

ORDINANCE NO. 2015-03 OF THE CITY OF LAKE WORTH, FLORIDA, DELETING CHAPTER 18, "WATER AND SEWERS", AND ADOPTING A NEW CHAPTER 18, "UTILITIES" TO SET FORTH THE ADMINISTRATIVE AND REGULATORY REQUIREMENTS OF THE WATER, SEWER, STORMWATER AND ELECTRIC UTILITY SYSTEMS; AMENDING CHAPTER 2, "ADMINISTRATION", ARTICLE 1, "IN GENERAL", SECTION 2-10, "LIEN OF UTILITY SERVICE CHARGES"; DELETING ARTICLE I, "USE OF STORMWATER SYSTEM" FROM CHAPTER 12, "HEALTH AND SANITATION"; PROVIDING FOR OTHER PURPOSES, SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth, Florida (the "city") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the city's code of ordinances contains some of the city's administrative and regulatory requirements for its water, sewer, stormwater and electric utility systems; and

WHEREAS, the city has also adopted resolutions containing other administrative and regulatory requirements for its water, sewer and electric systems; and

WHEREAS, the city desires to consolidate the administrative and regulatory requirements regarding the water, sewer, stormwater and electric systems in chapter 18 of the city's code; and

WHEREAS, this ordinance specifically sets forth the administrative and regulatory requirements regarding the water, sewer and stormwater systems with said requirements for the electric system to be addressed at a future date; and

WHEREAS, the city also desires to adopt a Policy and Procedures Manual to supplement and be a legally binding part of this ordinance; and

WHEREAS, the City Commission has determined that it is in the best interest of the public health, safety and general welfare of the City to adopt this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. The foregoing "WHEREAS" clauses are true and correct and are hereby ratified and confirmed by the City Commission.

Section 2. Chapter 18, "Water and Sewers", is deleted, and new Chapter 18, "Utilities" is adopted to read as follows:

Chapter 18 – UTILITIES

ARTICLE I. GENERAL

Sec. 18-1. Utility systems separated

- (a) The city's electric system, water system and sewer system are hereby separated into the Electric Utilities Department, which includes all aspects of the electric system, and the Water Utilities Department, which includes the water system, local sewer system and regional sewer system.
- (b) The stormwater system and solid waste system shall be separate utilities under the management of the Public Services Department.
- (c) All funding, data and associated records shall be kept separately for the operation and management of the systems. The various systems will continue to cooperate and share services for the benefit of the city.
- (d) Rates, fees, and charges applicable to the city's utilities shall be adopted by resolution unless otherwise set forth in the code.

Sec. 18-2. Lien of utility service charges.

- (a) The city will have liens on all lands or premises served by its water system, sewer system, stormwater system, solid waste system and electric system for all service charges for such services and facilities until paid, which liens shall be prior to all other liens on such lands or premises except the lien of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such liens, when delinquent for more than thirty (30) days, may be foreclosed by the city in the manner provided by the Laws of Florida for the foreclosure of mortgages on real property.
- (b) A lien established by this section shall be released by the Mayor upon the payment of the service charges and the recommendation of the applicable department director or his or her designee. The release of lien shall be in written form and executed by the Mayor or designee and City Clerk.
- (c) Notwithstanding the provisions of subsection (a) above, the city shall not have a lien on rental properties or rental units when prohibited by section 180.135, Florida Statutes.

ARTICLE II. WATER UTILITY

Sec. 18-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer means the property owner, tenant, user and/or any other consumer of any and all services provided under this chapter.

Sewer System means all piping and works operated by the city for the collection and conveying of sanitary sewage from the pipe connection at the property line fronting the individual properties to the point of final disposition thereof, and all equipment and facilities used in connection therewith, including all pipelines, manholes, trunk lines, pumping equipment, lift stations, purification and treatment facilities and works whatsoever, real or personal, now or hereafter owned or used by the city in the operation of the sewer system which is inclusive of the wastewater system and the local and regional sewer system.

Water System means all wells, pumping stations, purification plants and other sources of supply of water and all pipes, mains and other parts of the facilities for the transmission and distribution of water, and all equipment and property used in connection therewith and all other facilities of any nature or description, real or personal, now or hereafter owned or used by the city in the supply and distribution of water by its municipally owned water system.

Water Utility means both the water and sewer system.

Sec. 18-4. Service of notice.

- (a) Any notices, as prescribed herein, shall be deemed to have been properly served if left upon the premises of the owner or consumer or if mailed to the owner or consumer, directed to, or left at the address as shown on the city's utility account records.
- (b) All notices of a general character, affecting or likely to affect more than one hundred owners or consumers, if required by these rules to be given, shall be deemed to have been properly given or served if advertised at least once in a weekly newspaper.

Sec. 18-5. Protection of city property.

It shall be the consumer's responsibility to properly protect all facilities of the city's water system and sewer system on the consumer's premises or easement. In the event of any loss or damage to the city's water system and sewer system caused by or arising out of carelessness, neglect or misuse by the consumer, the cost of repairing the damage shall be paid by the consumer. Such charges may be added to and collected with the water utility bills.

Sec. 18-6. City not liable for failure of service.

The city will at all times use reasonable diligence to provide continuous service and having used due diligence shall not be liable to the consumer for complete or partial failure or interruption of service, or for fluctuations in pressure, resulting from causes beyond its control, or through the ordinary negligence of its employees, servants, or agents, nor shall the city be liable for the direct or indirect consequences of interruptions or curtailments made in accordance with the provisions of any of its rate schedules. The city shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accidents, litigation, shutdowns or repairs or adjustments, interference by federal, state, or municipal governments, acts of God, for any damage resulting from the bursting of any main, service pipe, from the shutting off for repairs, extensions or connections, or for the accidental failure of supply from any cause whatsoever. In case of emergency, the city shall have the right to restrict the use of utilities in any reasonable manner for the protection of the public, the city and its utilities.

Sec. 18-7. Consumer to indemnify city against certain losses.

By applying for and/or receiving service from the city, the consumer agrees to indemnify, hold harmless and defend the city from and against any and all liability or loss in any manner directly or indirectly growing out of the transmission and use of water or sewer system by the consumer at or on the consumer's side of the point of delivery or connection.

Sec. 18-8. Consumers to grant easements; etc.; access to premises by city employees.

The consumer shall grant or cause to be granted to the city without cost all rights, easements, permits, and privileges which are necessary for the rendering of service. Employees of the city and the city's agents and contractors (under the city's direction) shall have safe access at all reasonable hours to the consumer's premises for the purpose of reading meters; installing, inspecting, repairing or removing any of its equipment or facilities; or, for any purpose incidental to the rendering of service. Safe access shall be granted at all times for emergency purposes. Safe access means physical access free from interference of any kind including, but not limited to, pets or other animals, fences or landscaping.

