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ORDINANCE 17-XXX

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO STORMWATER MANAGEMENT MAKING FINDINGS; AMENDING CHAPTER 18, ENTITLED “ENVIRONMENT”, ESTABLISHING ARTICLE VIII, ENTITLED “STORMWATER REGULATIONS” BY ADDING NEW SECTIONS 18-210 THROUGH 18-215, INCLUSIVE; PROVIDING INTENT AND PURPOSE; SETTING FORTH DEFINITIONS; PROVIDING STORMWATER STANDARDS; CREATING STORMWATER SYSTEM CONSTRUCTION STANDARDS; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City of Marco Island is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, Section 1.01 of the Marco Island Charter empowers the City to adopt, amend, or appeal ordinances, resolutions and codes as may be required for the benefit of the City; and

WHEREAS, the Marco Island City Council implemented a Phase II Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Generic Permit effective March 19th, 2015, which mandates the prohibition of illicit discharges into the storm sewer system, requires erosion and sediment control measures, requires construction sites to operate with proper best management practices (BMP) and to minimize the negative environmental effects these discharges have in and on the waterbodies within and around the City of Marco Island, which degrade the quality of life and jeopardize the health, safety, and welfare of the citizens of Marco Island; and

WHEREAS, there is a need to adopt specific standards and details to guide the development community to ensure the proper design and installation of stormwater facilities, grading techniques, and development practices to ensure that the applicable provisions of the current Marco Island Code and goals of this ordinance are met; and

WHEREAS, the City of Marco Island will now identify the 3-day duration and 25-year return frequency storm event as the recommended level of service goal for off-site discharge conveyance systems in the City of Marco Island and identifies the Big Cypress Basin South Florida Water Management District (SFWMD) criteria as the recommended level of service goal for meeting water quality standards in the City of Marco Island; and

47 **WHEREAS**, there is a need to control stormwater from new developments,
48 redevelopments, and substantial improvements which prevent adjacent and downstream
49 property from experiencing erosion, surface flooding, or groundwater seepage; and
50 ensure a reasonable level of water quality treatment of stormwater prior to discharge
51 downstream; and

52
53 **WHEREAS**, to provide reasonable flexibility and incentive based options so that
54 the development community can be innovative in meeting goals, the City requires the use
55 of the latest Best Management Practices (“BMP”) and encourages Low Impact
56 Development (“LID”) approaches as defined by the State of Florida to provide reasonable
57 flexibility and incentive based options so that the development community can be
58 innovative in meeting the requirements; and

59
60 **WHEREAS**, site plan review of all new development and redevelopment and
61 specific stormwater standards for conveyance and water quality have been mandated as
62 being in the best interest of the public for protection of public facilities and private property;
63 and

64
65 **WHEREAS**, Goal 1 of the Infrastructure Element; Stormwater Management Sub-
66 Element provides:

67
68 GOAL 1: TO PROTECT THE HEALTH AND SAFETY OF THE
69 PUBLIC BY ENSURING STORMWATER MANAGEMENT
70 FACILITIES ARE PROPERLY MAINTAIN [sic],
71 ENVIRONMENTALLY SOUND, COST EFFECTIVE, AND
72 MEET THE COMMUNITY’S PRESENT AND FUTURE
73 DEMANDS; and.

74
75 **WHEREAS**, this Ordinance is consistent with Goal 1 of the Infrastructure Element;
76 Stormwater Management Sub-Element, because this Ordinance provides for a
77 reasonable and cost-effective process for creation and maintenance of stormwater
78 systems to treat discharges and to eliminate illicit discharges into the City’s MS4
79 stormwater system; and

80
81 **WHEREAS**, Policy 1.1.1 of the Infrastructure Element; Stormwater Management
82 Sub-Element provides:

83
84 The Level of Service (LOS) design standard for new
85 stormwater management facilities will be the ten (10) year,
86 one (1) hour storm event, with a 3.3 inches/hour intensity
87 duration; and. . . .

