

ORDINANCE NO. 1133 – 2023

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, COMPREHENSIVELY UPDATING AND AMENDING CHAPTER 53 “STORMWATER UTILITY MANAGEMENT PROGRAM” OF THE CITY’S CODE OF ORDINANCES, BY CREATING DIVISION II, “WATER QUALITY” PERTAINING TO ILLICIT DISCHARGES AND CONNECTIONS, EROSION AND SEDIMENT CONTROL, AND OTHER WATER QUALITY REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Springs, Florida (“City”) is committed to environmental conscientiousness and is located along an interconnected system of waters that provide habitat for fish and wildlife, opportunities for recreation, and an enhanced quality of life; and

WHEREAS, the City has determined that illicit discharges to the stormwater system result in the damage and loss of natural resources, including the degradation of water quality; and

WHEREAS, discharge of pollutants directly or via stormwater runoff into the surrounding waterways degrades water quality and poses a public health risk; and

WHEREAS, storm drains that overflow, or are not properly protected or maintained, can permit an accumulation of pollutants to enter the stormwater system and discharge into the City’s interconnected waterways; and

WHEREAS, as an operator of Municipal Separate Storm Sewer Systems (“MS4”) and a co-permittee under the National Pollutant Discharge Elimination System (“NPDES”) Permit No. FLS000003, the City is required to prohibit illicit discharges, illicit connections, illegal dumping, improper disposal and spills into the stormwater system, and is required to have the authority to enforce such prohibitions; and

WHEREAS, the City Council finds that this Ordinance is necessary for the preservation and improvement of the environment, and in the best interest of the public health, safety, and welfare of the City’s residents and visitors.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That each of the above recitals are true and correct and incorporated herein by this reference.

Section 2. Amending Chapter 53 of the City Code. That Chapter 53 of the code of ordinances of the City of Miami Springs, Florida, is hereby amended to read as set forth in Exhibit A attached hereto and incorporated herein.

Section 3. Severability. That 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 4. Codification. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Code of Ordinances, and that 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 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED ON FIRST READING on the 10th day of April, 2023, on a motion made by Councilman Vazquez and seconded by Councilman Fajet.

PASSED AND ADOPTED ON SECOND READING this 24th day of April, 2023 on a motion made by Councilman Vazquez and seconded by Councilman Fajet. Upon being put to a roll call vote, the vote was as follows:

Vice Mayor Jorge Santin	<u>YES</u>
Councilmember Jacky Bravo	<u>YES</u>
Councilmember Dr. Victor Vazquez, Ph.D.	<u>YES</u>
Councilmember Dr. Walter Fajet, Ph.D.	<u>YES</u>
Mayor Maria Puente Mitchell	<u>YES</u>



MARIA PUENTE MITCHELL
MAYOR

ATTEST:



ERIKA GONZALEZ, MMC
CITY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:



WEISS SEROTA HELFMAN COLE & BIERMANN, P.L.
CITY ATTORNEY

Exhibit A¹

Chapter 53- Stormwater Utility Management Program

Division 1 – Stormwater Utility Management Program

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Division 2. Water Quality

Sec. 53-101. Scope and purpose.

The purpose of this division is to safeguard persons, protect property, and prevent damage to the environment, surface waters, and Biscayne Bay through the regulation of non-stormwater discharges and pollutants into the municipal separate storm sewer system (MS4), Biscayne Bay, and surface waters, to the maximum extent practicable. This division will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City.

This division shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

This division establishes methods for controlling the introduction of pollutants into the municipal separate sewer storm system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, and otherwise assure the protection of the water quality of the City.

The objectives of this division are to regulate the contribution of pollutants to the MS4 by stormwater discharges by any user; to prohibit illicit connections and discharges to the MS4; and to establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this division.

Sec. 53-102. Findings and determinations.