Sec. 18-9. Receiving service without paying for same.

It shall be unlawful for any person or consumer to receive or attempt to receive, except in the manner expressly authorized, utility service from the city without paying the required rates, fees and charges. The city reserves the right to seek all charges, including without limitation undercharges, not paid in full by the consumer or property owner.

Sec. 18-10. Water utilities policy and procedures manual.

The city commission will establish standard policies and procedures for the water utilities department by adopting a policy and procedures manual by resolution ("PPM-W" hereafter), which may include, but shall not be limited to, consumer service and billing

procedures; extension and connection policies; standard development agreements and forms; minimum design and construction standards; cross-connection control/backflow prevention requirements; pretreatment requirements; and, emergency water use restrictions, which are consistent with and/or supplementary to this chapter and other applicable laws, codes and regulations. After adoption by the city commission, the PPM-W may be amended from time to time based upon recommendations by the Water Utility Director and approval by the City Manager. The PPM-W shall have the same force and effect as a city ordinance.

Sec. 18-11. Application for service.

Application for service(s) shall be made on forms furnished by the city and shall constitute an agreement by the consumer with the city to abide by all applicable city ordinances, resolutions and policies as they relate to the water utility. The PPM-W of the city will set forth the process to apply for services.

Sec. 18-12. Rates, fees and charges.

The city commission shall adopt the rates, fees and charges for water utilities by resolution. The requirement for such rate, fee or charge shall be set forth in this chapter, the code or the PPM-W.

Sec. 18-13. Refusal or discontinuance of service by city.

As applicable, the city may refuse or discontinue service in accordance with the PPM-W.

Sec. 18-14. Deposits.

The amount of deposit required for residential or non-residential service; waiver of the deposit; adjustment of the deposit; and, refund of the deposit shall be set forth in the PPM-W.

Sec. 18-15. Water meters.

The requirements for meter testing and applicable charges, as well as the applicable penalties for tampering with a meter shall be set forth in the PPM-W.

Sec 18-16. Meter tampering.

Title to meters and metering equipment shall be and remain with the city. Unauthorized connections to, or tampering with the city's meter(s) or meter seals, or indications or evidence thereof, or otherwise tampering with the system, will result in immediate discontinuance of service; criminal prosecution; adjustment of prior bills for services rendered; and/or, reimbursement to the city for all lost revenue, expenses incurred, a field investigation charge and civil liability under section 812.14(5), Florida Statutes, as

amended from time to time. The PPM-W shall set forth the city's procedure for recovering expenses including, but not limited to, lost revenue due to alleged theft of service.

Sec. 18-17. Connection required.

- (a) Every person or entity that owns or occupies real property within the city's water or sewer utility service area shall, within 180 days after being notified in writing by the city, connect to the city's water or sewer system when such system is available. The requirements for connecting to the water system are described below. The requirements for connecting to the sewer system are provided in Article V of this chapter.
- (b) Property owners shall be notified when water is available as follows:
 - (1) Water service shall be considered available to existing residential dwellings and existing commercial or industrial establishments when a water main is within two hundred (200) linear feet from the nearest point of the property.
 - (2) All new dwellings and new commercial or industrial establishments shall be connected to the water system, unless excluded as part of an approved site plan.
- (c) Any owner or occupant refusing, failing or neglecting to make such connections in accordance with the provisions of this section shall be in violation of this section. Violations of this section shall be enforced in accordance with code enforcement procedures by the issuance of a code enforcement citation or notice of violation to the property owner. If a citation is issued, the fine shall be set by resolution or the special magistrate. Each day of violation shall be considered a separate offense. Further, any violation of the provisions of this section may be prosecuted by the city in county court as a misdemeanor of the second degree and punished by a fine and/or imprisonment in the county jail as set forth in the PPM-W. The city shall also be entitled to take any other appropriate legal action, including, but not limited to, cease and desist orders, other administrative action and requests for temporary and permanent injunctions to enforce the provisions of this section. It is the purpose of this subsection to provide additional cumulative remedies to the city to enforce this section.
- (d) Applicable charges shall be in effect upon connection or 180 days after notification of the availability of service whichever occurs first.

Sec. 18-18. Extension of water or sewer service facilities of the city.

- (a) Any person desiring to extend the city's water or sewer service facilities shall do so at his or her own cost and according to the guidelines set forth herein, by city resolution or in the PPM-W. Upon application to the city, the applicant or the city may design and/or construct the proposed facilities at the applicant's cost. All designs shall be approved by the water utilities director.
- (b) If the city requires the applicant to install facilities greater than the facilities needed for the applicant's own use, the applicant shall install such facilities as required by the city at the applicant's own cost. The city, under a contract between the city and the applicant, shall reimburse the applicant the excess costs identified as being due to the oversizing of facilities.
- (c) The applicant shall be required to extend water and/or sewer facilities across the entire frontage of the applicant's property to the property line with the adjoining property most distant from the point of connection.
- (d) Upon completion of the water and/or sewer facilities as set forth in this section, the applicant shall convey such facilities and property rights attendant thereto to the city by an instrument suitable for such purpose.
- (e) If the applicant is designing and/or constructing the facilities, the applicant shall provide the required bond and insurance in amounts and coverages satisfactory to the city.

Sec. 18-19. City construction standard and city approved products.

All utility construction and related product requirements shall be set forth in the PPM-W including without limitation, requirements for plan reviews and inspections for projects requiring a Florida Health Department or Department of Environmental Protection permit.

Sec. 18-20. Adjustments to accounts.

Consumers who experience an involuntary or extraordinary use of water due to a leak may apply for an adjustment in accordance with the PPM-W.

ARTICLE III. EMERGENCY WATER USE

Sec. 18-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

District means the South Florida Water Management District.

Water resource means any water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

Water shortage condition means that situation when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage emergency means that situation when the powers which can be exercised under 40E-21, Florida Administrative Code, are not sufficient to protect the public health, safety or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Sec. 18-22. Intent and purpose.

It is the intent and purpose of this article to protect the city's water resources from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the District in the implementation of its water shortage plan. The District's water shortage plan, as set forth in Chapter 40E-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as a part of this article.

Sec. 18-23. Applicability.

This article shall apply to all of the city's water service area and upon the declaration of a water shortage or water shortage emergency within all or any part of the city by the governing board or the executive director of the District and shall invoke the provisions of this section and the PPM-W (as applicable). Upon such declaration, all water use restrictions or other measures adopted by the District applicable to the city, or any portion thereof, shall be subject to enforcement action pursuant to this article. Any violation of the provisions of this article; Chapter 40E-21, Florida Administrative Code; the applicable PPM-W provisions; or, any order issued pursuant thereto, shall be a violation of this article. This article shall not apply to persons using only salt water.