88
89 **WHEREAS**, this Ordinance is consistent with Policy 1.1.1 of the Infrastructure
90 Element; Stormwater Management Sub-Element, because this Ordinance provides
91 designed standards that meet or exceed the level of service design standard provided for
92 in Policy 1.1.1 of the Infrastructure Element; Stormwater Management Sub-Element; and

93
94 **WHEREAS**, Policy 1.1.3 of the Infrastructure Element; Stormwater Management
95 Sub-Element provides:

96
97 Water quality for development runoff from existing sites
98 proposed for redevelopment or expansion shall, to the
99 greatest degree practical, comply with the more stringent
100 permitting standards and policies of either the South Florida
101 Water Management District and [sic] the City of Marco Island.
102 All new developments shall comply fully with permitting
103 standards and policies of the South Florida Water
104 Management District, per [sic] F.A.C. Chapter 40E-41
105 (Surface Water Management, Basin and Related Criteria) or
106 and [sic] the City of Marco Island. All new development shall
107 comply fully with the more stringent permitting standards and
108 policies of either the South Florida Water Management
109 District, per F.A.C. Chapter 40E-41, or the City of Marco
110 Island; and

111
112 **WHEREAS**, this Ordinance is consistent with Policy 1.1.3 of the Infrastructure
113 Element; Stormwater Management Sub-Element, because this Ordinance provides for
114 compliance by a new or expanded stormwater systems to be consistent with South
115 Florida Water Management criteria; and

116
117 **WHEREAS**, Objective 1.2 of the Infrastructure Element; Stormwater Management
118 Sub-Element provides:

119
120 To limit public expenditures for stormwater facilities that
121 would have the effect of directly subsidizing private
122 development; and

123
124 **WHEREAS**, this Ordinance is consistent with Objective 1.2 of the Infrastructure
125 Element; Stormwater Management Sub-Element, because this Ordinance provides for
126 development of stormwater systems meeting promulgated standards on private property
127 at the cost of the owner/developer of the property; and

128
129 **WHEREAS**, Policy 1.2.1 of the Infrastructure Element; Stormwater Management
130 Sub-Element provides:

131
132 The City shall limit its funding of public stormwater facility
133 expansion if such funding and such expansion would have the
134 effect of directly subsidizing a specific private development in
135 the City; and

136
137 **WHEREAS**, this Ordinance is consistent with Policy 1.2.1 of the Infrastructure
138 Element; Stormwater Management Sub-Element, because this Ordinance provides for

139 development of stormwater systems meeting promulgated standards on private property
140 at the cost of the owner/developer of the property; and

141
142 **WHEREAS**, Objective 1.4 of the Infrastructure Element; Stormwater Management
143 Sub-Element provides:

144
145 The City will implement a proactive maintenance program to
146 ensure that all current and future stormwater management
147 facilities operate at designed capacity; and

148
149 **WHEREAS**, this Ordinance is consistent with Objective 1.4 of the Infrastructure
150 Element; Stormwater Management Sub-Element, because this Ordinance provides for
151 construction site inspection of private stormwater systems to assure that the systems
152 meet promulgated standards; and

153
154 **WHEREAS**, Policy 1.2.4 of the Capital Improvements Element provides:

155
156 The City will implement proactive maintenance programs to
157 ensure that all roadways, potable water, sanitary sewer,
158 community parks and storm water systems continue to
159 function at *or above* adopted LOS standards; and

160
161 (emphasis supplied);

162
163 **WHEREAS**, this Ordinance will provide stormwater system protection at greater
164 than the adopted Level of Service, and this Ordinance is therefore consistent with the
165 Comprehensive Plan; and

166
167 **WHEREAS**, this Ordinance is consistent with Policy 1.2.4 of the Capital
168 Improvements Element, because this Ordinance provides for design standards for
169 stormwater discharge into the City’s MS4 stormwater system; and

170
171 **WHEREAS**, the Level of Service (“LOS”) standards adopted in the Capital
172 Improvements Element provide:

173
174 (4) Storm water drainage. The LOS design standard for new
175 stormwater management facilities will be the ten-year, one-
176 hour storm event, with a 3.3 inches/hour intensity duration;
177 and

