





Office of *Public Hearing 06/19/2018*
INDIAN RIVER COUNTY
ATTORNEY

Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
Kate Pingolt Cotner, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

THROUGH: Richard B. Szpyrka, P.E., Public Works Director 

FROM: William K. DeBaal, Deputy County Attorney 

DATE: June 12, 2018

SUBJECT: Public Hearing: Amending Indian River Code Creating Chapter 318,
Stormwater Discharge

The Indian River County Stormwater Division was recently audited by the Florida Department of Environmental Protection (DEP). Overall, the County received favorable comments. One comment received was a suggestion to amend the County's waste water section of the code to include a prohibition against illicit discharges into the storm sewers. On October 3, 2017, staff presented a bare bones ordinance to the Board and the Board directed staff to come back with an ordinance in more final form ready for advertisement.

On October 24, 2017, staff presented a more final form of the ordinance and obtained Board approval to advertise the ordinance for a public hearing. Highlights of the proposed ordinance include:

- Definitions of Best Management Practices, illicit discharges and stormwater
- Prohibitions on illicit discharges and connections
- Provisions for suspension of permits and monitoring of discharges
- Enforcement, appeal and abatement of discharges

In its current form, the ordinance will be enforced by the Public Works Stormwater Division as they have the most working knowledge of stormwater issues. A complaint may arise from several sources including code enforcement, land development inspections, environmental code enforcement or from the public at large. The complaint would be investigated and if the Stormwater Division deems it appropriate and in accordance with Board direction, a citation would be issued to the offending party. The offender could simply pay the amount listed on the violation and the matter would be concluded. If the violator wishes to contest the citation, the matter would be scheduled to be heard by the Code Enforcement Board. The Code Board would then hear the matter and if the violator would be found at fault, the Code Board would assess fines and timetables for resolution of the violation. If an emergency exists, either injunctive relief could be sought or remedial action could be taken by the County with reimbursement the responsibility of the violator.

At the Board's direction, staff met to discuss the proposed fine schedule for violations. The attached schedule and adopting resolution, are modeled after the fine schedule approved by the Board for violations of the vacation rental and event at residence ordinance. Staff proposes the following fine matrix for violations of Chapter 318:

VIOLATION TYPE	SECTION	FINE¹	NOTICE TIME FRAME²
<u>Illicit Stormwater Discharge</u>			
<u>Illegal discharge</u>	<u>318.04</u>	<u>up to \$500.00 for 1st violation, \$2,500 for repeat violations</u>	<u>Per occurrence</u>
<u>Illicit connection</u>	<u>318.05</u>	<u>\$5,000</u>	<u>Per occurrence</u>
<u>Reinstate MS4 access w/o prior approval</u>	<u>318.06</u>	<u>\$5,000</u>	<u>Per occurrence</u>

Should a person discharge paint or concrete into a storm drain, lake or ditch, the initial violation would be \$500.00 with repeat violations at \$2,500.00. If a person illegally hooks up to a storm drain to dispose of illicit discharges, the fine would be \$5,000.00. Under the new ordinance, the County can issue an order to cease using an existing storm drain connection if it being used to introduce illicit discharges into a Municipal Separate Storm Sewer System (MS4). If the person ignores the order or begins discharging without prior County approval, the fine will be \$5,000.00.

FUNDING: The only cost of amending the code will be advertising fees for publication of the ordinance in the Indian River Press Journal. Advertising costs are estimated to be less than \$200.00 and funds are budgeted and available from Account # 11128138-034910, Transportation Fund/Stormwater/Legal Ads.

RECOMMENDATION: Staff recommends the Board discuss the proposed ordinance, conduct a public hearing on the amendment to the IRC Code to prohibit illicit discharges into storm sewers and adopt the ordinance amendment with any changes deemed necessary. Staff also recommends the Board approve the resolution amending the schedule of penalties and authorize the chairman to execute the resolution on behalf of the Board.

Attachments: Ordinance Amendment to Chapter 318
Resolution Amending Schedule of Penalties

Copies to: James Ennis, P.E., County Engineer
Keith McCully, P.E., Stormwater Engineer
Alexis Peralta, Stormwater Education
Todd Tardiff, Stormwater Inspector