Sec. 18-24. Enforcement.

Every law enforcement officer having jurisdiction in the area governed by this article shall, in connection with all other duties imposed by law, diligently enforce the provisions of this article. In addition, the City Manager may delegate enforcement responsibility for this article to agencies and departments of the city in accordance with state, local law and applicable ordinances.

Sec. 18-25. Penalties.

- (a) Except as may be provided in Chapter 40E-21 or in the PPM-W, violations of the provisions of this article are a civil infraction.
- (b) Each day in violation of this article shall constitute a separate offense. For purposes of this article, no person shall be found to have committed a repeat violation based upon a violation of the provisions of this article that occurred during a prior water shortage or water shortage emergency which is no longer in effect.
- (c) The provisions of this section are an additional and supplemental means of enforcing this article. Nothing contained herein shall prohibit enforcement by any other means, including, but not limited to, emergency injunctive action to enforce the provisions of this article.

Secs. 18-26 – 18-29. Reserved.

ARTICLE IV. BACKFLOW PREVENTION DEVICES

Sec. 18-30. Required.

Those consumers of the city's water system, as required and set forth by the PPM-W, shall install and maintain appropriate backflow prevention devices for the protection of the public potable water system from contamination or pollution.

Sec. 18-31. Testing.

All required backflow prevention devices shall comply with the testing requirements set forth in the PPM-W.

Secs. 18-32 – 18-39. Reserved.

ARTICLE V. SEWER USE

Division 1. General.

Sec. 18-40. General provisions.

The general provisions of this chapter, the applicable requirements set forth in the PPM-W and this article set forth uniform requirements for consumers of the city wastewater system and the East Central Regional Wastewater Treatment Facility (ECRWWTF) and enable the city and the ECRWWTF to comply with all applicable State and Federal laws including without limitation the Clean Water Act, 33 United States Code section 1251 et seq., and the General Pretreatment Regulations, Title 40 CFR Part 403, and Rule 62-625, F.A.C. (Pretreatment Requirements for Existing and Other Sources of Pollution). The objectives of this article are:

- (1) To prevent the introduction of pollutants into the wastewater facilities that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the wastewater facilities that will pass through the wastewater facilities without adequate treatment and receiving waters, or otherwise be incompatible with the wastewater facilities;
- (3) To protect wastewater facility personnel who may be affected by the wastewater in the course of their employment;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the wastewater facilities;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the wastewater facilities; and
- (6) To enable the City of West Palm Beach, which holds the National Pollutant Discharge Elimination System permit on behalf of the ECRWWTF, to comply with the NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the wastewater facilities are subject.

This article and the applicable provision of the PPM-W shall apply to all consumers and users of the wastewater system, the ECRWWTF and the connected systems which also includes private sewer systems. It authorizes the issuance of individual wastewater discharge permits; provides monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

Except as otherwise provided, the water utilities director shall administer, implement, and enforce provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to a duly authorized city employee.

Sec. 18-41. Use of public sewers required.

- (a) All premises shall be provided, by the owner thereof, with at least one (1) toilet. All toilets shall be kept clean and in a sanitary working condition.
- (b) No person shall dispose of human excrement except in a working toilet.
- (c) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article and the PPM-W.
- (d) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (e) All consumers or owners are hereby required, at their expense, to install suitable toilet facilities and shall be responsible for and properly maintain all sewer lines.

facilities and/or connections on their property up to and including the connection with the sewer system.

- (f) All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances shall be connected to the sewer system; provided that, if sewer service is not available, septic tanks or other private subsurface disposal facilities may be used if approved by the appropriate agency having governing jurisdiction and the city.
- (g) Property owner(s) shall be notified when sewer is available as described below.
 - (1) Sewer service shall be considered available to an existing single family dwelling when the dwelling can be connected by gravity flow to a line within 100 feet from the nearest point of the property.
 - (2) Sewer service shall be considered available to any new single-family dwelling when the dwelling can be connected by the installation of two hundred (200) linear feet of gravity flow line from the nearest point of the property.
 - (3) All other existing dwellings and commercial or industrial establishments shall be connected to the public sewer when the gravity sewer or force main is located within two hundred (200) feet from the nearest point of the property.
 - (4) All other new dwellings and commercial or industrial establishments shall be connected to sewer facilities unless excluded as part of an approved site plan.

Sewer charges shall be in effect upon connection or 180 days after notification of the availability of sewer service whichever occurs first.

Sec. 18-42. Building sewers and connections.

No unauthorized person shall uncover, make any connections to or openings into, use, alter, or disturb any public sewer or appurtenance thereto without first obtaining a written permit from the water utilities director and as set forth by the PPM-W.

Division 2. Prohibited Discharge Standards.

Sec. 18-43. Applicability.

The provisions of this division, as supplemented by the PPM-W, shall apply to all users and consumers of the structure, equipment, and processes required to collect, carry away, and treat domestic, industrial, medical, and other wastes and dispose of the effluent including facilities of the city sewer system, the ECRWWTF and the connected systems (the "WWF" hereafter).

Sec. 18-44. Prohibited discharge standards.

Users shall not discharge pollutants into the WWF unless in accordance with this division and the PPM-W.

- (a) Discharge prohibitions. As defined in the PPM-W, no user shall discharge into the WWF any waste or wastewater which may cause pass-through or interfere with the operation or performance of the WWF.
- (b) Compliance with national and local standards. As defined in the PPM-W, it shall be unlawful for any person to discharge any pollutant into the WWF except when such discharge is in compliance with federal standards promulgated pursuant to the Act, and any other more stringent state and local standards. Wastes containing concentrations in excess of the National Categorical Pretreatment Standards are prohibited.
- (c) Local pretreatment standards. Any wastes containing concentrations in excess of the local pretreatment standards as set forth in the PPM-W are prohibited.
- (d) Right of revision. The city reserves the right to establish herein or in the PPM-W or in wastewater discharge permits, more stringent limitations or requirements on discharges to the WWF if deemed necessary to comply with the requirements of this division or applicable law.
- (e) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the limitations unless expressly authorized by an applicable federal categorical pretreatment standard, or in any other pollutant-specific limitation developed by the state. The city may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.
- (f) Septic and industrial waste hauling. Septic and industrial waste hauling shall be governed by the provisions and regulations set forth in the PPM-W.
- (g) Control of discharge. If any wastes or wastewaters are discharged, or are proposed to be discharged, to the WWF which contain the substances or possess the characteristics prohibited by this article and/or the PPM-W, do not meet applicable pretreatment standards and requirements, and/or which may have a deleterious effect upon the WWF, its processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:
 - (1) Reject the wastes or deny or condition the introduction of new sources of wastewater to the WWF; or

- (2) Require the industrial user to demonstrate that in-plant improvements will modify the discharge to such a degree as to be acceptable; and/or
- (3) Require pretreatment of the industrial user's discharge to ensure compliance with this article; and/or
- (4) Require payment of an industrial waste surcharge to cover the added cost of handling and treating excess loads imposed on the WWF by such discharge. Surcharge amounts shall be established by a resolution of the city, together with a schedule of rates and fees of the WWF. Imposition of industrial waste surcharges for the recovery of treatment costs does not replace or supersede the requirements for pretreatment facilities, should they be found necessary by the city; or,
- (5) Take such other action as set forth in the PPM-W.