178
179 **WHEREAS**, this Ordinance provides for stormwater systems on private property
180 that will provide greater stormwater protection than is currently required by the
181 Comprehensive Plan, and this Ordinance is therefore consistent with the adopted level of
182 service standards for stormwater systems set by the Capital Improvements Element (see
183 Capital Improvements Element Policy 1.2.4 above); and

184

185 **WHEREAS**, the Planning Board, sitting as the Local Planning Agency, finds that
186 this Ordinance is consistent with the City’s Comprehensive Plan and in particular Goal 1,
187 Objectives 1.2 and 1.4, and Policies 1.1.1, 1.1.3, 1.2.1 of the Infrastructure Element;
188 Stormwater Management Sub-Element, and Policy 1.2.4 and the adopted Level of
189 Service standards of the Capital Improvements Element; and

190
191 **WHEREAS**, Marco Island City Council finds it to be in the best interests of its
192 citizens to amend the Marco Island Code of Ordinances accordingly.

193
194 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**
195 **OF MARCO ISLAND, FLORIDA:**

196
197 **SECTION 1. Recitals.** Each and all the foregoing recitals (“WHEREAS” CLAUSES)
198 be and the same are hereby incorporated in this Ordinance as if specifically set forth herein.
199

200 **SECTION 2. Amendment Adding Stormwater Regulations.** That the Code of
201 Ordinances, City of Marco Island, Florida, is hereby amended by adding new sections, to
202 be numbered 18-201 through 215, which sections read as follows

203
204 **Sec. 18-201 – 18-209. - Reserved.**

205
206 **SECTION 3. Adoption of Code Provision.** That the Code of Ordinances, City of
207 Marco Island, Florida, is hereby amended by adding a new article to be numbered VIII
208 and a new section, to be numbered 18-210, which section reads as follows

209
210 **ARTICLE VIII. – STORMWATER REGULATIONS**

211
212 **Sec. 18-210. - Short title.**

213
214 This article shall be known and may be cited as the "City of Marco Island Stormwater
215 Control Ordinance".

216
217 **SECTION 4. Adoption of Code Provision.** That the Code of Ordinances, City of
218 Marco Island, Florida, is hereby amended by adding a new section, to be numbered 18-
219 211, which section reads as follows

220
221 **Sec. 18-211. - Intent and purpose.**

222
223 (a) The stormwater ultimately drains into the canals and the Gulf of Mexico.
224 Illicit discharges are considered “illicit”, because MS4 systems are not designed to accept,
225 process, or discharge such non-stormwater wastes. Pollutant levels from these illicit
226 discharges have been shown in U.S. Environmental Protection Agency studies to be high
227 enough to significantly degrade receiving water quality and threaten aquatic, wildlife, and
228 human health.

230 The purpose of this article is to provide for the regulation of stormwater
231 management so that all residential, commercial, governmental or other construction and
232 development activities shall control and manage on-site stormwater using best
233 management practices to avoid illicit discharges to the city's MS4 system, wetlands, or
234 surface waters. Authorized discharges to the city's MS4 system must be in accordance
235 to local, state, and federal regulation and not impair the city's stormwater infrastructure
236 and be included as part of any application for a development review.

237
238 The city's MS4 permit prohibits illicit discharges into the city's stormwater drainage,
239 which includes the swales. Notwithstanding the foregoing the following discharges shall
240 not be considered to be illicit:

- 241
- 242 (1) Water line flushing;
- 243 (2) Flows from firefighting;
- 244 (3) Irrigation water;
- 245 (4) Air conditioning condensation;
- 246 (5) Residential, individual car washing;
- 247 (6) Water from crawl space pumps;
- 248 (7) Springs;
- 249 (8) Footing and foundation drains;
- 250 (9) Dechlorinated swimming pool discharges;
- 251 (10) Uncontaminated groundwater;
- 252 (11) Flows from riparian habitats and wetlands; and
- 253 (12) Diverted stream flows

254
255 The foregoing discharges are exempt from being considered an "illicit discharge";
256 however, they are still required to be released in a way that does not cause any erosion
257 to public right-of-way, private property or impact surface waters.

