

ORDINANCE NO. 1474

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES ENTITLED, "UTILITIES", BY AMENDING ARTICLE VII, ENTITLED "STORMWATER UTILITY" TO CREATE DIVISION 2. ENTITLED "DETECTION AND ELIMINATION OF ILLICIT DISCHARGES INTO THE STORMWATER SYSTEM" TO ESTABLISH STORMWATER DISCHARGE REGULATIONS AND DIVISION 3. ENTITLED "SURFACEWATER AND STORMWATER MANAGEMENT" TO ESTABLISH SURFACE AND STORMWATER PROGRAM; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") has established a stormwater utility to plan, construct, operate and maintain a stormwater management system to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system; and

WHEREAS, the Florida Department of Environmental Protection ("FDEP") implements the stormwater element of the federal National Pollutant Discharge Elimination System ("NPDES"); and

WHEREAS, the City is a co-permittee with Miami Dade County's NPDES under Permit # FLS000003-004 which allows for the discharge of stormwater to waters of the State, in accordance with an approved Stormwater Management Program ("SWMP"), effluent limitations, monitoring requirements, and other provisions as set forth in the permit; and

WHEREAS, as a permitholder, the City is required to maintain pollution prevention measures, treatment or removal techniques, stormwater monitoring, use of legal authority, and other appropriate means to control the quality of stormwater discharged from the Municipal Separate Storm Sewer Systems ("MS4"); and

WHEREAS, FDEP recently conducted an MS4 audit and determined that the City of North Miami's SWMP no longer contains some of these required elements and lacks legal authority to enforce the provisions of the permit; and

WHEREAS, the proposed ordinance creates two (2) new divisions to address pollutant discharges into the stormwater system and to establish a surfacewater and stormwater program as well as incorporates all of the required language and enforcement mechanisms that will bring the City into compliance with the statutory requirements; and

WHEREAS, the Mayor and City Council have reviewed the proposed ordinance and have determined that it is in the best interest of the residents of the City to amend Chapter 19 to incorporate the required enforcement mechanisms.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Chapter 19 of the City Code of Ordinances, entitled "Utilities" is hereby amended at Article VII entitled "Stormwater Utility" as follows:

CHAPTER 19. UTILITIES

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ARTICLE VII. STORMWATER UTILITY

DIVISION 1. – GENERALLY

Sec. 19-238. - Intent and purpose; stormwater utility system.

As authorized pursuant to Chapter 403, Florida Statutes, a stormwater utility is created consistent with the City of North Miami's Comprehensive Plan, and stormwater utility fees are established to plan, construct, operate and maintain a stormwater management system. The "stormwater management system" is the system designed, constructed and implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system. The "stormwater utility" is the funding of the stormwater management system by assessing the cost of the program to the beneficiaries based on their relative contribution to its need. It is operated as a typical utility which bills services regularly, similar to water and wastewater services.

Sec. 19-239. - Definitions.

The following words, when used in this ~~chapter~~ division, shall have the meanings respectively ascribed to them as follows:

BMP (Best Management Practice). Any stormwater treatment facility (including, but not limited to, a drainage well, exfiltration basin, grass swale, retention, or detention pond, and pumping stations) installed according to accepted engineering design criteria for the purpose of reducing the discharge of pollutants.

Charges. All fees applicable for stormwater services incurred and/or billed by the city's utility billing system for services incurred.

Consumer. The entity billed for stormwater services in any premises supplied by the city.

Developed property. Any parcel of land that contains a building, structure, or an impervious area.

Dwelling. Any building that is wholly or partly used or intended to be used for living, sleeping, cooking and eating.

Dwelling unit. A room, or group of rooms, occupied, or intended to be occupied as separate living quarters by one (1) family with independent cooking and sleeping facilities.

ERU (equivalent residential usage unit). The statistically estimated average of impervious area of residential developed properties per dwelling unit within the City of North Miami. This estimated average (which equals one thousand seven hundred sixty (1,760) square feet) is calculated by dividing the total estimated impervious area of residential properties by the estimated total number of dwelling units.

Impervious area. The horizontal ground surface that is not readily penetrated by rainwater. This shall include, but not be limited to, all structures, slabs, patios, porches, driveways, sidewalks, parking areas, athletic courts, decks and roofs.

Non-residential developed property. Any parcel of land with impervious area that does not contain only dwellings or dwelling units.