It is hereby found, determined and declared, as follows:

- 1) As a means of complying with Federal and State-mandated goals and priorities relating to stormwater management, and to provide for the current and future needs of the City with respect to collection, control, and disposal of storm and other surface water within the geographical boundaries of the City, the City's existing system and all stormwater drainage facilities relating thereto presently owned and managed by the City, including but not limited to such storm sewers, drains, culverts, retention systems, detention basins, drainage wells, conduits, and appurtenant features, catch basins, outfall structures, equipment, and all appurtenances, whether man-made or natural, necessary, useful, or convenient shall be treated as a unified stormwater management system.
- 2) Any development affecting storm and surface water should be managed, regulated, and controlled under the unified management of a City-wide system for the purpose of, among other things, reducing or controlling erosion, sedimentation and turbidity,

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted double-strikethrough** and **double underline**.

and other pollution of water, danger, and damage to life and property, and to protect and encourage the use of natural and efficient man-made means to these ends.

- 3) During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.
- 4) The operation of the system will serve a vital public purpose and promote the common interests and provide for the health, safety, and welfare of the residents of the City.
- 5) Those elements of the system which provide for the collection, storage, treatment, and conveyance of stormwater management are of benefit and provide value to all properties within the City.

Sec. 53-103. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terms not otherwise defined in this division shall have the meaning ascribed to such terms in Section 53-03 of this chapter.

Best management practices ("BMPs") means schedules of activities, prohibition of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and/or other measures, practices, or devices that are generally accepted within an industry as being effective to reduce erosion from occurring on a disturbed site, prevent sedimentation from occurring on an adjacent property or within a waterway, and/or 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.

Certified contractor means a person who has received training and is licensed by the Florida Department of Environmental Protection (FDEP) to inspect and maintain erosion and sediment control practices.

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

Clearing means any activity that removes vegetative surface cover.

Construction means the act of creating or maintaining stockpiles of soil or other material which are erodible if exposed to water or wind and are capable of generating dust; or developing or improving public or private land, including without limitation the removal of surface cover, disturbance of soils, clearing, grubbing, grading, excavating and/or demolition.

Demolition means the partial, substantial, or complete removal or destruction of any structure, building or improvement.

Development or development activity means:

- (i) The construction, installation, demolition, or removal of a structure;
- (ii) Clearing, scraping, grubbing, killing or otherwise removing vegetation from a site; and/or
- (iii) Adding, removing, exposing, excavating, leveling, grading, digging, furrowing, dumping, piling, dredging, or otherwise significantly disturbing soil, mud, sand, or rock of a site.

Drainage way means any channel that conveys surface runoff throughout a site.

Environmentally sensitive area means landscape elements or places which are vital to the long-term maintenance of biological diversity, soil, water, or other natural resources whether on a specific site or in a regional context. These areas shall include, but not be limited to, all wetlands, open water bodies, dunes, and beaches.

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

Erosion control means a measure that prevents erosion.

Erosion and Sediment Control Plan means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used on a development site during and after construction for the control of soil erosion, sedimentation of waters, release of pollutants into waterbodies or the MS4, and runoff resulting from land-disturbing activity.

Exfiltration means a stormwater management procedure, which stores runoff in a subsurface collection system and disposes of it by percolation into the surrounding soil.

Grading means any stripping, excavating, filling, stockpiling, or combination thereof, including the land in its excavated or filled condition.

Hazardous materials means any material, including any substance, waste, or combination thereof, which 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 connection means either of the following:

- (i) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including, but not limited to, any conveyance that allows any non-storm water discharge, including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City; or
- (ii) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the City.

Illicit or Illegal discharge means any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this division.

Industrial activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Land-disturbing activities means any activity which may result in soil erosion from water or wind and the movement of sediments or pollutants into surface waters or lands, or activity that may result in a change to the existing soil cover, including, but not limited to, clearing, dredging, grading, excavating, transporting, demolition, and filling of land.

Municipal separate storm sewer system or MS4 means the conveyance or system of conveyances that is owned and operated by the City of Miami Springs, and is designed or used to collect or convey stormwater (e.g., storm drains, pipes, and/or ditches).

Non-structural controls means BMPs that include collecting trash and debris, sweeping up nearby sidewalks and streets, maintaining equipment, and training site staff on erosion and sediment control practices.

NPDES means the National Pollutant Discharge Elimination System.

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

Non-Storm Water Discharge means any discharge to the storm drain system that is not composed entirely of storm water.