Sec. 18-45. Pretreatment.

- (a) Pretreatment facilities. As set forth in the PPM-W, consumers shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set forth in the PPM-W within the time limitations specified by EPA, the state or the city, whichever is more stringent. Any pretreatment facility shall be provided, operated, and maintained at the user's sole cost and expense. Detailed plans prepared by a registered engineer in the state describing such facilities and operating procedures must be approved in writing by the city before such facilities are constructed. The review and approval of such plans and operating procedures shall not relieve user from the responsibility of modifying such facilities as necessary to produce a discharge in compliance with this division.
- (b) Additional pretreatment measures. Additional pretreatment measures, including without limitation the requirement for accidental discharge/slug control plans, shall be as required in the PPM-W.

Sec. 18-46. Industrial wastewater discharge permit.

- (a) It is unlawful to discharge industrial waste without a permit. Application for a permit and the process for the same shall be as set forth in the PPM-W. Any violation of the terms and conditions of a permit shall be deemed a violation of this division and shall subject the permit holder to sanctions set out in the code and the PPM-W. Obtaining a permit does not relieve a person of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. The city may require other users, including liquid waste haulers and non-discharging users to obtain permits as necessary to carry out the purposes of this division.
- (b) Special agreements. The city reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the WWF. In no case will a special agreement waive compliance with a categorical pretreatment standard or requirement.

- (c) Regulation of discharge from other jurisdictions. In the event another jurisdiction or municipality contributes all or a portion of its wastewater to the WWF, the city shall require the jurisdiction or municipality to enter into a multi-jurisdictional agreement with the city or the control authority. The requirements for a multi-jurisdictional agreement shall be set forth in the PPM-W.

Sec. 18-47. Reporting requirements.

Reporting requirements for users and consumers under this division shall be in accordance with the requirements of the PPM-W.

Sec. 18-48. Protection from damage.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the WWF. Costs of any damage to WWF caused by such acts or costs associated with additional treatment or alternative disposal method required to meet effluent or sludge treatment and disposal requirements resulting from violations of this division shall be paid by the user or consumer responsible for the violations.

Sec. 18-49. Powers and authority of inspectors.

- (a) Authorized representatives of the city, the DEP, and the EPA bearing proper credentials shall be permitted to enter upon any property without prior notification for the purpose of inspection, observation, measurement, sampling, testing review and/or photocopying of records, or investigation as may be necessary in the enforcement of this division. Entry shall be made during daylight or operating hours unless abnormal or emergency circumstances require otherwise.
- (b) The city may seek issuance of a search warrant(s) from any court of competent jurisdiction for the following reasons:
- (1) Refusal of access to a building, structure or property or any part thereof.
 - (2) If the city is able to demonstrate probable cause to believe that there may be a violation of this division.
 - (3) If there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city.
 - (4) To protect the public health, safety and welfare of the city.

Sec. 18-50. Enforcement actions.

The escalating enforcement strategy set forth in the PPM-W shall be used by the city when any person is out of compliance with this division. The various types of enforcement

actions, including the industrial discharger enforcement procedure (IDEP), shall be used as determined by the city depending on the circumstances of the violation and the PPM-W.

Sec. 18-51. Permit fees, surcharges and penalties.

- (a) Permit fees, industrial surcharges and penalties under this division shall be set forth in the PPM-W and as adopted by city resolution.
- (b) Any person who violates a provision of this division may be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof, and upon conviction shall be punished by a fine as set forth in the PPM-W.
- (c) Any person who knowingly makes any false statement, representation or certification in any record or other document submitted under this division of industrial user permits shall be subject to fines set forth in the PPM-W.

Sec. 18-52. Civil and criminal remedies.

In addition to the administrative fines provided in this division, the city is hereby authorized to institute any appropriate action or proceeding, including without limitation suit for injunctive relief and civil penalties up to a maximum amount per day per violation as set forth in the PPM-W, in order to prevent or abate violations of this division. The city may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement of this division, including sampling and monitoring expenses, and the costs of any actual damages incurred by the city.

- (a) *Injunctive relief.* When the city finds that a user has violated, or continues to violate, any provision of this division, a permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may petition the circuit court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order, or other requirement imposed by this division on the activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (b) *Criminal prosecution.*
 - (1) A user who willfully or negligently violates any provision of this division, a permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than the maximum fine allowed under state law per violation, per day, or imprisonment, or both.

- (2) A user who willfully or negligently introduces any substance into the WWF which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least the maximum fine allowed under state law, or be subject to imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
 - (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this division, permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than the maximum fine allowable under state law per violation, per day, or imprisonment or both.
 - (4) In the event of a second conviction, a user shall be punished by a fine of not more than the maximum fine allowable under state law per violation, per day, or imprisonment, or both.
- (c) Remedies nonexclusive. The remedies provided for in this division are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one (1) enforcement action against any noncompliant user.

Sec. 18-53. Notification requirements and affirmative defenses to accidental discharge, upset, and bypass.

The notification requirements and affirmative defenses to accidental discharge, upset and bypass shall be as set forth in the PPM-W.

Sec. 18-54. Confidentiality.

Information and data concerning individual industrial users obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public to the extent permitted by state law without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the city that such release would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Notwithstanding the foregoing, wastewater constituents and characteristics will not be recognized as trade secrets or confidential information.

Sec. 18-55. Violations.

Violations of this division may result in the city taking specific action to protect the health, safety and welfare of the city, including without limitation, suspending or disconnecting water and/or wastewater service and/or revoking any and all related permits. The applicable violation procedures, process and requirements shall be set forth in the PPM-W.

Secs. 18-56 – 18-59. Reserved.

ARTICLE VI. WATER AND SEWER CAPACITY CHARGES

Sec. 18-60. Water and sewer reserve capacity charges.

The city shall require water and sewer reserve capacity charges to offset the capital investments required to provide needed water production and sewer collection and pumping facilities. Water and sewer reserve capacity charges shall be set forth in the PPM-W and the amount or calculation thereof set by city resolution.

Secs. 18-61 – 18-69. Reserved.

ARTICLE VII. STORMWATER UTILITY

Division 1. General.