Residential developed property. Any parcel of land with impervious area that contains only dwellings or dwelling units.

Stormwater infrastructure. The structural, non-structural, or natural features of a parcel of land or watershed which collect, convey, store, absorb, inhibit, treat, use, reuse, or otherwise affect the quality or quantity of stormwater.

Stormwater. The surface water runoff that results from rainfall.

Stormwater utility fund or fund. That separate account established by the City of North Miami for the deposit and use of all stormwater utility fees collected.

Sec. 19-240. - Application of article.

The provisions of this article and all sections of this chapter applicable to the stormwater utility shall apply to all properties within the City of North Miami.

Sec. 19-241. - Stormwater utility fees.

(a) A stormwater utility fee shall be assessed against each property within the City of North Miami. To assess the foregoing fee against each property within the City of North Miami, the finance department shall establish an account for each property (or each use thereon) based upon City of North Miami utility accounts, applications for service, and Miami Dade County Tax Assessor property information or other ownership records.

(b) For the purpose of this article, each dwelling unit is assigned one (1) ERU. For properties which do not contain a dwelling unit (i.e., non-residential developed properties), the ERU is calculated by dividing the impervious area on the property by one thousand seven hundred sixty (1,760) square feet (e.g., a non-residential developed property containing three thousand five hundred twenty (3,520) square feet of impervious area is equivalent to two (2) ERUs).

(c) The monthly fee assessed against each account shall be determined by multiplying ~~four dollars and ninety-three cents (\$4.93)~~ seven dollars and twelve cents (\$7.12), the stormwater utility service charge, by the number of ERUs for each account. The amount of such fee shall be shown as a separate item on water bills (or as shown on a stormwater utility bill if no water bill is issued) and shall be paid by the owner, tenant or occupant in possession of the premises at the same time and in the same manner as is provided in this chapter for the payment of water bills.

(d) For the purpose of calculating stormwater utility fees, the calculations of ERUs is based upon property usage. The property usage shall be determined by the finance department based on, but not be limited by, state and county land use codes, tax assessments, business tax receipts and site inspections.

(e) Any authorized representative of the public works or finance department shall have free access to the properties at any reasonable time for the purpose of determining property usage for the purpose of calculating stormwater utility fees and obtaining billing account information.

(f) The number of ERUs calculated for each account shall be rounded to the nearest whole number. (e.g., 4.1 is equivalent to 4 ERUs and 4.5 is equivalent to 5 ERUs).

(g) The minimum charge assessed against each property shall be one (1) ERU.

(h) The fees collected by the city with respect to the stormwater utility, together with investment earnings, shall be deposited in the stormwater utility fund and shall be used exclusively for planning, constructing, financing, operating, repairing and maintaining the stormwater utility and the infrastructure of the stormwater management system. The city may pledge such fees as security for indebtedness incurred by it in connection with the stormwater utility and the stormwater management system.

Sec. 19-242. - Stormwater utility fee reductions.

Fee reductions, as specified below, are available for properties meeting the following criteria:

(1) A fee reduction of fifty (50) percent shall be applied to that portion of the property meeting the following criteria:

The property is subject to a valid National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit which drain to waters of the U.S. as defined by the U.S. Environmental Protection Agency.

(2) A fee reduction of fifty (50) percent shall be applied to that portion of the property meeting the following criteria:

The property is served by privately owned and maintained BMPs that are or would be required for development under current applicable state, county, and city criteria capturing a volume equal to the maximum of:

(2.50 inches) times (the impervious fraction of the area draining to the BMP) times (the area draining to the BMP),

-or-

(1.00 inch) times (the area draining to the BMP).

(3) A fee reduction of fifty (50) percent of the volume fraction shall be applied to that portion of the property meeting the following criteria:

The property is served by privately owned and maintained best management practices (BMPs) that are or would be required for development under current applicable state, county, and city criteria capturing a volume less than that in subsection (b) above. For purposes hereof "volume fraction" equals (provided volume) divided by (required volume pursuant to subsection (b) above).

(4) In order to apply for a fee reduction, property owners must submit a completed affidavit/application (in a form to be established by the city) to the finance department. Upon verification by a representative of the city that the above criteria have been satisfied and the property owner is entitled to a fee reduction, fee reductions shall be applied retroactive to the date of the application.

