed, operated, and maintained. All stormwater discharges from industrial sites shall be of a quality that will not adversely impact existing water quality or beneficial uses of the receiving waters.

**C. Stormwater Discharges from Construction Activities:**

Stormwater from sites upon which Construction Activities occur shall be controlled on-site using BMPs to protect water quality to the Maximum Extent Practicable prior to discharge to the County's MS4 or to Regulated Waters. All erosion, pollution, and sediment controls required by any applicable local, state, or federal permit, including elements of a Storm Water Pollution Prevention Plan required under a NPDES permit, shall be properly implemented, installed, operated, and maintained. All stormwater discharges from construction sites shall be of a quality that will not adversely impact existing water quality or beneficial uses of the receiving waters.

**D. Control of Pollutant Contributions From Interconnected MS4s:**

The discharge of stormwater between interconnected state, county or other MS4s shall not impair the quality of the discharge of the receiving MS4. 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 discharging.

## **SECTION 5 – PROHIBITION OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS**

### **A. Prohibition of Illicit Discharge:**

Unless expressly exempted by Section 7 of this ordinance, no person shall discharge or cause to be discharged directly or indirectly into the County's MS4, Regulated Waters, or Waters of the State any materials other than stormwater, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards.

### **B. Prohibition of Illicit Connection:**

1. Any point source discharge to the County's MS4, Regulated Waters or Waters of the State that is not composed entirely of stormwater or specifically permitted through a NPDES permit, is considered an illicit connection and is prohibited. The construction, use, maintenance or continued existence of illicit connections to the County's MS4 is prohibited. Failure of an industrial facility or construction site to notify the County Administrator of a connection to the County's MS4 prior to discharging constitutes an illicit connection.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

### **C. Reporting of Illicit Discharges or Illicit Connections:**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected illicit discharge or illicit connection to the MS4 or to Regulated Waters from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).

### **D. Control of Illicit Discharges or Illicit Connections:**

Persons responsible for illicit discharges or illicit connections shall, immediately upon discovery, 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.

## **SECTION 6 – INSPECTION, MONITORING, AND MAINTENANCE OF SYSTEMS**

### **A. Inspection for Compliance:**

1. County personnel shall be granted access to inspect permitted facilities discharging or reasonably suspected of discharging to the MS4 or Regulated Waters in violation of applicable permits, in order to effectuate this Ordinance and to investigate potential violations of this ordinance.
2. In the case of non-permitted facilities discharging or reasonably suspected of discharging to the MS4 or Regulated Waters in violation of the requirements of this ordinance or any applicable federal or state statute, rule or regulation shall be subject to inspection by County personnel for monitoring of the quality of the discharges upon request for access or presentation of an administrative inspection warrant obtained pursuant to state statutory requirements.

### **B. Monitoring, Analysis and Reporting to Determine Compliance:**

The County may require, by written notice of requirement, that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, illicit discharges, and/or non-stormwater discharges to the County's MS4, Waters of the U .S., or Waters of the State to undertake at said person's expense such monitoring and analysis and furnish such reports to the County as deemed necessary to determine compliance with this Ordinance.

### **C. Maintenance of Structural Controls and BMPs:**

Structural controls and other BMPs used to reduce or eliminate pollution in stormwater discharges shall be operated and maintained at all times by the person owning and/or operating the facility so as to function in accordance with the permitted design or performance criteria of all applicable permits and regulations.

## **SECTION 7- EXEMPTIONS**

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

- A. Discharges from:
  - potable water line flushing;



- uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20);
- uncontaminated pumped groundwater;
- discharges from potable water sources;
- irrigation water
- lawn and landscape watering;
- diverted stream flows;
- rising groundwater;
- groundwater infiltration to the storm drain system;
- uncontaminated foundation and footing drains;
- uncontaminated water from crawl space pumps;
- air conditioning condensation;
- uncontaminated non-industrial roof drains;
- springs;
- individual residential car washing;
- flows from riparian habitats and wetlands;
- dechlorinated swimming pool discharges;
- street wash water; and
- flows from fire fighting (except that such flows may be addressed where they are identified as significant sources of pollutants to the County's MS4 or to Regulated Waters.)

