

Sponsored by: Hernstadt
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July 12, 2011
Enactment date: July 12, 2011

CITY OF MARATHON, FLORIDA
ORDINANCE NO. 2011-06

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 24 OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON, FLORIDA, REGARDING STORMWATER RATE ASSESSMENT PROCEDURES, AMENDING CHAPTER 34 REGARDING ADJUSTMENT OF STORMWATER ASSESSMENT AND AMENDING CHAPTER 34 REGARDING STORMWATER UTILITY SERVICE RULES AND REGULATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 24, Article II, of the Code of Ordinances of the City of Marathon, Florida, (the "Marathon Code") establishes procedures for the imposition of annual Stormwater Special Assessments; and

WHEREAS, Chapter 34, Article II, of the Marathon Code establishes procedures for the adjustment of a Stormwater Special Assessment; and

WHEREAS, Chapter 34, Article III, of the Marathon Code establishes Stormwater Utility Service Rules and Regulations; and

WHEREAS, the City of Marathon (the "City") wishes to streamline Stormwater Special Assessment process and modify its rules and regulations for the Stormwater Utility and modify the procedures for seeking an adjustment of the Stormwater Special Assessment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:¹

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Section 24-32 of Chapter 24, Article II of the Marathon Code is hereby amended to read as follows:

¹ / Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~striketrough~~.

(b) ~~The initial proceedings for the adoption of an annual rate resolution shall be the adoption of a preliminary rate resolution in accordance with Section 24-26.~~ The annual rate resolution shall approve the assessment roll for the upcoming fiscal year. The assessment roll shall be prepared in accordance with the method of apportionment set forth in the initial assessment resolution or most recent preliminary rate resolution together with modifications, if any, and as confirmed in the final assessment resolution or most recent annual rate resolution.

Section 3. Chapter 34, Article II of the Marathon Code is hereby amended to read as follows:

Section 34-69. Definitions.

For the purpose of this article, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Best Management Practices or BMPs means 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.

City means the City of Marathon, Florida.

Clean Water Act or CWA means Public Law (PL) 92-500, as amended PL95-217, PL95-576, PL6-483, PL97-117, and 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, PL100-4.

Construction Activities means the alteration of land during construction and includes such activities as clearing, grading, and excavation.

Discharge means any direct or indirect entry of any solid, liquid or gaseous matter; the release of liquid, solid or gaseous material and includes, but is not limited to, a release, spilling, leaking, seeping, pouring, emitting, emptying and/or dumping of any substance or material.

Illicit Connection means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm sewer system including but not limited to any conveyances which allow a non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm sewer system and any connections to the storm sewer 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 sewer system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

Illicit Discharge means any direct or indirect non-stormwater discharge to the storm sewer system, except as specifically exempted in this ordinance.

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

Municipal Separate Storm Sewer System or MS4 means a conveyance, storage area or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, stormdrains, treatment ponds and other structural BMPs) owned or operated by a local government that discharges to waters of the United States or to other MS4s, this is designed solely for collecting, treating or conveying stormwater, and this is not part of a publicly owned treatment works (POTW), as defined by 40 Code of Federal Register 122.2 or any context may require.

NPDES (National Pollutant Discharge Elimination System) Stormwater Permit means permit issued by EPA (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.

Pollutant means anything that causes or contributes to pollution including, but is not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, 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.

Stormwater means any stormwater runoff, and surface runoff and drainage surface flow and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

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

Section 34-100. Adjustment of service assessment

(c) All adjustment requests submitted under this Section must be submitted within a period of ninety (90) days of receipt of the initial notice of annual assessment set forth in Section 34-99. After the expiration of such period of limitation, no right of administrative adjustment shall be asserted or be available to any owner.

Section 34-134. Stormwater discharges from Industrial, Commercial and Construction Activities activity.

(e) Stormwater discharges from industrial and commercial activities shall be treated or managed on site, in accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the City's MS4.

(f) Stormwater discharges from construction activities shall be treated or managed on site in accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the City's MS4. Erosion, sediment and pollution controls for the construction site shall be properly implemented, maintained and operated according to a pollution prevention plan required by an NPDES permit for the discharge of stormwater from construction activities, or according to a state permit issued by the Florida Department of Environmental Protection or South Florida Water Management District.