258
259 (b) These guidelines and practices are established to help residents,
260 developers, builders, contractors, businesses and homeowners be partners in improving
261 and protecting Florida's environment.

262
263 **SECTION 5. Adoption of Code Provision.** That the Code of Ordinances, City of
264 Marco Island, Florida, is hereby amended by adding a new section, to be numbered 18-
265 212, which section reads as follows

266
267 **Sec. 18-212. - Definitions.**

268
269 The following words, terms and phrases, when used in this article, shall have the
270 meanings ascribed to them in this section, except where the context clearly indicates a
271 different meaning:

272 *Best management practices or BMPs* means the schedules of activities,
273 prohibitions of practices, maintenance procedures, and other management practices to
274 prevent or reduce the pollution of surface waters.

275

276 City manager means the city's city manager or said manager's designee, who will
277 administer and enforce the provisions of this article.

278
279 Code compliance officer or inspector means any designated city employee or
280 agent whose duty it is to enforce codes and ordinances enacted by the city.

281
282 Construction means the act of creating or maintaining stockpiles of soil or other
283 material which are erodible if exposed to water or wind and can generate dust or
284 sedimentation; or developing or improving public or private land which involves the
285 removal of surface cover or disturbance of soils and includes clearing, demolition and
286 excavation.

287
288 Detention facility means a graded depression, pond, vault, pipe or other facility
289 used to temporarily store stormwater runoff and rainfall that recovers its storage volume
290 by the controlled release of water through designed drawdown structures and
291 mechanisms (see "retention facility" for contrast).

292
293 Development shall be defined as set forth in s. 163.3164, Florida Statutes.

294
295 Discharge means any spilling, leaking, pumping, pouring, emitting, emptying,
296 injecting, escaping, leaching, dumping, releasing, draining or disposing.

297
298 Erosion means the process by which rainfall, wind, and water dislodges soil
299 particles.

300
301 Erosion Control BMPs means the schedules of activities, prohibitions of practices,
302 maintenance procedures, and other management practices to prevent or reduce erosion
303 and the pollution of surface waters. Practices include, but are not limited to; silt fences,
304 turbidity barriers, geosynthetic barriers, sediment traps, temporary and permanent
305 vegetation, filter socks, mulch, inlet barriers and polymers.

306
307 FDEP means the Florida Department of Environmental Protection.

308
309 Illicit connection means any drain or conveyance whether on the surface or
310 subsurface, which allows any illicit discharges to enter the stormwater system, including
311 but not limited to, any connections to the MS4 from indoor drains and sinks; or any drain
312 or conveyance connected from a commercial or industrial land use to the MS4, which has
313 not been documented in plans, maps, or equivalent records and approved by an
314 authorized enforcement agency.

315
316 Illicit discharge means any discharge to an MS4 that is not composed entirely of
317 stormwater. Examples of illicit discharges include, but are not limited to: sediment,
318 concrete washout, petroleum products, sanitary sewage, hazardous chemicals, paint,
319 solvents, degreaser, fertilizers, pesticides, laundry waste, antifreeze, landscaping waste,
320 chlorinated pool water, plastic debris and litter. Any organic or inorganic matter which
321 can cause water quality of the receiving water to drop below standards in chapter 62-302

322 F.A.C. or other relevant sections of the Florida Administrative Code shall be considered
323 unlawful.

324
325 *Impermeability* means the relative inability of a material to allow the flow of water
326 to pass through the material, typically associated with solid surfaces that prohibit rainfall
327 or both rainfall and rainfall runoff from entering and passing through the material.

328
329 *Impervious* means impenetrable or impermeable by water.

330
331 *Impervious Area* means the percentage of the lot land area covered by impervious
332 surfaces such as buildings or structures, swimming pools, decks, lanais, patios,
333 driveways, and includes any surface covered by concrete, bricks, blocks, walls,
334 flagstones, paving, sealant, or any other impermeable material. Standard engineering
335 coefficients of permeability shall be used for partially pervious materials.