Sec. 19-243. - Authority to manage.

(a)The public works department is authorized to determine and prescribe the requirements of the stormwater management system (including all components of the infrastructure) and all necessary or desirable alterations, repairs and extensions to manage and control stormwater runoff, provided such action serves a public purpose.(b)The city and the public works department have not, and shall not, make any guarantee as to the amount of stormwater runoff managed by the stormwater management system, the time intervals required to effectuate such management of runoff, or any other aspect of the stormwater management system and the management of runoff, and shall not be, under any circumstances, held liable for loss, damage or

adverse consequences suffered by or to the owner or his property arising out of a deficiency or failure in the stormwater utility.

Sec. 19-244. - Notices.

In the event of any change in ownership or occupancy of any premises connected to the system, the finance department shall be immediately notified in writing of such change, giving in such notice the name and address of the new owner or occupant. The use of utility services shall be deemed and construed to be an acceptance by a new owner or occupant of the obligations of the preceding owner, including the obligation to pay all stormwater utility fees, to the city. In the event any owner fails to notify the finance department in writing of a change in ownership or occupancy of any premises for stormwater utility service, such owner shall continue to be liable to the city for all fees accrued and accruing for such service until a new account is established for the new owner or occupant. However, the foregoing provision shall not preclude the finance department from also demanding from the new owner or occupant the payment of all or any fees or deposits which shall, at the time of such demand, be unpaid or unsecured, without regard to whether the same accrued prior or subsequent to such change in ownership or occupancy. In no case of change of ownership shall the preceding owner be released from any contract obligations to the finance department accruing prior to the establishment of a new account for the new owner or occupant, except at the option of the finance department, evidenced by a written release from the city. Any notice of change in ownership or occupancy of any premises connected to the city's water system pursuant to section 19-105 of this Code shall be deemed sufficient to satisfy the notice requirement and the change shall be applicable to the stormwater utility account for the premises.

Sec. 19-245. - Enforcement; penalties.

No person shall interfere or tamper, whether by act of commission or omission, with the stormwater management system, or with manholes, catch basins, drainage wells, french drains, service pipes, or with any appliance of the public works department or with any appliance or component of the stormwater management infrastructure, which was or is a part of the stormwater management system, or was or is required by the public works department for controlling or regulating stormwater, and the stormwater management system. Any interference or tampering prohibited by the foregoing sentence shall constitute a violation of this article and shall be subject to ~~the penaltyies~~, including ~~the criminal penaltyies~~, and enforcement proceedings as set forth in section 1-14 Chapter 21 of this Code. For the purpose of this article, any interference or tampering with any appliance or component of the infrastructure used for controlling or regulating the stormwater and stormwater management system, shall be construed and taken to be the act of the owners or consumers at the premises.

Sec. 19-246. - Exemptions.

Any entity which is exempted by federal or state law shall not be responsible for payment of the stormwater utility fees.

DIVISION 2. – DETECTION AND ELIMINATION OF ILLICIT DISCHARGES INTO THE
STORMWATER SYSTEM

Sec. 19-247. - Intent and Purpose.

The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the City of North Miami through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable, as required by federal and State law. This section establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this section are:

- a. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user; and
- b. To prohibit illicit connections and discharges to the MS4; and
- c. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this section.

Sec. 19-248. – Definitions.

The following words, terms and phrases, when used in this division, shall have the stated meanings for the purpose of this division, except where the context clearly indicates a different meaning:

Authorized Official: Any employee or agent of the City authorized by the Director to administer or enforce the provisions of this division.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping 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.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1551 et seq.), as amended.

Director: The Director of Public Works

Discharge: Any direct or indirect entry of any solid, liquid or gaseous matter.

Hazardous materials: Any material, including any substance, waste, or combination thereof, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connections: An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Inappropriate discharge: Any direct or indirect non-stormwater discharge to the storm drain system.

Industrial activity: Activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 152.26(b)(15).

Municipal separate storm sewer system (MS4): The system of conveyances, including sidewalks, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, owned and operated by the City of North Miami and designed or used for collecting or conveying stormwater, but not used for collecting or conveying sanitary sewage.

National pollutant discharge elimination system (NPDES) stormwater discharge: A permit issued by the United States 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: Any discharge to the storm drain system that is not composed entirely of storm water.

Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Anything which 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, ordinances, and accumulations, so that same 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; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drainage system: Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to: any roads with drainage systems, municipal 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: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater management plan: 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.

Stormwater system: The system of conveyances used for collecting, storing and transporting stormwater owned by the City, but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Sec. 19-249. – Prohibitions.

- (a) Illicit Discharges: Except as set forth under subsection (b) of this section or as in accordance with a valid National Pollutant Discharge Elimination System (NPDES) permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited. Further, 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.
- (b) Authorized exceptions: Unless the director determines that it is not properly managed or otherwise is not acceptable, the following discharges are exempt from the general prohibitions set forth under subsection (a) of this section:
1. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
 2. Discharges or flow from firefighting and other discharges specified in writing by North Miami as being necessary to protect public health and safety.
 3. Any non-stormwater discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Florida Department of Environmental Protection or the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.
- (c) Illicit connections. The construction, use, maintenance, or continued existence of a connection to the MS4 without a valid permit, or reconnection after suspension without authorization is prohibited. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
1. A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (d) Watercourse Protection. Every person owning or leasing land through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. 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.
- (e) Industrial or Construction Activity Discharges. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit will be required prior to the allowing of discharges to the MS4.

Sec. 19-250. – Monitoring of Discharges.

- (a) The City of North Miami 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 division. Unreasonable delays in allowing or refusal to allow the City to access a permitted facility is a violation of a stormwater discharge permit and of this division. All owners of regulated facilities shall:
1. Make the necessary arrangements to allow access to the City if there are security measures in force at the facility that require proper identification and clearance;
 2. Allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit, and the performance of any additional duties as defined by state and federal law;
 3. Allow the City to set up on any permitted facility such devices necessary, in the sole discretion of the City, to conduct monitoring and sampling of the facility's stormwater discharge;
 4. Install monitoring equipment as required by the City;
 5. Maintain all sampling and monitoring equipment in a safe and proper operating condition at the operator's expense, to include the calibration of equipment to measure stormwater flow and quality;
 6. Remove and keep clear, at the operator's expense, any temporary or permanent obstruction to safe and easy access to the facility upon the written or oral request of the City.
 7. If an owner or operator of a facility subject to the provisions of this division refuses access to any part of the premises, the City may apply for the issuance of a search warrant from any court of competent jurisdiction. The City must demonstrate probable cause that there may be a violation of this division or a need to inspect and sample discharge from the facility to verify compliance with this division or to protect the overall public health, safety, and welfare of the community.

Sec. 19-251. – Best Management Practices.

The City of North Miami shall adopt and identify best management practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an unpermitted discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

Sec. 19-252. – Notification of 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 water of the U.S. 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. In the event of a release of non-hazardous materials, said person shall notify the City of North Miami in person or by phone or facsimile no later than the next business day. If notification is made in person or by phone, the person responsible for the facility or operation shall confirm that notification by sending a written notice addressed and mailed to the City of North Miami within seven business days of the phone or in person 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 written record of the discharge and the actions taken to prevent its recurrence.

Sec. 19-253. – Violations, Enforcement, Penalties.

- (a) Violations of this division or failure to meet a requirement of this division, shall constitute a violation of the City Code and the City's Code Compliance Department is authorized to initiate enforcement proceedings under Chapter 21 of the Code of Ordinances.
- (b) If the violation has not been corrected pursuant to the City's orders, then the City is authorized upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- (c) Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- (d) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. If a person has violated or continues to violate the provisions of this division, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- (e) In lieu of enforcement proceedings, penalties, and remedies authorized by this division, the City may impose upon a violator alternative compensatory action(s), such as storm drain stenciling, attendance at compliance workshops, waterway cleanup, etc.

- (f) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- (g) Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of three hundred seventy-five dollars (\$375.00) per day and/or imprisonment for a period of time not to exceed one (1) year. The City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.
- (h) The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of North Miami to seek cumulative remedies.

DIVISION 3. - SURFACEWATER AND STORMWATER MANAGEMENT

Sec. 19-254. - Title.

This ordinance shall be known as the Surface and Stormwater Management (SSM) Ordinance of the city.

Sec. 19-255. - Definitions.

The following words, when used in this division, shall have the meanings respectively ascribed to them as follows:

Applicant means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the city for the applicable permits or approvals to undertake construction, demolition or renovation projects within the city.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable erosion, dust generation, off-site sedimentation, and pollution of City of North Miami waterways and storm drainage systems. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

City means the City of North Miami.