Sec. 18-70. Authority.

The city is authorized by the Florida Constitution and the provisions of Chapter 166 and section 403.0893, Florida Statutes, to construct, reconstruct, improve, and extend stormwater utility system and to issue revenue bonds and other debts if needed to finance in whole or part the cost of such system and to establish just and equitable rates, fees, and charges for the services and facilities provided by the system.

Maintenance of the stormwater management system includes but is not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, swales, and other components as well as natural waterways. All elements of these storm and surface water management systems, which provide for the collection, storage, treatment, and conveyance of stormwater, are of benefit and provide services to all property within the city.

Sec. 18-71. Findings and determinations.

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

- (1) Those elements of the city stormwater management system which provide for the collection and disposal of stormwater and regulation of

groundwater are of benefit and provide services to all property within the incorporated city limits, including property not presently served by the storm elements of the system.

- (2) The costs of operating and maintaining the city stormwater management system and financing necessary repairs, replacement, improvements, and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.

Sec. 18-72. Definitions.

For the purpose of this article, the following definitions shall apply; words used in 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 meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Authorized official means any employee or agent of the city authorized by the director to administer or enforce the provisions of this article.

Availability charge means a charge to a developer or individual resident to recover the debt service and extension and replacement costs paid for a stormwater management system facility that had been previously constructed, but which serves such developer or individual resident.

Best Management Practices (BMPs) means management techniques recognized to best minimize pollutant and sediment loadings from stormwater runoff.

Bonds means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

Costs of construction means costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith, including all rights-of-way and easements therefor (2) physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the city or on its behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction, (7) principal of and interest on any bonds, and (8) miscellaneous expenses incidental thereto.

Debt service means, with respect to any particular fiscal year and any particular series of bonds, an amount equal to the sum of (i) all interest payable on such bonds during such fiscal year, plus (ii) any principal installments of such bonds during such fiscal year.

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.

Developed property means real property which has been altered from "natural" state by the addition of any improvements such as a building, structure, or impervious surface. For new construction, property shall be considered developed pursuant to this article: (a) upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or (b) if construction is at least fifty per cent (50%) complete and construction is halted for a period of three (3) months.

Director means the director of public services or his or her designee.

Dwelling unit means a single unit or apartment providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Equivalent residential unit or ERU means the average impervious area of residential developed property per dwelling unit located within the city and as established by resolution as provided herein.

ERU rate means a utility fee charged on each ERU as established by resolution as provided herein.

Extension and replacement means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisition for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

Fee-in-lieu-of means a charge to a developer or individual resident to recover (1) the costs of construction and debt service on a new stormwater management system facility which serves such developer or individual resident, or (2) the extension and replacement costs necessitated by development undertaken by such developer or individual resident.

Fiscal year means a twelve-month period commencing on the first day of October of any year, or such other twelve-month period adopted as the fiscal year of the utility.

Impervious area means metal roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, patios, porches, driveways, sidewalks, parking areas and athletic courts.

Nonresidential developed property means developed property that is classified by the property appraiser as land use types 10 through 99 using the Florida Department of Revenue Land Use Codes, as amended or supplemented.

Operating budget means the annual utility operating budget adopted by the city for the succeeding fiscal year.

Operations and maintenance means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

Property appraiser means the office of the county property appraiser.

Residential developed property means developed property that is classified by the property appraiser as land use types 00 through 09 using the Florida Department of Revenue Land Use Codes, as amended or supplemented.

Retention means the prevention of stormwater runoff from direct discharge into receiving waters by utilizing discharge systems such as percolation, exfiltration, and evaporation processes.

Revenues means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

Site of industrial activity or industrial site means any area or facility used for manufacturing, processing or raw materials storage, as defined under 40 CFR section 122.26(a)(14) of the U.S. Environmental Protection Agency, as amended.

Stormwater means any stormwater runoff, surface runoff and/or drainage.

Stormwater management system or system means the existing stormwater management system of the city and all improvements thereto used for collecting, storing, and transporting stormwater which by this article is constituted as the property and responsibility of the utility, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

Undisturbed parcel means a parcel which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

Utility fee means a utility fee authorized by Florida law and this article which is established to pay operations and maintenance, extension and replacement and debt service.

Stormwater management utility or utility means the enterprise fund utility created by this article to operate, maintain and improve the system.

Sec. 18-73. Establishment of stormwater management utility.

- (a) The stormwater management utility is hereby established to provide for the general welfare of the city and its residents.
- (b) The director shall be the chief staff member of the utility.

Sec. 18-74. Operating budget.

The city shall adopt an operating budget not later than the first day of each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

Sec. 18-75. Required levels of rates for utility fees.

The city commission shall require that adequate revenues are generated to provide for a balanced operating budget by at least annually setting sufficient levels of utility fees.

Sec. 18-76. Imposition of utility fees.

The city commission hereby authorizes the imposition of utility fees on all property within the city.

Sec. 18-77. Rate schedule.

- (a) Property classification. For purposes of assessing the utility fee, the following property classes will identify the customer base:
 - (1) Residential developed property;
 - (2) Nonresidential developed property; and
 - (3) Undisturbed parcel.
- (b) Computation of utility fee for residential developed property. The utility fee for residential developed property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property.

- (c) Computation of utility fee for nonresidential developed property. The utility fee for nonresidential developed property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious area for a nonresidential developed property by one (1) ERU. The minimum utility fee for any nonresidential developed property shall be equal to one (1) ERU rate.
- (d) Computation of utility fee for undisturbed parcels. Undisturbed parcels shall be exempted from the utility fee.

Sec. 18-78. Billing.

The frequency of billing is to be established by the city based on an assessment of the most efficient, effective and equitable method of billing and collections available to the utility. The utility fee shall be billed at least annually by the city but no more than twelve (12) times in one calendar year. The utility may pursue billing and collections of the utility fee through the non-ad valorem levy, collection, and enforcement method as provided for in chapter 197, Florida Statutes, or as part of a consolidated statement with other city utilities, or any other manner authorized by law.

Sec. 18-79. Adjustment of fees.

- (a) Requests for adjustment of the utility fee for nonresidential developed property shall be submitted to the director, who is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious area on the site. No credit shall be given for the installation of facilities required by city or county development codes or state stormwater rules. The following procedures shall apply to all adjustment requests of the utility fee:
 - (1) Any customer who has paid his or her utility fee and who believes his or her utility fee to be incorrect may, subject to the limitations set forth in this article, submit an adjustment request to the director.
 - (2) Adjustment requests shall be in writing and set forth, in detail, the grounds upon which relief is sought.
 - (3) Adjustment requests made during the first calendar year that the utility fee is imposed will be reviewed by the director within a two-month period from the date of filing of the adjustment request. Adjustments resulting from such request shall be retroactive to the beginning of billings, but retroactive adjustment shall not exceed one (1) year.
 - (4) The customer requesting the adjustment may be required, at his or her own cost, to provide supplemental information to the director, including, but not limited to, survey data approved by a registered professional land surveyor (R.P.L.S.) and engineering reports approved by a professional engineer (P.E.). Failure to provide such information may result in the denial of the adjustment request.

