

ORDINANCE NO. 11- 16

THE PURPOSE OF THIS ORDINANCE IS TO PROVIDE FOR THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE GENERAL PUBLIC OF OKALOOSA COUNTY THROUGH THE REGULATION OF NON-STORM WATER DISCHARGES TO THE STORM DRAINAGE SYSTEM TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY FEDERAL AND STATE LAW.

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

Section 1 - Intent: This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Ordinance are:

- 1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by any person.
- 2) To prohibit illicit connections and discharges to municipal separate storm sewer system.
- 3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the separate storm sewer system.
- 4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.

Section 2 - Compatibility with Other Regulations: This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall apply.

Section 3 - Definitions:

Accidental Discharge means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.

Best Management Practice (BMP) – Schedules of activities, prohibitions of practices, general good house-keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to

prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage, as established by the County.

Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity means activities subject to the Land Development Code which shall apply to the land use, development, construction, addition, alteration, moving, repair, and occupation of any building, structure, parcel of land or sign unless otherwise expressly excepted or exempted herein. Promote and fulfill the intent and requirements of Sections 163.3201 and 163.3202, Florida Statutes.

Illicit Discharge means any direct or indirect non-stormwater discharge to Okaloosa County's separate storm sewer system, and a storm drain with measurable flow during dry weather, except as exempted by this ordinance.

Illegal Connection means either of the following: a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including, sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or b) Any pipe, open channel, drain or conveyance connected to Okaloosa County's separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity means activities subject to NPDES Industrial Permits.

Land Development Code(The Code) is intended to implement the goals, objectives, and policies of the Okaloosa County Comprehensive Plan by classifying and regulating the use and development of lands and waters in unincorporated Okaloosa County. This Code is intended to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, landowners, and business enterprise within the County; and to protect and preserve the natural, cultural, historic, and aesthetic resources.

Municipal Separate Storm Sewer System(MS4) means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, Okaloosa County streets, curbs, gutters,

inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is: a) Owned or maintained by Okaloosa County; b) Not a combined sewer; and c) Not part of a privately owned stormwater treatment facility.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the Florida Department of Environmental Protection Agency, or by a State under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge means any discharge to the storm drainage system that is not composed entirely of stormwater.

Person means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or other legal entity.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease, detergents (biodegradable or otherwise) degreasers, cleaning chemicals, non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

Pollution means the unregulated, unmitigated, or illegal introduction of pollutants into the natural or manmade environment that degrades the health, stability, or productivity of the natural or manmade system into which such pollutants are introduced.

Premises mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking lots.

State Waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and

subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Florida which are not entirely confined and retained completely upon the property of a single person.

Storm Drainage System means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to: any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater Control Structure means a structural stormwater management facility, structure, or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the rate of release or the velocity of flow.

Stormwater Management Plan is a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable. This may include, but is not limited to, a design narrative and engineered documents.

Stormwater Runoff or Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation.

Section 4 - Prohibition of Illicit Discharges: No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the State waters, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the State waters, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- 1) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
- 2) Discharges or flows from fire fighting, and other discharges specified in writing by the Board of County Commissioners as being necessary to protect public health and safety;

- 3) The prohibition provision above shall not apply to any non-stormwater discharge permitted under a NPDES permit or order issued to the person responsible for the discharge and administered under the authority of the State and Federal Environmental Protection Agency, provided that the person is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to Okaloosa County's separate storm sewer system.

Section 5 - Prohibition of Illegal Connections: The construction, connection, use, maintenance or continued existence of any illegal or unpermitted connection to Okaloosa County's separate storm sewer system is prohibited.

- 1) A person violates this ordinance if the person connects a line conveying sewage or other sources of pollutants as defined herein to Okaloosa County's separate storm sewer system, or allows such a connection to continue.
- 2) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an appropriate treatment and management system as approved by the Okaloosa County Water & Sewer Department, Growth Management Department, Health Department or any other applicable local, state, or federal agency having jurisdiction.
- 3) Any drain or conveyance, including stormwater, that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from Okaloosa County or designee requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to Okaloosa County.

Section 6 - Waste Disposal Prohibitions: No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

Section 7 - Watercourse Protection: Every person owning property through which a watercourse

passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, or other manmade or anthropogenic causes (i.e. illegal dredging causing downstream buildup sediments, etc.) and other obstacles that would pollute, contaminate, or significantly retard or impede the flow of water through natural or manmade waterways. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 8 - Industrial or Construction Activity Discharges: Any person, business, or corporation subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to Okaloosa County or designee prior to allowing discharges to the (municipal/county) separate storm sewer system.

Section 9 - Compliance Monitoring: Access and Inspection of Properties and Facilities: Okaloosa County shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- 1) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of Okaloosa County.
- 2) Facility operators shall allow Okaloosa County ready access to all parts of the premises for the purposes of inspection, sampling, photographing, examination and copying of records that must be kept under conditions of a NPDES permit, and the performance of any additional duties as defined by state and federal law.
- 3) Okaloosa County shall have the right to set up on any permitted facility such devices as are necessary in the opinion of Okaloosa County to conduct monitoring and/or sampling of the facility's storm water discharge.
- 4) Okaloosa County shall have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

Section 10 - Search Warrant for Compliance Monitoring: If Okaloosa County has been refused access to any part of the premises from which stormwater is discharged, and Okaloosa County is able to demonstrate probable cause that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to

verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then Okaloosa County may seek issuance of a search warrant from the court of local jurisdiction.