Construction means any onsite activity that will result in the creation of a new stormwater management system, including the building, assembling, expansion, modification, or alteration of the existing contours of the property, the erection of buildings or other structures, or any part thereof, or land clearing.

Construction Generic Permit (CGP) means the “permit” issued by the Florida department of Environmental Protection for large and small construction activities which disturb (1) acre or more.

Construction permit means a permit issued by the city to an entity with the legal ability to construct the stormwater management system in accordance with the system design and permit conditions.

Control device means the element of a discharge structure that allows the gradual release of water under controlled conditions, sometimes referred to as bleed-down.

Control elevation means the lowest elevation at which water can be released through the control device.

Director means the director, or designee, of the city's public works department.

Detention means the collection and temporary storage of stormwater in such a manner as to provide treatment through physical, chemical, or biological processes, with subsequent gradual release of the stormwater.

Development means any of the following: (1) Construction, installation, alteration, demolition or removal of a structure, impervious surface, or stormwater management system, or (2) Clearing, scraping, grubbing, or otherwise removing or killing the vegetation of a site; or (3) Adding, removing, exposing, excavating, leveling, grading, digging, dumping, or otherwise disturbing the soil or rock of a site in a manner that is contrary to the requirements of this division.

Discharge structure means a structural device, usually constructed of a material such as concrete, metal, or plastic, through which water from a stormwater management system is discharged to a receiving water body.

Dry detention means water storage with the bottom elevation at least one foot above the control elevation. Sumps, swales, and other minor features may be at a lower elevation.

Drainage area means the watershed area contributing surface and stormwater runoff to the city's stormwater management system.

Dust control means providing temporary fencing to mitigate the effects of dust upon the surrounding community.

Elevation means the height, in feet above mean sea level, according to the National Geodetic Vertical Datum (NGVD).

Erosion means the detachment, transport, and deposition of particulate matter by the action of wind, water, and gravity.

Engineer means a professional engineer registered in Florida, or other person authorized pursuant to the provisions of Chapter 471, Florida Statutes, who is competent in the fields of hydrology and stormwater management. Engineer shall not be a current employee of the city.

Historic discharge or volume means the peak rate or volume at which stormwater runoff leaves a parcel of land in an undisturbed natural site condition by gravity or the legally allowable discharge at the time of permit approval.

Impervious surface means a surface that has been compacted or covered so that it is highly resistant to infiltration of water.

Operation permit means an SSM permit issued by the city to an entity with the legal ability to operate and maintain the stormwater management system in accordance with the system design and permit conditions.

Overflow elevation means the design elevation of a discharge structure at which, or below which, water is contained behind the outlet of the control device, except for that which leaks out, or bleeds out, through a control device down to the control elevation.

Retention means the prevention of, or to prevent the discharge of, a given volume of stormwater runoff into surface waters by complete onsite storage.

Soil conservation plan means a document prepared or approved by a local Soil and Water Conservation District Board organized pursuant to Chapter 582, Florida Statutes, that outlines a system of management practices to control stormwater and soil erosion, reduce sediment loss, or protect receiving water quality on a specific parcel of property.

Stormwater means the flow of water that results from and occurs immediately following a rainfall event.

Stormwater management plan means a plan for receiving, handling, and transporting storm and surface-waters within the city's stormwater management system.

Stormwater management system includes all natural and manmade elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable outlet location internal or external to the boundaries of the city. The stormwater management system includes all pipes, channels, streams, ditches, wetlands, sinkholes, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities, whether public or private.

Stormwater pollution prevention plan (the "plan") means a written plan, approved by the city submitted by the applicant which identifies a strategy to minimize stormwater runoff that will be generated. The SWPPP shall follow the guidelines of the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual published by the Florida Department of Environmental Protection.

Surface water means water that finds its way to an open channel without infiltrating into the soil.

Surface and stormwater management (SSM) permit means a construction or operation permit issued by the city in compliance with the provisions of this division.

Swale means a natural or manmade trench that: (1) Has a top width-to-depth ratio of the cross section equal to or greater than 6:1, or side slopes equal to or greater than three (3) feet horizontal to one (1) foot vertical; and (2) Contains contiguous areas of standing or flowing water only following a rainfall event, and (3) Is planted with or has stabilized vegetation suitable for soil stabilization, surface water treatment, and nutrient uptake; and (4) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any Stormwater as defined in chapter 24 of the Miami-Dade County Water Quality Standards.