Off-site sedimentation means the transport of sediment across boundaries of a land-disturbing activity, resulting in deposition of such materials in any lake or natural watercourse or on any land, public or private, not owned by the person responsible for the land-disturbing activity.

Operator means any party that has:

- (i) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; and/or
- (ii) Day-to-day operational control of any activities that are necessary to ensure compliance with an erosion and sediment control plan for the site or other permit conditions imposed by the City.

Person means any natural person, association, business, club, corporation, limited liability company, firm, partnership, limited partnership, organization, and/or any group of people acting as an organized entity or recognized by law.

Perimeter control means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, chemicals, paints, varnishes, degreasers and solvents; grease; antifreeze, oil and other automotive fluids or petroleum products; gasoline; diesel fuel; non-hazardous and toxic or poisonous liquid and solid wastes; sanitary sewage; heated water, chemically treated cooling water or other water; acids or alkalis; lawn clippings, leaves, branches, or yard trash; animal carcasses; pet waste; dyes; laundry waste or soaps; construction materials; pool water; effluent from boats, vessels, and other recreational watercraft or recreational vehicles; refuse, rubbish, garbage, litter, sediment, or other discarded or abandoned objects, and accumulations, so that the same may cause or contribute to pollution; pesticides; herbicides; fertilizers; hazardous substances and wastes; sewage; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; steam cleaning waste; filter backwash water; silt; any groundwater containing phosphorous or nitrogen concentrations greater than the surface water into which the groundwater is discharged; solids in such quantities or of such size capable of causing interference or obstruction to the flow in the City's stormwater system; any water that exceeds the state surface water standards; and noxious or offensive matter of any kind.

Pollution means the contribution of pollutants to any land, the MS4, Biscayne Bay, or surface waters.

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

Sediment means a solid material, whether organic or inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, or gravity as a product of erosion.

Sediment control means measures that prevent eroded sediment from leaving the site.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity and onto adjacent public or private property or into a waterbody.

Site means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site development permit means a permit issued by the City for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

Solid waste means and includes bulky waste, commercial refuse, garden trash, tree and shrubbery, garbage, refuse, rubbish, special handling trash, trash, hazardous waste, biohazardous waste, industrial waste, residential refuse, white goods, or other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from domestic, industrial, commercial, mining, or agricultural operations.

Stabilization or stabilize means to establish groundcover sufficient and adequate to prevent erosion; the use of practices that prevent exposed soil from eroding.

Start of construction means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings.

Storm Drainage System means publicly-owned facilities by which storm water 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 means the any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan ("SWPPP") means a written plan required for construction projects proposing to disturb an area equal to or greater than one acre of land, which identifies Best Management Practices, strategies, and activities to be implemented to minimize stormwater runoff that will be generated by the project, identify sources of pollution or contamination at a site, and identify the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable. The SWPPP shall be consistent with the guidelines in the *Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual* published by the Florida Department of Environmental Protection.

Structural controls means structural BMPs such as silt fences, sedimentation ponds, erosion control blankets, and temporary or permanent seeding.

Surface waters, or water(s), or waterway means waters on the surface of the earth, contained in bounds created naturally or artificially, including the Atlantic Ocean, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, ditches, and other watercourses.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Watercourse means any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City.

Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain.

Sec. 53-104. Private facilities.

- 1) Property owners shall be responsible, in compliance with local law, for providing and maintaining stormwater drainage facilities located on private property to collect and dispose of stormwater on site where runoff will principally be collected within that property. It shall be unlawful for any person to alter privately owned stormwater drainage facilities without the prior approval of the City. The owner shall clean and maintain the facility or channel, as required, to ensure efficient and proper operation of the facility. The owner shall obtain the City's prior written approval for any proposed changes or alterations to any private stormwater drainage facilities that, in the City's sole discretion, as decided by the City Manager or his or her designee, may

substantially or adversely affect stormwater drainage in the property owner's area in light of the requirements of this division and applicable law. No changes shall be permitted by the City which will adversely affect the stormwater management system in the area of the property.