- (5) Adjustments to the utility fee will be made upon the granting of the adjustment request, in writing, by the director. Denials of adjustment requests shall be made, in writing, by the director.
- (b) Upon receipt of the written denial of an adjustment request, the customer who initially requested the adjustment may, within thirty (30) days of receipt of such denial, appeal to the city commission for review of the denial. Such appeal shall not be a de novo appeal but shall be based on the material initially submitted to the director.
 - (1) The commission shall complete its review within thirty (30) days of receipt of said request for review. The city commission's determination shall be in writing and set forth, in detail, the reason or reasons for its decision.
 - (2) In reviewing denials of adjustment requests, the city commission shall apply the standards and review criteria contained in this article.

Sec. 18-80. Capital contributions.

- (a) Where the city has constructed or plans to construct stormwater facilities which are proposed to be used by a developer or owner in lieu of a facility usually required to be constructed by the developer or owner, the city may accept a capital contribution from the developer or owner and waive certain construction requirements.
- (b) Procedures and standards developed by the city shall define appropriate means by which to optimize the developer's or owner's capital contributions in the construction or refunding of stormwater systems. These capital contributions shall take the form of fee-in-lieu-of or availability charges. Each situation will be analyzed by the city and a specific written decision will be developed. The application of each is defined as follows:
 - (1) Fee-in-lieu-of is applied to a site specific negotiated procedure, wherein a development's stormwater contribution (quantity and quality) is assessed its share of the capital needs of the facilities required to serve the development in question. This capital contribution would be used for the construction and refunding of city-owned stormwater facilities. The process does not apply when the stormwater facilities are privately held. Each application is evaluated against the city's master plan, or where the master plan is incomplete, against the cumulative impacts of the development.
 - (2) Availability charge is administered on a site specific basis identical to the fee-in-lieu-of procedure noted above. The only difference is that the capital investment advanced by the city in implementing a stormwater facility is now recovered through an availability charge. The capital charge is determined on a prorata share of the capacity used by the new

development as measured by the cumulative impact of the development upon all impacted facilities applied to the present worth of the original capital expenditure.

Sec. 18-81. Program responsibility.

It shall be the duty of the department of public services to administer the stormwater management utility. The department shall keep an accurate record of all persons using the services and facilities of said stormwater management system of the city and to make changes in accordance with the rates and changes established in this article.

Sec. 18-82. Stormwater management utility trust funds.

There shall be established a stormwater management utility trust fund for the deposit of all fees and charges collected by the stormwater utility. These funds shall be for the exclusive use of the city's stormwater management utility, including but not limited to the following:

- (1) Administrative costs associated with the management of the stormwater management utility.
- (2) Planning and engineering.
- (3) Operation and maintenance of the system.
- (4) Funding of pollution abatement devices constructed on stormwater systems discharging to the surface water of the city.
- (5) Debt service financing.

Sec. 18-83. Stormwater utility policy and procedures manual.

The city commission will establish standard policies and procedures for the stormwater utility system by adopting a policy and procedures manual by resolution ("PPM-S" hereafter), which may include, but shall not be limited to, rules and regulations for various stormwater procedures, restrictions and BPMs; extension and connection policies; standard agreements and forms; and, minimum design and construction standards, which are consistent with and/or supplementary to this chapter and other applicable laws, codes and regulations. After adoption by the city commission, the PPM-S may be amended from time to time based upon recommendations by the Public Services Director and approval by the City Manager. The PPM-S shall have the same force and effect as a city ordinance.

Division 2. Prohibited Discharge Standards.

Sec. 18-84. Discharge prohibited to stormwater system.

Any discharge into the stormwater system in violation of any federal, state, county, municipal or other law, rule, regulation or permit is prohibited and unlawful. It is also prohibited and unlawful for any person or facility to deposit any solids or discharge any liquid or gas that is not identified as acceptable stormwater or an identified allowable

deposit or discharge directly or indirectly into the stormwater system. Such prohibited deposits and discharges are determined to be contaminants and or pollutants.

- (a) Solids: Solids are defined as materials and particulates suspended in or capable of being deposited in and or transported by stormwater. The allowable limits of solids occurring in stormwater are as found in the city's most recent Stormwater National Pollutant Discharge Elimination System (NPDES) permit.
- (b) Erosion control/construction sites: No property owner or other person shall allow through purpose or neglect, uncontrolled earthen exposure to deposit soil and related debris into any stormwater system.
- (c) Litter/trash/garbage: No person or facility may deposit any litter, trash, or garbage in any manner that will result in the material being transported by or obstructing a stormwater system.
- (d) Landscaping materials shall not be deposited in the storm system. All materials related to lawn and landscape maintenance capable of being transported by or obstructing a stormwater system must be controlled by the use of container and cover or compostable bag.
- (e) No person or facility shall allow through purpose or neglect the discharge of any volatile or organic solids, liquids, or gas into a stormwater system (i.e., benzene, motor oil, anti-freeze, soaps, chlorine, grease, etc.).
- (f) No sewage, industrial waste or other waste materials shall be discharged into the system. Animal feces must be disposed of in an appropriate manner.
- (g) Cooling and/or condensing water may only be discharged to the stormwater system if a NPDES permit is obtained from the FDEP.

Sec. 18-85. Exemptions.

The following activities as defined in chapter 62-624.200, Florida Administrative Code, as amended, shall be exempt from the requirements of this division to the extent that these discharges meet state water quality standards:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Rising ground waters;
- (d) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (e) Uncontaminated pumped ground water;
- (f) Discharges from potable water sources;
- (g) Irrigation water;
- (h) Water from crawl space pumps;
- (i) Footing drains;
- (j) Lawn watering runoff;
- (k) Water from individual residential car washing;
- (l) Flows from riparian habitats and wetlands;
- (m) Dechlorinated swimming pool discharges;
- (n) Residual street wash water; and,
- (o) Discharges or flows from firefighting activities.

Sec. 18-86. NPDES permits.

- (a) Any person who holds a NPDES permit which provides for an authorized connection and/or authorized discharge to the city's system or regulated waters, shall provide a copy of such permit to the Department of Public Services no later than 60 calendar days after the effective date of this chapter or 30 calendar days after the issuance of said permits.
- (b) Authorized discharges to the city's system shall be controlled so that they do not impair the operation of the city's system or contribute to the failure of the city's system to meet any applicable local, state, or federal law or regulation.
- (c) Authorized discharges to regulated waters shall be controlled so that they do not adversely impact the quality or beneficial uses of those waters or result in violation of any applicable local, state, or federal law or regulation.