Wet detention means water storage with the bottom elevation lower than one (1) foot below the control elevation of the system.

Sec. 19-256. - Permitting.

- (a) All construction and demolition sites and activities under the authority of the City of North Miami shall be required to contain and control all sediment and sediment-laden water on-site.
- (b) The provisions of this division shall apply to all land within the city. No person may subdivide, develop, change to a more intense land use, construct or reconstruct a structure, or change the size of a structure, except as exempted without first obtaining an SSM permit from the city. The city shall issue SSM permits as identified below:
 - (1) Construction permits shall be required prior to initiating any construction, development, or alteration activities.
 - (2) Operation permits shall be required prior to the occupancy or use of facilities authorized under a construction permit. An operation permit cannot be issued until an engineer has certified that construction has been completed according to permit conditions.
- (b) Nonconforming areas. An existing development must be brought into full compliance with this division when any of the following activities occur.
 - (1) Impervious area expansion. The gross impervious area of a property is expanded by more than five thousand (5,000) square feet. Repeated expansions of a development, constructed over a period of time commencing with the effective date of this division, shall be combined in determining whether the threshold has been reached.
 - (2) Use change. The use of a development changes to a more intense classification.
 - (3) Site alteration. A site alteration activity requires the submission of a development plan or amended development plan and involves ten (10) percent or more of the site area.
 - (4) Reconstruction. A structure is reconstructed following substantial destruction by fire or other calamity. A structure is considered substantially destroyed if the cost of reconstruction is fifty (50) percent or more of the fair market value of the structure before the calamity.
- (c) Exemptions. The provisions of this division shall not apply to:
 - (1) Land which is developed as single family residences;
 - (2) Parcels of one-half (½) acre or less; or,

(3) Developments which increase the impervious area by five thousand (5,000) square feet or less.

Sec. 19-257. - Processing and fees.

Procedures for processing of permit applications shall be as follows:

(1) Application. SSM permit applications for both construction and operation shall be submitted to the building department for review, processing, and approval.

(2) Fees. A non-refundable permit application fee shall be paid when the application is submitted to cover the cost of plan review, administration and management of the permitting process, and inspection of project implementation and operation. A schedule of permit application and inspection fees shall be established pursuant to an administrative regulation by the city manager.

(3) To obtain a permit for construction projects which will disturb over one acre of soil, the applicant must develop and implement a plan in accordance with the requirements of the "permit" or local erosion and sedimentation control standards and codes, whichever is more stringent. Construction sites with areas of disturbed soil between 0.5 acres and one acre may use an alternative format, approved by the city, provided it supplies all the information required by the permit. The plan must be approved by the City of North Miami Department of Public Works prior to the commencement of construction activities. The plan shall describe the current and final conditions of the construction site, the nature of the work to be performed, the BMPs to be implemented to prevent stormwater pollution, control erosion and prevent off-site sedimentation, who will implement these measures, the schedule of implementation, and include a narrative section; site plan; details, specifications, notes; and calculations.

(4) Sufficiency review. An application sufficiency review shall be conducted by the director, and within ten (10) days from the submittal date, written comments shall be provided to the applicant regarding the completeness of the application and requesting additional information, if necessary.

(5) Issuance. If the director determines that the permit application submittal is in compliance with all provisions of this division, a permit may be issued. If the director determines that the permit application submittal does not conform with all provisions of this division, permit issuance shall be denied and a written statement as to the reasons for the denial shall be provided to the applicant.

(6) Appeals. Any applicant who believes that a permit application is denied without sufficient cause and that the submittal conforms with all provisions of this division may petition in writing to the director. If the applicant is again denied a permit, that denial may be appealed to the City of North Miami Board of Adjustment, whose decision shall be final.

Sec. 19-258. - Permit submittal and conditions.

(a) Submittals. An SSM permit application shall be submitted to the city using appropriate forms as provided by the building department. A permit application shall contain sufficient information to allow the director to determine whether the project complies with the requirements of this division. The following specific items are minimum submittal requirements for a permit application:

(1) Applicant information, including the name, address, and telephone number of the applicant and proof of ownership for the property to be permittees.