336
337 *Low Impact Development (LID)* means the principles to integrate the following
338 concepts into the design process: use hydrology as the integrating framework, control
339 stormwater at the source, minimize impervious surface area, create a multi-functional
340 landscape and infrastructure, use Florida-friendly landscaping, promote stormwater
341 harvesting to reduce demands on potable water, promote recharge of groundwater
342 supplies, protect surface waters, and improve air quality and reduce urban heat island
343 effects through the use of vegetation and trees.

344
345 *Municipal separate storm sewer system or MS4* means a conveyance or system
346 of conveyances like roads with stormwater systems, swales, catch basins, pipes, curbs,
347 gutters, ditches, or constructed channels and canals.

348
349 *Retention facility* means a graded depression, pond, vault, pipe or other facility
350 used to store stormwater runoff and rainfall that recovers its storage volume only when
351 the water evaporates, transpires, or percolates from the facility.

352
353 *Redevelopment* means any construction activity on a site where the aggregate of
354 actions and/or costs to reconstruct, modify, alter, or improve the property, whether in one
355 phase or in multiple phases, are anticipated to do any of the following: (1) increase the
356 appraised value of the property more than 50% of its current appraised value; (2) replace
357 the existing building or reconstruct more than 50% of the area under the existing roof; (3)
358 raises more than 50% of the existing finished floor; or (4) modifies the existing site
359 grading sufficiently to warrant concern that new activities could create problems for offsite
360 or adjacent property.

361
362 *Sediment* means soil particles suspended in, moved or deposited by stormwater
363 runoff.

364
365 *SFWMD* means the Big Cypress Basin South Florida Water Management District.

366
367 *Swale* means a man-made trench that:

- 368 a) Has a top width-to-depth ratio of the cross-section equal to or greater than
369 6:1, or side slopes equal to or greater than three-feet horizontal to one-foot
370 vertical;
371 b) Contains contiguous areas of standing or flowing water only following a
372 rainfall event;
373 c) Is planted with or has stabilized vegetation suitable for soil stabilization,
374 stormwater treatment, and nutrient uptake; and
375 d) Is designed to take into account the soil erodibility, soil percolation, slope,
376 slope length, and drainage area so as to prevent erosion and reduce
377 pollutant concentration of any discharge. [Section 403.803(14), F.S.]
378

379 **SECTION 6. Adoption of Code Provision.** That the Code of Ordinances, City of
380 Marco Island, Florida, is hereby amended by adding a new section, to be numbered 18-
381 213, which section reads as follows
382

383 **Sec. 18-213. - Stormwater regulations.**
384

385 (a) No building permit shall be issued for any building in the city, unless a site
386 plan, as provided in the land development code, is submitted with the application for such
387 building permit illustrating the location of driveways, sidewalks if required by this code,
388 parking strips consistent with this code and perimeter retaining structures or a surface
389 water management plan which provides for containment of runoff on-site with surplus
390 routed to rights-of-way or right-of-way swales for drainage as applicable.
391

392 (b) Site plans for construction projects in all zoning districts shall be reviewed
393 and administratively approved by staff for on-site erosion control per applicable code
394 provisions outlined herein. Appropriate erosion control devices must be planned,
395 implemented, and maintained in accordance with the best management practices (BMPs)
396 described in the Florida Department of Environmental Protection's *Erosion & Sediment*
397 *Control Designer & Reviewer Manual*, most current edition, and required as part of any
398 permit review, approval, and compliance. If approved BMPs are not working properly, it
399 is the responsibility of the developer or contractor to utilize new BMP methods as
400 necessary to provide erosion and sediment control.
401

402 **SECTION 7. Adoption of Code Provision.** That the Code of Ordinances, City of
403 Marco Island, Florida, is hereby amended by adding a new section, to be numbered 18-
404 214, which section reads as follows:
405

406 **Sec. 18-214. - Stormwater Construction Standards.**
407

408 (a) Any new development, redevelopment or substantial improvement of
409 properties within the city shall be reviewed to assure compliance with the following
410 minimum stormwater design criteria:

411 (1) Unless otherwise specified by previous SFWMD permit, applied for
412 or issued by the District prior to March 1, 2017, or currently effective district criteria, a
413 storm event of a 3-day duration and 25-year return frequency shall be used in computing