Sec. 18-87. Inspections.

- (a) An authorized official shall be permitted to enter any building, structure, or property for the purpose of inspecting facilities or activities discharging or suspected of discharging to the system or regulated waters in order to enforce this division and to investigate potential violations of this division. All structures and processes that allow, contribute, or are exposed to stormwater discharges, and all records concerning them, shall be made accessible or available to authorized official for monitoring the quality of existing or potential stormwater discharges. Consent to such access shall be obtained from a person of suitable age and discretion therein or in control thereof. If such consent is refused, the city may seek enforcement pursuant to law.
- (b) Any authorized official may install and maintain such devices as are necessary to conduct sampling or monitoring of discharges to the separate storm sewer system. During any inspections made to enforce the provisions of this division, or regulations or permits issued under this article, any authorized official may take any samples deemed necessary.
- (c) The director may require any person engaging in any activity or owning any property, building or facility (including, but not limited to, a site of industrial activity) to undertake reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic reports.
- (d) As part of the NPDES program, FDEP officials may also, at any given time, request permission to inspect any site or facility for NPDES compliance.
- (e) The city may charge the applicable owner or person a reasonable fee for the cost of on-site inspection or re-inspection of stormwater, erosion, and sediment control plans associated BMPs if it is found applicant is in violation. The amount of the fee is established by resolution or ordinance.

Sec. 18-88. Discharges from commercial, industrial, or construction activities to the stormwater system or regulated waters.

- (a) Stormwater from areas of any commercial, industrial, or construction activities shall be controlled, treated, and managed on-site using BMPs so as not to cause an illegal discharge to the city's system or regulated waters.
- (b) All erosion, pollutant, and sediment controls required by any applicable local, state, or federal permit, including elements of a stormwater pollution prevention plan required under a NPDES permit and the city's Land Development Regulations, shall be properly implemented, installed, operated, and maintained so as to effectively prevent polluted stormwater discharges.
- (c) On-site disposal and temporary storage of construction-related materials and wastes at construction sites such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste shall be controlled through effective implementation of BMPs so as to effectively prevent mixing with stormwater, which may result in polluted stormwater discharges.
- (d) Authorized discharges to the city's system shall be controlled so that they do not impair the operation of the city's system or contribute to the failure of the city's system to meet any applicable local, state, or federal law or regulation.
- (e) Authorized discharges to regulated waters shall be controlled so that they do not adversely impact the quality or beneficial uses of those waters or result in violation of any applicable local, state, or federal law or regulation.

Sec. 18-89. Control of pollutant contributions from interconnected systems and privately-owned stormwater facilities.

Stormwater flows from interconnected stormwater systems and privately-owned stormwater facilities shall be controlled so that they do not impair the operation of or contribute to the failure of the receiving stormwater system and privately-owned stormwater facilities to meet any applicable local, state, or federal law or regulation. Owners of an interconnected stormwater system and privately-owned stormwater facilities shall be responsible for the quality within their portion of the system and shall coordinate with the owners of the downstream (receiving) interconnected stormwater system.

Sec. 18-90. Reporting and correction of illegal connections and illegal discharges.

- (a) Persons responsible for and/or currently operating known illegal connections or illegal discharges shall immediately initiate procedures to cease discharging and provide suitable containment facilities. Such procedures shall include a schedule for implementing proposed corrective measures that must be approved by the Director or the Director's designee.

- (b) The construction, use, maintenance, or continued existence of illegal connections to the city's system is prohibited. This prohibition includes illegal connections made prior to the effective date of this section, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. Immediately upon discovery, persons currently operating an illegal connection shall initiate procedures to cease discharging, remove said illegal connection, and proceed in cleanup of any discharge.
- (c) As soon as a person responsible for and/or currently operating a commercial, industrial, or construction activity obtains information of a suspected and/or potential illegal discharge or illegal connection to the system or regulated waters from said activity, then all necessary actions shall be taken to locate the illegal discharge or illegal connection and, upon discovery, immediately initiate procedures to prevent and/or cease the illegal discharge and/or remove the illegal connection. Further, a schedule for implementing additional proposed corrective measures including authorized containment and cleanup of any discharge shall be submitted in writing to the Public Services Department for approval prior to implementation. In the event of a discharge of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).
- (d) The city may require, by written notice, that any owner and/or person engaged in any activity or owning or operating any facility that may cause or contribute to illegal connections or illegal discharges to the city's system or regulated waters to undertake at said owner's and/or person's expense such monitoring and analysis and furnish such reports to the city as deemed necessary to determine compliance with this section.
- (e) All owners and/or persons in violation of this division shall address such violations immediately. Violations shall be addressed as set forth in this division by providing a written response to the Public Services Department, outlining the temporary and permanent measures that have or will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures. Corrective actions are subject to the approval of the Director.
- (f) Persons responsible for a discharge which adversely impacts the system or a regulated water shall be liable for all sampling and analytical costs incurred in monitoring the discharge; any city, county, state or federal fines imposed as a result of the discharge; and the cost of removing or properly treating the discharge for complete restoration of the quality the system and/or regulated waters.
- (g) If the owner and/or person responsible for a violation fail to take corrective action approved by the Director, the city has the right to take remedial action as provided in this article. In addition to such remedies, the owner and/or person responsible for the illegal discharge or illegal connection shall reimburse all costs incurred by the city in taking such actions and satisfy all liens imposed for the remedial action.

Sec. 18-91. Enforcement and penalties.

- (a) This article may be enforced by any method prescribed by law, including injunctive relief and the provisions of Chapter 162, Florida Statutes. The director may issue an administrative order to any person to immediately cease any activity in violation of this article, any applicable law, regulation or permit.
- (b) If the owner fails to remedy the violation within the time allotted causing the city to perform or cause to be performed the work necessary to remedy the violation, the city shall bill the owner the city's cost of bringing the real property into compliance. The aforesaid costs shall include all costs to the city, including direct salary, salary overhead (fringe benefits), inspection costs, administration costs, billing costs and penalties. If the owner fails to pay this bill within 30 days of mailing of said bill, the city shall then assess the total amount of costs against the real property improved. Said assessment shall constitute a lien as any special assessment on the property and shall bear the maximum interest rate as permitted by law. In the event that such lien is not paid, the city may enforce and collect such lien as the collection and enforcement of any special improvement liens as provided by this code or the laws of Florida.
- (c) If a violation of this article is continued, each day of such violation shall constitute a separate offense.

Sec. 18-92. Construction sites and construction activities.