- (2) Aerial photograph of the project vicinity, taken not more than three (3) years before the application date, covering the project area and the total lands that contribute runoff.
- (3) Topographic map of the project area, showing the location and elevation of benchmarks, including at least one (1) benchmark for each control structure.
- (4) Land use map showing both current and proposed conditions for the drainage area that contributes runoff.
- (5) Soils and vegetation map displaying the most recent U.S. Soil Conservation Service information and encompassing both the project area and the drainage area that contributes runoff.
- (6) Proposed grading, drainage, paving, and building plan showing details of proposed grading, drainage, paving, and buildings.
- (7) Erosion and sediment control plan identifying the type, location, and schedule for implementing erosion and sediment control measures, including total disturbed area and appropriate provisions for maintenance and disposition of temporary measures. All inspections shall be conducted in accordance with the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, published by Florida Department of Environmental Protection (FDEP) Stormwater/Nonpoint Source Management Section.
- (8) Technical report prepared by an engineer, describing the assumptions, calculations, and procedures used for determining compliance with the performance criteria established by this division.
- (9) Operation and maintenance plan prepared by an engineer, describing the activities and schedule required to operate and maintain the permitted facilities.

(b) Each permit issued by the city shall be subject to the following conditions.

- (1) Area. The development, including associated construction, shall be conducted only within the area specified in the approved permit.
- (2) Execution. Activities requiring an SSM permit shall not be commenced until the construction permit is approved and posted in a conspicuous place. The construction permit shall be protected from weather and shall remain posted until an operation permit has been issued.
- (3) Inspections. A schedule of inspections to be carried out during the construction and operation phases of permitting shall be established as conditions to the permit.
- (4) Duration. Unless revoked or otherwise modified, the duration of a construction permit issued pursuant to this division shall be consistent with the building permits issued for the development. If the permitted project discharge structure is completed prior to expiration, the construction permit duration can be extended to cover the project duration. Operation permits are subject to annual review by the director.
- (5) Maintenance. Operation and maintenance activities, as specified in the approved operation and maintenance plan, shall be executed routinely, with scheduled reporting to the director, as long as the operation permit is in effect.
- (6) Modifications. If the activity authorized by the permit is not completed according to the approved schedule and permit conditions, the director shall be notified in writing by the permit holder. For revisions resulting in a schedule extension of more than thirty (30) days, or if deviations from the permit conditions are expected to occur, approval of a permit modification is required.
- (7) Revocation. An SSM permit may be revoked if the approved schedule and permit conditions are violated without an approved permit modification.

(8) Transfer. No transfer, assignment, or sale of the rights granted by virtue of an approved permit shall be made without prior written approval from the director.

(9) Special conditions. Any additional special conditions, as deemed appropriate by the director, shall be established to address specific project needs or circumstances.

Sec. 19-259. - Performance criteria.

Except as otherwise provided herein, a development must be designed, constructed, operated and maintained to comply with the following performance criteria:

(1) Floodplain management. Provisions for floodplain management criteria shall be consistent with those contained in applicable Building Codes and the Flood Damage Prevention Ordinance of the city.

(2) Water quality. All stormwater management systems, serving areas of one (1) acre or more, shall be evaluated based on their ability to prevent degradation of receiving waters and adverse impacts on the site's natural systems, their efficiency in removing pollutants, and their ability to conform to state water quality standards as established in Chapters 17-3 and 17-4 of the Florida Administrative Code and local water quality standards as established by section 24-11(4) of the Code of Miami-Dade County.

(3) Peak discharge. The post-development peak rate of surface discharge for new developments must not exceed the pre-development discharge for the 25-year, 3-day storm.

(4) Runoff volume. The post-development volume of surface runoff must not exceed the pre-development volume of surface runoff for the 25-year, 3-day storm event.

(5) Treatment volume. Detention or retention treatment volume in the stormwater management system shall be provided according to one (1) of the following criteria:

a. Wet detention treatment volume shall be provided for the first inch of runoff from the project site, including offsite areas draining to the system, or the total of two and one-half (2½) inches times the percentage of imperviousness, whichever is greater.

b. Dry detention treatment volume shall be provided equal to seventy-five (75) percent of the amount established above for wet detention.

c. Retention treatment volume shall be provided equal to fifty (50) percent of the amount established above for wet detention.