(g) The owners or operators of industrial facilities, commercial entities, and construction sites which discharge stormwater to the City's MS4 shall provide prior written notification to the City of the discharge and shall have received prior approval of the discharge from the City.

Section 34-135. Illicit discharges.

(a) General prohibitions. Except as set forth under Subsection (c) of this section or in accordance with a valid NPDES permit, any illicit discharge and illicit connection to the City's MS4 stormwater system that is not composed entirely of stormwater is prohibited.

(b) Failure to report a connection from industrial activities, commercial entities or construction activities to the City's MS4 or to waters of the United States constitutes an illicit connection.

(c) Failure to report to the City a discharge from industrial activities, commercial entities, or construction activities to the City's MS4 or to water of the United States constitutes an illicit discharge.

(d) Any discharge to the City's MS4 or to waters of the United States which is in violation of federal, state or local permits or regulations constitutes an illicit discharge.

(b) (e) Specific prohibitions. 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 including, but not limited to: petroleum products, oil, gasoline, grease, solid waste, paints, steam cleaning waste, pesticides, herbicides, fertilizers, degreasers, solvents, sanitary sewage, chemically treated cooling water, antifreeze\automotive products, lawn clippings, leaves, branches, animal carcasses, recreational vehicle waters, dyes, construction materials, any liquids in quantity or quality which are capable of causing a violation of the City's NPDES stormwater permit and solids in such quantities or of such size capable of causing interference or obstruction to the flow in the City's stormwater system.

(e) (f) Authorized exceptions. Unless the City Manager determines that it is not properly managed or otherwise is not acceptable, the following discharges are exempt from the general prohibition set forth under Subsection (a) of this section: flows from firefighting activities and emergency response activities done in accordance with adopted spill response/action plan, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration to the stormwater system, uncontaminated pumped groundwater, foundation and footing drains (not including active groundwater dewatering systems), water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, and dechlorinated swimming pool contributions (typically less than one part per million chlorine), and discharges for which all applicable federal, state and local permits have been obtained and which are in compliance with the conditions of said permits.

(d) (g) Illicit connections. No person may maintain, use, or establish any direct or indirect connection to the stormwater system that results in any discharge in violation of this article. This prohibition is retroactive and applies to connections made in the past, regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.

(h) Persons responsible for illicit discharges or illicit connections shall immediately cease the illicit discharge or illicit connection, and obtain appropriate approvals from applicable regulatory agencies prior to resuming the discharge or connection.

Section 34-137. Enforcement.

- (4) Remedial actions. Any violator may also be required to undertake remedial action, including, but without limitation:
- (a) The performance of site and water monitoring, analyses, and reporting;
 - (b) The elimination of illicit connections or discharges;
 - (c) The cessation of all illegal discharges, practices, or operations;
 - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of administrative, investigative and remediation costs incurred by the City;
 - (f) The implementation of source control or treatment BMPs.

If abatement of a violation or restoration of affected property is required, any notice issued by the City 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 designated contractor and the expense thereof shall be charged to the violator.

Section 34-138. Discharges to the Municipal Separate Storm Sewer System

- (a) No discharge to the City's Municipal Separate Storm Sewer System ("MS4") shall be permitted to impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES permits.
- (b) Stormwater discharges to the MS4 from industrial, commercial or construction activities and from new development or redevelopment projects are required to obtain appropriate local, state and/or federal permits prior to discharging to the MS4.
- (c) Any person determined by the City to be responsible for a discharge contributing to the failure of the City's MS4 to comply with the provisions and conditions of an NPDES permit shall be guilty of a violation of this chapter and shall provide corrective measures as determined necessary by the City Manager, and shall be liable for fines and damages.

(d) Structural controls and other BMPs used for controlling the discharge of pollutants to the City's MS4 or to waters of the United States shall be operated and maintained so as to function in accordance with permitted design and performance criteria and in compliance with federal, state or local permit conditions and regulations.

Section 5. The provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.


Section 6. The provisions of this Ordinance are declared to be severable, and if any sentence, section, 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 sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. This Ordinance shall be effective immediately upon enactment.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12 DAY OF JULY, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Worthington, Keating, Ramsay, Cinque, Snead
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:

Diane Clavier

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

[Handwritten Signature]

City Attorney