- 2) The City may provide for inspection of private facilities to ascertain that the stormwater facilities are functioning as designed and approved.
- 3) The owner of any stormwater drainage facility that connects directly or indirectly to the City's stormwater management system shall maintain the facility to limit the peak discharge and the quantity of runoff entering the City's stormwater management system to that which was computed at the time the connection was authorized.
- 4) In any instance where existing property, land, buildings, or development negatively impact adjacent properties, land, buildings, or residences by directing or causing to be directed stormwater or runoff to the adjacent site, the City shall have the authority to require said property to take corrective action as it deems appropriate to ameliorate or otherwise mitigate said impact to the maximum extent practicable. Failure to complete said corrective action within a reasonable time shall constitute a violation of this division.

Sec. 53-105. Requirements to prevent, control, and reduce stormwater pollutants by the use of best management practices.

- 1) The City has adopted Best Management Practices through its standard operating procedures, which shall be required to be used for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the State.
- 2) The property owner or operator of a commercial or industrial establishment shall provide or establish, at the owner or operator's expense, reasonable protection or safeguards from accidental discharge of prohibited materials or other wastes into the MS4, Biscayne Bay, and/or surface waters, through the use of structural and non-structural BMPs.
- 3) The property owner or operator responsible for a property that is or may be the source of an illicit discharge may be required to implement, at the owner or operator's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the City's MS4.
- 4) 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 compliance with the provisions of this section.

Sec. 53-106. Authorization by development permit required prior to undertaking development activity.

- 1) Generally. No development activity may be undertaken unless the activity is authorized by a development permit.
- 2) Prerequisites to issuance of development permit. A development permit may not be issued unless the proposed development activity:

- a) Is authorized by a final development order issued pursuant to this Division; and
 - b) Conforms to the *Miami-Dade County Public Works Manual, Standard Details*; the *Miami-Dade County Water and Sewer Authority Department Manual of Standards and Specifications*; and other county, state and federal regulations as may be required and which are hereby adopted by reference.
- 3) Exceptions to requirement of a final development order. A development permit may be issued for the following development activities in the absence of a final development order issued pursuant to this division. Unless otherwise specifically provided, the development activity shall conform to this division.
- a) The construction or alteration of a one- or two-family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of this division. Compliance with certain development standards in this division is not required if in conflict with the previously approved plat.
 - b) The alteration of an existing building or structure so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site, and conforms to the standards provided for in this division.

Sec. 53-107. Pollution control.

- 1) Construction sites and construction activities.
- a) Construction sites and operations shall be required to maintain, during and after all construction, development, excavation, and/or alteration operations, structural and non-structural, best management practices with the intent to reduce pollutants and sediment in stormwater run-off.
 - b) Construction or construction operations over any existing or planned stormwater management system, or any such operations causing interference with any stormwater management system shall not be permitted.
 - c) A schedule of inspections for monitoring may be developed to be carried out during and after the construction and operation phases as conditions to the permit to determine and verify compliance with this section.
 - d) Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance may be required in a form acceptable to the Public Works Director or his or her designee prior to allowing discharges to the municipal separate storm sewer system.
- 2) Alterations or obstructions to stormwater management. Alterations or obstructions to any stormwater management system, including pump stations, structural controls, catch basins, culverts, wetlands, or swales shall be prohibited without prior written approval of the City.
- 3) Herbicide, pesticide, fertilizer applications. Companies involved in the application of herbicides, pesticides, fertilizers, or any regulated material shall be required to obtain operating licenses, train their employees in the application of said materials with the intent to minimize or prevent over application and spills; develop plans for spill

response and spill control of said materials, and comply with local and Miami-Dade County regulations related to herbicides, pesticides, fertilizers, or any regulated material.

- 4) *Litter, littering material.* The accumulation, placing, sweeping, scattering, throwing, or dumping of litter, or littering material such as dead plants, yard clippings, stagnant water, rubbish, debris, trash, including any wrecked, derelict, or partially dismantled motor vehicle, trailer, boats, machinery, appliances, furniture or other similar division, or any unsanitary, hazardous or significant material upon any surface area, stormwater management system, or water body within the City is hereby prohibited.