Construction sites and operations shall be required to maintain during and after all construction, development, excavation and/or alteration operations, structural and non-structural BMPs with the intent to reduce pollutants and sediment in stormwater runoff.

- (a) Construction and operations site plans and permits shall be required and reviewed by the city prior to the initiation of construction operations. Site plans shall include descriptions of structures, procedures, and or control measures designed to reduce and control sediment and pollutant loading either directly or indirectly to stormwater runoff.
- (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 shall 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.

Sec. 18-93. Industrial sites and industrial activities.

Industrial sites and industrial activities determined by the city to contribute pollutant loadings to stormwater and/or the system shall be inspected and monitored by the city in order to verify compliance with this section.

- (a) It shall be unlawful to deposit, spill, dump, or introduce any significant material or pollutants that may contribute contamination to any surface area, stormwater, system, and/or stormwater runoff. It shall be unlawful to deposit, spill, dump or introduce:
- (1) Substances that settle to form sludge deposits.
 - (2) Floatable or suspended substances such as debris, oil, scum, and other materials.
 - (3) Any significant substance, petroleum product, infectious matter, toxic or hazardous substance or hazardous material onto surface areas or to stormwater management systems.
 - (4) Industrial wastewater, domestic, cooling or any other wastewater into any area designated to carry stormwater without prior city approval.
- (b) Any site and or activity identified as contributing any significant material and or pollutants shall be required:
- (1) To develop and initiate structural systems and or non-structural management practices designed to reduce and control the contribution or pollutants to stormwater, surface areas and/or to the system.
 - (2) To be inspected and monitored by the city in order to verify compliance with this section.

Sec. 18-94. Site runoff control.

Operations of any dump site shall be conducted to provide for collection, control and treatment of surface runoff and verification that no significant pollutant contribution to receiving waters shall occur upon discharge of said runoff.

Sec 18-95. Alterations or obstructions to stormwater management.

Alterations or obstructions to any stormwater management system, including pump stations, sewer lines, structural controls, catch basins, culverts, wetlands or swales shall be prohibited without prior written approval of the city.

Sec. 18-96. Herbicide, pesticide, fertilizer applications.

Companies involved in the application of herbicides, pesticides, fertilizers, or any regulated material shall be required to adhere to the city's Fertilizer Friendly Use

Regulations Ordinance with the intent of minimizing or preventing over application and spills and develop plans for spill response and spill control of said materials.

Sec. 18-97. Storage Tanks.

The discharge of hazardous and or significant materials from storage tank facilities to ground or surface waters, to surface areas, to ground waters during remediation activities, to stormwater runoff, and/or to any stormwater systems shall be prohibited.

Sec. 18-98. Backwash Disposal.

The disposal of filter backwash water to stormwater management systems shall be prohibited. Disposal of backwash shall provide for separation before final disposal to:

- (a) Irrigation of pervious surface areas where sufficient pervious area exists, remote from water supply wells, disposal systems, pits, and septic tanks.
- (b) Concentrate Disposal Deep Injection Well.
- (c) Sanitary sewers after prior written approval by the city.

Sec. 18-99. 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 similar article, or any unsanitary, hazardous or significant material upon any surface area, stormwater system or water body within the city is hereby prohibited.

Sec. 18-100. Stormwater interagency agreements and stormwater programs.

The city is authorized to develop interagency agreements and mutually compatible programs with the South Florida Water Management District, Florida Department of Transportation, all other local governmental agencies, and all private agencies; with the intent to control the contribution of pollutants within inter-system stormwater management system linkages; in order to develop mutually compatible stormwater management programs and systems; and, to develop and enforce stormwater management, inspections, and monitoring programs.

Sec. 18-101. Determination of compliance or non-compliance.

The city shall be granted the authority to determine the compliance or non-compliance with this article based on investigation, surveillance, monitoring, sampling, testing, and or sound engineering and operational evaluations; and, as required in any applicable violation hearing or process.

Sec. 18-102. Effluent standards and water quality criteria.

The city adopts the criteria set forth in section 62-302, Florida Administrative Code, "Surface Water Quality Standards", as amended from time to time, as the minimum surface water criteria and effluent standards for discharges to surface water.

Sec. 18-103. On site drainage.

Prior to the issuance of a building permit for construction on property, a site drainage plan and drainage computations shall be submitted for approval by the director or designee. The drainage plan must indicate facilities which will totally contain on-site a three-year one-hour storm event and such facilities must be constructed prior to final inspection by the city.

ARTICLE VIII. ELECTRIC UTILITY

Reserved.

Section 3. Section 2-10 of the city's code, "Lien of utility service charge" is amended in its entirety to read:

As set forth herein, the city shall have liens on all lands or premises served by the city's utility systems and as otherwise provided in the code or by resolution.

Section 4. Article I, "Use of Stormwater System", of Chapter 12, "Health and Sanitation" of the city's code, is deleted in its entirety.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. Repeal of Laws in Conflict. All ordinances, resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed to the extent of such conflict; provided that, all ordinances, resolutions or parts thereof as they pertain to the electric utility system shall remain in full force and effect.

Section 7. Codification. The sections of the ordinance may be made a part of the City code of ordinances and may be re-numbered or re-lettered to accomplish such, and the words "ordinance", "chapter", "article", "section", or "division", may be changed as appropriate.

Section 8. Effective Date. This ordinance shall take effect ten (10) days after adoption.

The passage of this Ordinance on first reading was moved by Vice Mayor Maxwell, seconded by Commissioner Amoroso, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo	AYE
Vice Mayor Scott Maxwell	AYE
Commissioner Christopher McVoy	AYE
Commissioner Andy Amoroso	AYE
Commissioner John Szerdi	AYE

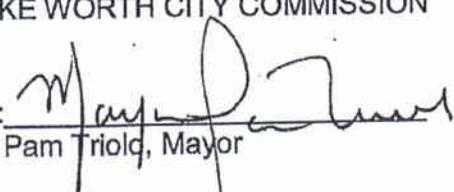
The Mayor thereupon declared this Ordinance duly passed on first reading on the 3rd day of February, 2015.

The passage of this Ordinance on second reading was moved by Vice Mayor Maxwell, seconded by Commissioner Szerdi, and upon being put to a vote, the vote was as follows:

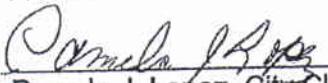
Mayor Pam Triolo	AYE
Vice Mayor Scott Maxwell	AYE
Commissioner Christopher McVoy	AYE
Commissioner Andy Amoroso	AYE
Commissioner John Szerdi	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on the 17th day of February, 2015.

LAKE WORTH CITY COMMISSION

By: 
Pam Triolo, Mayor

ATTEST:


Pamela J. Lopez, City Clerk