(6) Pretreatment volume. Commercial or industrial project categories shall provide at least one-half (½) inch of dry detention or retention pretreatment of site runoff in addition to the base treatment volume required for all sites.

(7) Oil and grease separation. Stormwater management systems receiving runoff from areas with greater than fifty (50) percent impervious surface or containing a potential source of oil and grease contamination shall include a baffle, skimmer, grease trap, or other suitable oil and grease separation mechanism.

Sec. 19-260. - Maintenance responsibility.

(a) Dedication. Those stormwater management systems approved in compliance with this division that will function as an integral part of the city's maintained system, as determined by the director, shall be dedicated to the city. All areas and/or structures to be dedicated to the City

of North Miami must be dedicated by plat or separate instrument and accepted by the City of North Miami.

(b) *Approved entities.* All stormwater management systems accepted as dedications by the city shall be maintained by the city. Maintenance of all other stormwater management systems approved in compliance with this division shall be accomplished by the legal entity responsible for maintenance, which may include an approved entity as identified below:

(1) *Local government.* A county, municipality, municipal service taxing unit, special district, or other appropriate governmental unit.

(2) *Special district.* An active water control district created pursuant to Chapter 298 of the Florida Statutes, a drainage district created by special act, a community development district created pursuant to Chapter 190 of the Florida Statutes, or a special assessment district created pursuant to Chapter 170 of the Florida Statutes.

(3) *State or federal agency.* An appropriate state or federal agency.

(4) *Public utility.* An officially franchised, licensed, or approved communication water, sewer, electrical stormwater, or other public utility.

(5) *Developer or property owner.* A developer or property owner who provides a bond or other assurance of continued financial capability to operate and maintain stormwater management systems and who executes a maintenance and annual certification agreement with the director.

(6) *Property owner association.* Property owner associations able to comply with the following provisions.

a. The association provides a binding legal instrument through which it assumes full responsibility for stormwater management system operation and maintenance.

b. The association has sufficient powers to operate and maintain the system, establish rules, assess members, contract for services, exist perpetually, and, if dissolved, to provide alternate operation and maintenance services.

c. The association can provide a bond or other assurance of financial capability to operate, maintain and certify the system.

All systems not dedicated to the city shall have adequate easements to permit the city to inspect and, if necessary, to take corrective action should the responsible entity fail to properly maintain the system.

(c) *Inspections.* As part of the construction permit approval process, a construction inspection schedule shall be established to address the critical milestones of a project. Under the approved inspection schedule, no work shall proceed until the director inspects and authorizes work to proceed beyond each schedule milestone. Any portion of the work that does not comply with the permit conditions shall be specified in writing by the director and promptly corrected by the permittee. Annual inspections by the director to ensure continued maintenance of the stormwater management system after construction is complete will be established as conditions to the operation permit. An annual inspection fee shall be paid when the application to renew the operating permit is submitted.

Sec. 19-261. - Enforcement and penalties.

(a) *Public nuisance.* Any development activity commenced without obtaining an SSM permit approved pursuant to this division, or any activity conducted contrary to such a permit, shall be deemed a public nuisance and may be restrained by injunction or otherwise abated in a manner

provided by law. The city may institute injunctive, mandamus, or other appropriate action for the enforcement of this division.

(b) Violations. Violations of this division or failure to meet a requirement of this division, shall constitute a violation of the City Code and the City's Code Compliance Department is authorized to initiate enforcement proceedings under Chapter 21 of the Code of Ordinances.

(c) Corrective action. A person or entity found to be in violation of this division might be required to restore any alteration of the affected property to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a special assessment lien upon the property until paid.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are repealed.

Section 3. **Conflict.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

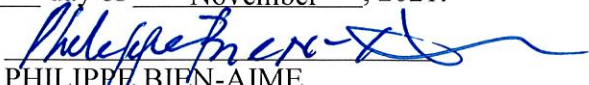
Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.


Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 26th day of October, 2021.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the
City of North Miami, Florida, on second reading this 9th day of November, 2021.



PHILIPPE BIEN-AIME
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Bien-Aime

Vote:

Mayor Philippe Bien-Aime
Vice Mayor Scott Galvin
Councilwoman Kassandra Timothe, MPA
Councilwoman Mary Estimé-Irvin
Councilman Alix Desulme, Ed.D.

<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.