Sec. 53-108. Erosion and sediment control.

- 1) Generally. Any person conducting a land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity, consistent with the requirements of this section. Additionally, any such person shall be held responsible for knowing and abiding by the requirements of this section.
- 2) Erosion and Sediment Control Plan Required Prior to Building Permit; Exceptions.
 - a) In order to obtain a building permit for any land-disturbing activity, an environmental plan review by the Building Department shall be required to ensure the applicable Erosion and Sediment Control Plan is included in the plans as may be required by this section. A review fee shall be assessed for any land-disturbing activity with a valuation of \$250,000.00 or more, as determined by the Building Official. The review fee shall be set forth in the City's Fee Schedule, which may be amended from time to time by resolution of the City Council
 - i) *Sites less than one acre.* All construction work, including work in an area less than one acre in size, that has the potential to impact the City's MS4, Biscayne Bay, surface waters, and/or adjacent properties, is required to employ sediment and erosion control measures that are in accordance with the Florida Department of Environmental Protection ("FDEP") *Florida Storm Water Erosion and Sedimentation Control Inspector's Manual*, latest revision, to maintain water quality standards in accordance with Miami Dade County Department of Environmental Resource Management ("DERM") standards and Florida Administrative Code Chapter 62-302.
 - ii) *Sites equal to or greater than one acre.* All construction activity that results in the disturbance of an area equal to or greater than one acre is required to obtain coverage under the FDEP Generic Permit for Storm Water Discharge from Large and Small Construction Activities (Construction Generic Permit ["CGP"]). The notice of intent ("NOI"), any correspondence, the acknowledgement letter granting coverage under the CGP, a copy of the CGP, SWPPP, and all completed inspection forms and other documentation required by the CGP shall be available at the site at all times and made available to the City Manager or any other City official or inspector until land-disturbing activities have been completed. The contractor shall always have at least one person on-site during work activities who is certified through the Florida Stormwater, Erosion and Sedimentation Control Inspector Training Program. All construction activity that

involves the alteration of surface water flows is required to obtain coverage under the FDEP Environmental Resource Permit ("ERP").

b) A site development permit is not required for the following activities:

- i) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- ii) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

3) Permit Applications.

- a) Each permit application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee. The fee shall be set forth in the City's Fee Schedule, which may be amended from time to time by resolution of the City Council.
- b) A Construction Site Erosion and Sediment Control Affidavit, in a form prescribed by the City and signed by the property owner and certified contractor, shall be submitted with a building permit application and shall acknowledge that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan, that a certified contractor shall be on site on all days when construction or grading activity takes place, and that the Erosion and Sediment Control Plan will be maintained for the duration of the construction phase.
- c) The applicant will be required to file with the City a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the Building Official to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the City, and engineering and inspection costs to cover the cost of failure or repair of improvements on the site.

4) Permit Review and Approval. The City, through its Director of Public Works and/or Building Official, will review each application for a site development permit to determine its conformance with the provisions of this division. Within 30 days after receiving an application, the City, through its Director of Public Works and/or Building Official, shall, in writing:

- a) Approve the permit application;
- b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
- c) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

5) Erosion and Sediment Control Plan.

- a) The Erosion and Sediment Control Plan shall include one or more of the following, as applicable and as approved by the City through its Director of Public Works and/or Building Official:

- i) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - ii) All erosion and sediment control measures necessary to meet the objectives of this division throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of immediate plans may be required at the close of each season.
 - iii) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quality of mulching for both temporary and permanent vegetative control measures.
 - iv) Provisions for maintenance and control facilities, including easements and estimates of the cost of maintenance.
- b) Modifications to the Erosion and Sediment Control Plan shall be processed and approved or disapproved in the same manner as section 53-108(4) and shall include:
- i) Major amendments of the Erosion and Sediment Control Plan; and
 - ii) Field modifications of a minor nature.
- c) Design Requirements.
- i) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of FDEP's *Florida Stormwater, Erosion, and Sedimentation Control Inspectors Manual*, and shall be adequate to prevent transportation of sediment from the site.
 - ii) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in FDEP's *Florida Stormwater, Erosion, and Sedimentation Control Inspectors Manual*, latest version shall be used.
 - iii) Clearing, except when necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
 - iv) Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and approved by the City through its Director of Public Works and/or Building Official.
 - v) Erosion control requirements shall include one or more of the following, as applicable and as approved by the City through its Director of Public Works and/or Building Official:

- (1) Soil stabilization shall be completed within five days of clearing or inactivity in construction.
 - (2) If seeding or another vegetative erosion control method is used, it shall become established within four weeks or within such other time frame as may be approved by the City. If the seeding or other vegetative erosion control method does not become established, the City through its Director of Public Works and/or Building Official may require the site to be reseeded or a nonvegetative option employed.
 - (3) Special techniques that meet the design criteria outlined in FDEP's *Florida Stormwater, Erosion, and Sedimentation Control Inspectors Manual*, latest version, on steep slopes or in drainage ways shall be used to ensure stabilization.
 - (4) All disturbed areas of the site shall be vegetated or otherwise temporarily stabilized until construction completion
 - (5) Soil stockpiles must be stabilized or covered at the end of each workday.
 - (6) The entire site must be stabilized, using heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
 - (7) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - (8) Controlling dust on paved roadways will be done by use of a sweeper with water-jet sprayers. Only enough water should be applied to control dust while sweeping. Sprayers shall not generate runoff into catch basins.
 - (9) Techniques that divert upland runoff past disturbed slopes shall be employed.
- vi) Sediment control requirements shall include:
- (1) Sediment traps and perimeter controls.
 - (2) Basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the City through its Building Official and/or Director of Public Works.
 - (3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- vii) Waterway and watercourse protection requirements shall include:
- (1) A temporary stream crossing installed and approved by the City through its Building Official and/or Director of Public Works if a wet watercourse will be crossed regularly during construction.
 - (2) Stabilization of the watercourse channel before, during, and after any in-channel work.

- (3) All on-site stormwater conveyance channels designed according to the criteria outlined in the [Miami-Dade County Public Works Manual, Standard Details](#).
- (4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
- viii) Construction site access and sediment control requirements shall include one or more of the following, as applicable and as approved by the City through its Director of Public Works and/or Building Official:
 - (1) A temporary access road provided at all sites.
 - (2) Construction entrance(s) shall be stabilized wherever traffic will be leaving a construction site and traveling on paved roads or other paved areas within the site that is open to the public.
 - (3) Any sediment that is tracked onto road pavement shall be removed immediately (prior to the end of each workday).
 - (4) Pavement shall not be cleaned by washing/flushing street unless proper drain protection is in place to prevent discharges into the MS4.
 - (5) All sediments/soils shall remain on site.
 - (6) Perimeter protection, including a staked silt fence where applicable, is required for all development or redevelopment activities.
 - (7) Catch basin inserts are to be used to prevent sediments from entering drainage system. Inserts are to be inspected and cleaned weekly and after each rainfall event.
 - (8) If a water truck is used to control dust on dirt/graded areas only, the water truck will only drop enough water to control the dust or reach the optimum moisture content of the soil for compaction. No run-off is to be generated.
 - (9) Controlling dust on paved roadways will be done by use of a sweeper with water-jet sprayers. Only enough water should be applied to control dust while sweeping. Sprayers shall not generate runoff into catch basins.
 - (10) Sediment/soil erosion entering the right-of-way, adjacent private property, or waterbody shall be prohibited.
 - (11) Sediment/soil erosion from uplands into environmentally sensitive areas shall be prohibited.
 - (12) Dumping or piling vegetative debris or clippings in right-of-way or environmentally sensitive areas shall be prohibited.
 - (13) Tracking sediment or soil onto a roadway shall be prohibited
 - (14) Floating turbidity curtains labeled with the name of the contractor shall be required for construction or development activities occurring in or adjacent to a waterway, or that may cause sedimentation of the adjacent waterway.

- (15) Other measures required by the City through its Building official and/or Director of Public Works in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

6) Inspections.