414 the minimum off-site discharge rates from non-publicly owned properties to the city's
415 stormwater system. The stormwater conveyance system should be sufficiently designed
416 so that the conveyance shall pass the design flow while ensuring that the backwater head
417 does not exceed the proposed berms, walls or other containment systems in a twenty-
418 five (25) year – 24-hour storm event. The side lot swales and other emergency
419 conveyance facilities may be designed to pass the water forward to public rights-of-way

420 (2) Unless otherwise specified by previous SFWMD permit, applied for
421 or issued by the District prior to March 1, 2017, or currently effective District criteria, water
422 quality standards shall be determined based upon selecting the most appropriate
423 pollutant removal presumption to the corresponding BMP technique. The BMP guidelines
424 used must meet a presumed pollutant removal of 85% total suspended solids, total
425 nitrogen, and total phosphorus. BMPs that do not effectively remove total nitrogen and
426 total phosphorus such as “dry detention” will be discouraged. Innovative approaches and
427 low impact development techniques that reduce percent impervious are encouraged.
428 Although reductions in storage volume may be given to BMPs that use “retention” and
429 exfiltration, under no circumstances will the design storage volume be allowed to be less
430 that half-inch (0.5”) of retention storage volume nor less than 1.25-inch of dry detention
431 storage volume (based on the total site area). The following special conditions shall apply
432 in meeting the above standards: 1) on single family residentially used lots no less than
433 one-half-inch of detention or retention shall be stored underground in vaults, exfiltration
434 pipes, or French drains; 2) rainfall runoff from roof drains shall be included in the water
435 quality calculations and in the conveyance calculations since roof water is a major
436 concern for release into the public MS4 system for flooding considerations. Directly
437 connected impervious area is discouraged for this purpose. 3) retention systems shall
438 be designed with their bottom invert located no less than 18-inches above the wet season
439 water table; exfiltration, and pervious pavement systems, shall be designed with their
440 bottom invert located no less than 24-inches above the wet season water table; 4) where
441 special filtering materials are utilized, where swimming pools and patio areas are
442 designed for storage or where special retention provisions are provided consistent with
443 SFWMD criteria or consistent with Chapter 62 of the Florida Administrative Code, the City
444 Manager or his designee may credit such areas in computation of total on-site storage.

445
446 (b) All implementation of stormwater improvements shall conform to the above
447 standards and shall include compliance with the following special criteria:

448
449 (1) Plans and specifications signed and sealed by a licensed Florida
450 professional engineer shall be submitted for review and approval prior to the issuance of
451 city permits. The engineer shall provide on the plans under seal that the plans are for
452 reliance by the city. Upon completion of construction of stormwater improvements, and
453 prior to receiving a certificate of occupancy or completion, a certification with record
454 document shall be submitted by the engineer stating that the work has been satisfactorily
455 completed in accordance with the plans and specifications.

456 (2) Establishment, re-establishment or maintenance of swales within the
457 abutting public street right-of-way shall be accomplished in accordance with the city's
458 Right-of-Way Construction Standards Handbook, as amended from time to time.

459 (3) Stormwater discharge into a public alley is generally prohibited
460 unless the alley drainage system connects to a storm drainage trunk line, or to a roadway
461 storm drainage network, or unless the alley drainage system includes sufficient capacity
462 to handle the additional runoff from the proposed new connection.

463 (4) Roof gutters are required as an erosion control technique that also
464 follow the philosophy of reducing directly connected impervious area and shall be
465 installed on all buildings. However, in special cases, where the side yard widths are
466 greater than 10-feet, the City Manager or his designee may allow an exemption if the roof
467 directs less than 25% of the roof runoff to a side yard area, and erosion control is
468 adequately addressed.

469 (5) Driveways and sidewalks shall be designed to minimize potential for
470 increasing the runoff from private property into the city's stormwater system.

471 (6) The property owner shall maintain the stormwater system in
472 accordance with the stormwater plan certified at the time of issuance of a certification of
473 occupancy. The City Manager or his designee reserves the right to reject any BMP or
474 innovative technique proposed to meet the goals of this article if the private property
475 owner does not provide adequate assurance through a maintenance plan that the system
476 will be effectively maintained in perpetuity.