Section 11 - Notification of Accidental Discharges and Spills: 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 release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or State waters 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 hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person, by phone, fax, or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the attention of the Stormwater Division, Okaloosa County Public Works, 1759 South Ferdon Blvd., Crestview, FL 32536, within three business days of phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 12 - Requirement to Remediate: Whenever Okaloosa County finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or State waters, the County may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time.

Section 13 - Corrective Action: Upon receiving written notice of noncompliance with this Ordinance, the owner, or authorized agent shall immediately cease the illicit discharge and shall, within 14 calendar days, submit a proposed corrective action plan accompanied by, if necessary, a contract for services with a qualified individual or firm, in order to bring the affected system into compliance with applicable laws.

Section 14 - Enforcement, Penalties: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Violations of the provisions of 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 15 - Notice of Violation: The notice of violation shall be sent via return receipt U.S. mail or via hand delivery by the Code Enforcement Officer or Sheriff's Deputy to the owner of the property and any tenant or resident of the property and any licensee listed under a County business license for the property and said notice shall contain:

- 1) The name and address of the parties listed above;
- 2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- 3) A statement specifying the nature of the violation;
- 4) A description of the remedial measures necessary to restore compliance with this Ordinance and a time schedule for the completion of such remedial action;
- 5) A statement of the penalty or penalties that shall or may be assessed against the person or persons to whom the notice of violation is directed;
- 6) A statement that the determination of violation may be appealed to the County Administrator or designee by filing a written notice of appeal within thirty (30) days of service of notice of violation; and
- 7) The name and authority of the enforcing officer.

Such notice may require without limitation:

- 1) The performance of monitoring, analyses, and reporting;
- 2) The elimination of illicit connections or discharges;
- 3) That violating discharges, practices, or operations shall cease and desist;
- 4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- 5) Payment of a fine to cover administrative and remediation costs; and
- 6) The implementation of source control or treatment BMPs.

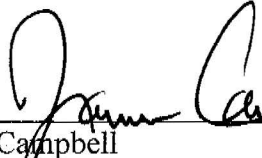
Section 16 – Abatement: If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. All costs associated with remedial actions shall be the responsibility of the responsible parties. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the County or a contractor designated by the County and the expense thereof shall be charged to the violator. The County shall place a lien over any property for which it has expended funds for remedial actions pursuant to this section.

Section 17 - Severability: It is declared to be the intent of the Board that if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 18 – Effective Date: This ordinance shall take effect as provided by law.

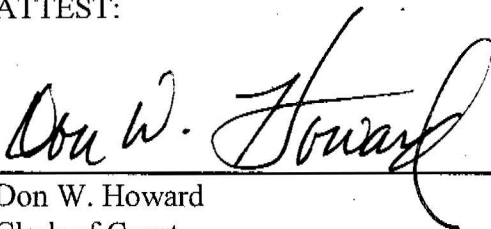
DULY PASSED AND ADOPTED in regular session on this the 1st day of
November 2011.

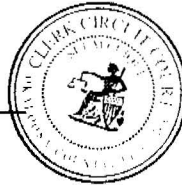
BOARD OF COUNTY COMMISSIONERS
OKALOOSA COUNTY, FLORIDA


James Campbell
Chairman



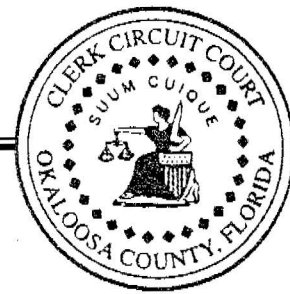
ATTEST:


Don W. Howard
Clerk of Court



DON W. HOWARD

CLERK OF THE CIRCUIT COURT, OKALOOSA COUNTY, FLORIDA



November 9, 2011

Mrs. Liz Cloud, Program Administrator
State Library and Archives of Florida
R. A. Gray Building
500 South Bronough Street, Room 101
Tallahassee, FL 32399-0250

Dear Mrs. Cloud:

Please find enclosed a certified copy of Ordinance Number 11-16 to be placed on file in your office. The Okaloosa County Board of County Commissioners adopted this ordinance on November 1, 2011. Thank you for your assistance.

Sincerely,

DON W. HOWARD
CLERK OF CIRCUIT COURT

Teresa Ward
Deputy Clerk

Enclosure

Certified Mail Article #7160 3901 9849 4730 1745

REPLY TO: 101 E. JAMES LEE BLVD • P.O. DRAWER 1359 • CRESTVIEW, FL 32563-1359 (850)651-7200 • SUNCOM 698-5800

SHALIMAR ANNEX • 1250 N. EGLIN PARKWAY • SHALIMAR FL 32579 • (850) 651-7200 • SUNCOM 699-7200

7160 3901 9849 4730 1745

TO: LIZ CLOUD, PROGRAM ADMINISTRATOR
STATE LIBRARY & ARCHIVES OF FL

Certified Article Number

7160 3901 9849 4730 1745

SENDERS RECORD

SENDER: T WARD, BCC RECORDS

REFERENCE:

PS Form 3800, January 2005

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Nov. 9, 2011