- a) The City, through its Building official and/or Director of Public Works, shall make inspections as hereinafter required and shall approve the portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City through its Building official and/or Director of Public Works shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City's Building Department at least two business days before the following:
- i) Start of construction;
 - ii) Completion of site clearing; and
 - iii) Completion of final construction.
- b) The City or its designated agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined in the approved Erosion and Sediment Control Plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Director of Public Works at the time interval specified in the approved permit.
- c) The City Manager or his or her designee and/or a Code Inspector shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under this section.

7) Enforcement.

- a) Stop-Work Order; Revocation of Permit. In the event that any person holding a site development permit pursuant to this section violates the terms of the permit or implements site development in such a manner as to materially or adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City's Director of Public Works, Building Official, or Manager may suspend or revoke the site development permit. This remedy is supplemental to the remedies provided in section 53-116.

Sec. 53-109. Illicit discharges and connections; Suspension of access to the municipal separate storm sewer system

1) Illicit Discharges Prohibited.

- a) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or

waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

- b) Prohibited illicit discharges shall require spill response, spill control, and spill clean-up by the property owner and responsible party as designated and prescribed by the City.
- 2) Illicit Discharge Exemptions. The following activities shall be exempt from the requirements of this section, but only to the extent that the discharge meets state water quality standards, and does not significantly contribute pollutants into the MS4, as determined by the City, through its Building Official and/or Director of Public Works:
- a) Water line flushing;
 - b) Landscape irrigation;
 - c) Diverted stream flows;
 - d) Rising ground waters;
 - e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
 - f) Uncontaminated pumped ground water;
 - g) Discharges from potable water sources;
 - h) Foundation drains;
 - i) Air conditioning condensate;
 - j) Irrigation water;
 - k) Springs;
 - l) Water from crawl space pumps;
 - m) Footing drains;
 - n) Lawn watering;
 - o) Individual residential (i.e., non-commercial) car washing;
 - p) Flows from riparian habitats and wetlands;
 - q) Dechlorinated swimming pool discharges;
 - r) Street wash waters;
 - s) Discharges or flows from emergency firefighting activities;
 - t) Reclaimed water line flushing authorized pursuant to a permit issued under the authority of Rule 62-610, Florida Administrative Code;
 - u) Flows from uncontaminated roof drains; and
 - v) Dye testing after obtaining approval in writing from the City prior to the time of the test.
- 3) Illicit Connections Prohibited.

- a) The construction, establishment, use, maintenance, or continued existence of illicit connections, whether direct or indirect, to the storm drain system is prohibited. 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.
 - b) A violation of this section occurs if a person connects a line conveying sewage to the MS4 or allows such a connection to continue.
- 4) Suspension and Termination of Access to MS4.
- a) Suspension due to illicit discharges in emergency situations. The City, without prior notice, may suspend any person's access to the MS4 in order to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, Biscayne Bay, or surface waters. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.
 - b) Termination due to detection of illicit discharge. Any person discharging into the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing. The City's Public Works Director shall, within 30 days of receipt of a petition for reconsideration, review the petition, in consultation with the City's Building Official, and render a decision either granting the petition and ceasing the termination, or denying the petition and upholding the termination.
 - c) A violation of this section shall be deemed to have occurred if the person reinstates MS4 access to premises terminated pursuant to this section without the City's prior approval.

Sec. 53.110. Stormwater inspections and monitoring procedures.

To the fullest extent allowed by law, the City may enter all structures and premises to perform inspections, surveillance, and monitoring procedures, within reasonable hours, of said structures or premises, and shall have free access to copying or reviewing pertinent records of a facility, system, or premises in order to ascertain the state of compliance with the laws, rules, and regulations of the City, as outlined in this division.

- (1) The compliance personnel of the City shall be provided with official identification and shall exhibit such identification when making inspections.
- (2) The owner, operator, lessee, occupant, or person in charge of the structure or premises shall give the inspecting officer free access to the structure or premises for the purpose of making such inspections without hampering, obstructing, or interfering with such inspection.

Sec. 53-111. Monitoring of Stormwater Discharges Associated with Industrial Activity.