477
478 (c) The environmental protection of downstream water bodies is vital to this
479 article as part of the permit process. In rare instances where the existing property grades
480 are insufficiently elevated and drainage cannot flow back into the stormwater master
481 system, then as a minimum stormwater pretreatment shall be provided before discharge
482 to the canal, lake, bay or other water body. Innovative BMPs shall be employed to
483 accomplish this including (but not limited to); interceptor swales, containment berms, rain
484 gardens and interconnection into the seawall rock drain system.

485
486 (d) If the City inspector identifies deficiencies at a construction site that is not
487 in compliance with the requirements of the city MS4 permit, the FDEP erosion and
488 sediment control guidelines or this article, the contractor, developer, and property owner,
489 shall each be individually subject to the following fines:

490
491 (1) Failure to implement or maintain sediment and erosion control
492 structures: \$250.00 per violation per day.

493 (2) Discharging water exceeding turbidity requirements into the swales,
494 storm drainage systems or surface waters: \$250.00 per violation per day.

495 (3) Failure to obtain or comply with an environmental resource permit,
496 which results in the discharge of sediment onto private or public property: \$250.00 per
497 violation.

498
499 The City inspector may also suspend any future on-site inspections until the violations
500 have been rectified.

501
502 **SECTION 8. Adoption of Code Provision.** That the Code of Ordinances, City of
503 Marco Island, Florida, is hereby amended by adding a new section, to be numbered 18-
504 215, which section reads as follows:

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Sec. 18-215. - Prohibition of Illicit Discharge

No person shall directly or indirectly cause an illicit discharge to enter the City of Marco Island MS4.

The construction, use, maintenance or continued existence of an illicit connection to the MS4 is prohibited.

The City Inspector has the authority to inspect and identify illicit discharge and/or illicit connection from private property into the MS4.

Upon discovery of an illicit discharge or an illicit connection, the person(s) responsible for the illicit discharge or the illicit connection shall report his or her findings to the City.

Failure to report to the City a connection from industrial activities, commercial entities, or construction activities to the city’s MS4 constitutes an illicit connection.

Failure to report to the City a discharge from industrial activities, commercial entities, or construction activities to the city’s MS4 constitutes an illicit discharge.

If the City inspector identifies illicit discharge, or an illicit connection to the MS4, the contractor, developer, and property owner shall each be subject to the following fines:

The act of illicit discharge or illicit connection to the MS4: \$250 per violation per day.

In addition, any condition caused or allowed to exist in violation of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed to be a nuisance, and may be summarily abated or restored at the violator’s expense.

SECTION 9. Codification. It is the intention of the City Council, and it is hereby ordained that the amendments in Sections 2. through 7. of this Ordinance made to the City of Marco Island Code of Ordinances shall constitute a new Article VIII to Chapter 18 of the City of Marco Island Code of Ordinances, and that the sections of this Ordinance may be renumbered and re-lettered as necessary, and that the word “Ordinance” may be changed to “Section, “Article” or other appropriate word.

SECTION 10. Severability/Interpretation.

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

545
546 (b) In interpreting this Ordinance, underlined words indicate additions to existing
547 text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * * *)
548 indicate a deletion from the Ordinance of text, which continues to exist in the Code of
549 Ordinances. It is intended that the text in the Code of Ordinances denoted by the
550 asterisks and not set forth in this Ordinance shall remain unchanged from the language
551 existing prior to adoption of this Ordinance.

552
553 **SECTION 11. Effective Date.** This Ordinance shall become effective immediately
554 upon its adoption by the City Council.

555
556 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this ___ day
557 of _____, 2017.

558
559
560 **ATTEST:**

CITY OF MARCO ISLAND, FLORIDA

561
562 _____
563 Laura M. Litzan, City Clerk

By: _____
Larry Honig, Chairman

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566 Approved as to form and legal sufficiency:

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569 _____
570 Alan L. Gabriel, City Attorney

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