B. Discharges that meet State Water Quality Standards of Chapter 62-302 F.A.C., and any amendments thereto.

## **SECTION 8 – ENFORCEMENT, PENALTIES AND LEGAL PROCEEDINGS**

A. This Ordinance may be enforced by any method prescribed by law or ordinance. Violations of this ordinance may be punished as described in the Hernando County Code of Ordinances, Chapter 2, Article III as amended from time to time. Each day any violation of any provision of this ordinance continues shall constitute a separate offense, unless otherwise provided. Any authorized law enforcement officer, code enforcement officer, or Department agent has authority to issue notices and citations for violations hereof.

B. In addition to any fines which may be imposed pursuant to this Ordinance, 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.

C. The County Administrator is authorized to issue cease and desist orders in the form of written official notices sent by registered mail to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased based upon the following conditions:

1. In a situation that may have a serious effect on the health, safety, or welfare of the public or the environment, including the operation of and quality of stormwater in the County's MS4.
2. When irreversible or irreparable harm may result, in the reasonable opinion of the County Administrator, and immediate cessation of the activity is necessary to protect the public or the environment, including the operation of and quality of stormwater in the County's MS4.

If the person(s) so noticed fail to comply with any such order, the County has the right to take remedial action. The person(s) responsible for the illicit discharge or illicit connection shall reimburse all costs incurred by the county in taking such actions. Such reimbursement may be ordered in any appropriate enforcement proceedings under this ordinance.

D. In addition to the remedies provided herein, the County is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any person from violating, or continuing to violate, any provisions of this Ordinance. In addition, the County may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs.

E. The County may elect any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of another.

#### **SECTION 9 - Regulatory Consistency:**

This ordinance shall be construed to assure consistency with the requirements of the Clean Water Act and any amendments or supplements thereto, or any applicable implementing regulations.

#### **SECTION 10 - 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 or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this Ordinance.

**SECTION 11. Inclusion in the Code.**

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate designation.

**SECTION 12. Applicability to pending contracts and permits.**

(A) The county recognizes that certain parcel owners and duly licensed contractors have entered or will enter into bona fide contracts for construction activities affected by this ordinance prior to June 30, 2006, without actual or sufficient constructive notice of the potential enactment thereof. Any parcel owner or contractor who files a true copy of such construction contract, together with a notarized affidavit on a form supplied by the county (swearing under penalty of perjury as to the authenticity and execution date of said construction contract), with the county development department no later than July 31, 2006, shall be deemed exempted from the requirements of section 4( C) of this ordinance with respect to any construction activities directly related to such contract, provided that a complete building permit application pertaining to said parcel has been accepted for filing by the development department on or before December 31, 2006. Any parcel owner or contractor who has filed their construction contract and building permit application with the development department under this provision and who has not obtained a building permit issued by the building department during one additional one-hundred-eighty-day period running from the filing of a complete building permit application shall no longer be exempted from the requirements of this ordinance and shall be subject thereto.

(B) The County further recognizes that imposing all of the obligations of this ordinance on construction activities begun prior to or otherwise without sufficient actual or constructive notice of the ordinance requirements would be inequitable. Accordingly, construction activities pursuant to building permits issued prior to July 31, 2006 shall be exempted from section 4( C) of this ordinance.

(C) Nothing in this section shall be construed to exempt any construction activities from any and all other requirements of the Hernando County Code of Ordinances or from any applicable state or federal laws, rules or regulations.

**SECTION 13. Effective date.**

Except as otherwise provided herein, this ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

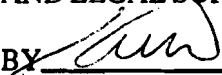
**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY** in Regular Session this 20<sup>th</sup> day of June, 2006.

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA**



  
KAREN NICOLAI  
Clerk

By:   
DIANE B. ROWDEN  
Chairperson

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY  Kew 6/20/06  
County Attorney's Office