- 1) Applicability. This section applies to all properties that have stormwater discharges associated with industrial activity, including construction activity.
- 2) Access to Properties.
 - a) The City shall be permitted to enter and inspect properties subject to regulation under this division as often as may be necessary to determine compliance with this division. 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 City representatives.
 - b) Operators shall 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 to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - c) The City shall have the right to set up on any permitted property such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the property's stormwater discharge.
 - d) The City has the right to require the discharger to install monitoring equipment as necessary. The property'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.
 - e) Any temporary or permanent obstruction to safe and easy access to the property's to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - f) Unreasonable delays in allowing the City access to a permitted property's is a violation of a stormwater discharge permit and of this division. A person who is the operator of a property's with a NPDES permit to discharge stormwater associated with industrial activity commits a violation of this section if the person denies the City reasonable access to the permitted property's for the purpose of conducting any activity authorized or required by this division.
 - g) If the City has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, or premises, which condition would constitute a violation of this division, 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 division or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City may seek issuance of an inspection warrant from a court of competent jurisdiction.

Sec. 53-112. 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, 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.

Sec. 53.113. Notification of Spills; Reporting of Illicit Discharges.

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 a release of hazardous materials, said person shall immediately notify the State Warning Point of the Florida Department of Environmental Protection and the City's Public Works Department. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone 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 City within three business days of the 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 written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 53.114. Determination of compliance or non-compliance.

The City Manager or his or her designee shall have the authority to determine the compliance or non-compliance with this division of a stormwater management system or non-stormwater discharge to a stormwater management system, body of water, or surface area; based on investigation, surveillance, monitoring, sampling, testing, and/or sound engineering and operational evaluations.

Sec. 53.115. Violations; Assessment of penalty for non-compliance.

- 1) Penalties for violations of the provisions of this division shall be enforced through [sections 32-60 through and including 32-72 of the City Code](#). Fines shall be in the amounts prescribed in [section 32-67](#). Each and every day on which such person continues to violate the provisions of this division after having been notified of such violation shall constitute a separate offense. The City Manager or designee may bring any violation of the provisions of this division before the Special Magistrate for a determination as to whether the violation is irreparable or irreversible in nature. Upon a finding by the Special Magistrate that a violation of this division is irreparable or irreversible in nature, the Special Magistrate shall impose a fine of up to \$5,000 in accordance with [section 32-67](#) of the City Code and section 162.09(2), Florida Statutes.
- 2) Upon determination of a violation of this division, the violator shall bear all costs incurred for clean-up, enforcement action, and remediation.

- 3) The City may order the correction of any unsafe, nonconforming or unauthorized condition which is in violation of any provision of this division. The City may also order the discontinuance of any activity causing such condition.
- 4) Any person responsible for pollutant discharge into any body of water or stormwater systems, and who fails to correct any prohibited condition or discontinue any prohibited activity at the City's request, shall be responsible to pay the necessary expenses incurred by the City in carrying out the pollution abatement, including any expenses incurred in testing, measuring, sampling, collecting, removing, containing, treating, and disposing of the pollutant materials.
- 5) 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. 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 City or a contractor and the expense thereof shall be charged to the violator.
- 6) Cost of 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 10 days after notice of the cost of abatement, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The costs shall be paid in not more than 12 equal payments. Interest shall be assessed in accordance with and at the rate set forth in section 170.09, Florida Statutes.
- 7) Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, pursuant to section 823.01, Florida Statutes, and thereby constitutes a second degree misdemeanor punishable by a \$500 fine pursuant to section 775.083(1)(e), Florida Statutes. The nuisance 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.
- 8) In addition to the remedies set forth in this division, the City may, immediately upon discovering an ongoing or potential discharge of pollutants into the City's bodies of water or stormwater system in violation of this division, seek relief in any court of competent jurisdiction for a temporary restraining order or temporary or permanent injunction to halt or prohibit such discharge. Prior to the filing of such judicial action, the City shall attempt to notify the offender of the City's intention to file such action, but such notification shall not be a condition precedent to the City's action for and obtaining such or other relief.
- 9) The remedies and penalties provided in this section are not exclusive and the City may seek whatever other remedies are authorized by statute, at law, or in equity, against any person who violates the provisions of this division.