

ORDINANCE C-476

AN ORDINANCE OF THE TOWN OF MEDLEY, FLORIDA, AMENDING CHAPTER 56, ARTICLE III - “STORMWATER UTILITY ORDINANCE” BY CREATING SECTION 56-58 “EROSION AND SEDIMENTATION CONTROL ORDINANCE” OF THE TOWN OF MEDLEY CODE OF ORDINANCES TO PROVIDE FOR BEST PRACTICES MANAGEMENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Medley is obligated to comply with all laws that are designed to assist the Town in maintaining a safe and environmentally sound stormwater management systems; and

WHEREAS, the Town Council desires to amend Article III, Chapter 56, of the Town Code to provide for best practices management in order to achieve this purpose.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MEDLEY, FLORIDA, AS FOLLOWS:

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

Section 2. Town Code Amended. That Article III - “Stormwater Utility Ordinance,” of Chapter 56 - “Utilities” of the Town Code is hereby amended by creating Section 56-58 as follows:

CHAPTER 56 –UTILITIES.

ARTICLE III. –STORMWATER UTILITY ORDINANCE.

Section 56-58. – Erosion and Sedimentation Control Ordinance.

- (1) Requirements to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The Town shall require the use of Best Management Practices (BMP) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment, or construction site, shall provide or establish, at

the expense of the owner or operator, reasonable protection or safeguards from accidental discharge of prohibited materials or other wastes into the MS4 and its connected waterbodies, through the use of structural and non-structural BMPs. Furthermore, the property owner or operator responsible for a property which is or may be the source of an illicit discharge, may be required to implement, at said person's or entity's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the Town's MS4. An illicit discharge that occurs despite compliance with BMPs is a violation of this section, except if such discharge is permitted under section (3).

(2) Illicit Discharge.

- (a) No person shall throw, drain, or otherwise discharge, cause, or cause others under such person's control to discharge into the Town's MS4, right-of-way, or connected waterbodies, any pollutants or waters containing pollutants, whether such discharges occurs directly into a waterbody, through piping connections, runoff, exfiltration, infiltration, seepage, or leaks.
- (b) No person shall maintain, use, or establish, any direct or indirect connection to the Town's MS4 that results in any discharge in violation of any provision of Federal, State, or Local government law, rule, or regulation.

(3) Illicit Discharge Exemptions.

The following activities shall be exempt from the requirements of this article, but only to the extent that the discharge meets State of Florida water quality standards FAC Chapter 62-302, and does not significantly contribute pollutants into the MS4:

- (a) Water line flushing;
- (b) Discharges from potable water sources;
- (c) Air conditioning condensate;
- (d) Irrigation water;
- (e) Water from crawl space pumps;
- (f) Footing drains;
- (g) Lawn watering;

(h) Discharges or flows from emergency firefighting activities;

(i) Reclaimed water line flushing authorized pursuant to a permit issued under the authority of Chapter 62-610, Florida Administrative Code; and

(j) Uncontaminated roof drains.

(4) Reporting of Illicit Discharges.

Notwithstanding other requirements of law, any person responsible for a facility operation, or responsible for emergency response for a facility or operation, upon learning of any known or suspected release of materials which are resulting or may result in an illegal discharge of a pollutant into stormwater, the storm drain system, or waters of the U.S., shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event that hazardous materials are released, said person shall immediately notify the State Warning Point and the Town. In the event that only non-hazardous materials are released, said person shall notify the Town's Building Department and/or Public Works Department immediately. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years and available for inspection by the Town and/or other appropriate agencies.

(5) Suspension of Access to the Municipal Storm Sewer System.

The Town may suspend access to the MS4 if either one of the following situations occurs:

(a) Suspension due to illicit discharges in emergency situations. The Town, without prior notice, may suspend MS4 discharge access to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, or Waterways.

(b) Suspension due to detection of illicit discharge. Any person discharging into the MS4 in

violation of this Article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge.

(6) Sediment and Erosion Control General Requirements.

- (a) Any person conducting a land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity. In addition, such individual will be held responsible for knowing and following the requirements of this article.
- (b) All construction work, including work in an area less than one (1) acre in size, that has the potential to impact the Town's MS4 and its connected waterbodies, and/or adjacent properties, is required to employ sediment and erosion control measures that are in accordance with the Florida Department of Environmental Protection ("FDEP") Florida Storm Water Erosion and Sedimentation Control Inspector's Manual, latest revision, to maintain water quality standards in accordance with Miami Dade County's Department of Environmental Resource Management ("DERM"), Florida Administrative Code Chapter 62-302, and any other agency of competent jurisdiction.
- (c) All construction activity that results in the disturbance of an area equal to or greater than one (1) acre is required to obtain coverage under the FDEP Generic Permit for Storm Water Discharge from Large and Small Construction Activities (Construction Generic Permit ["CGP"]). The notice of intent ("NOI"), any correspondence, the acknowledgement letter granting coverage under the CGP, a copy of the CGP, erosion control plans, SWPPP, and all completed inspection forms, and other documentation required by the CGP shall be available at the site at all times and made available to

Town officials or inspector until land-disturbing activities have been completed. The contractor shall always have at least one (1) person on-site during work activities who is certified through the Florida Stormwater, Erosion and Sedimentation Control Inspector Training Program. All construction activity that involves the alteration of surface water flows is required to obtain coverage under the FDEP Environmental Resource Permit (“ERP”) and/or any other agency of competent jurisdiction.

(d) No person shall engage in any Land-Disturbing activity associated with development until a Sediment and Erosion Control Plan (“SECP”), if required by Sec. 13-2128, is approved by the Building Department Director or the Director's designee.

(e) Neither the approval of a Sediment and Erosion Control Plan, nor the absence of a requirement to submit a plan shall relieve the property owner or the operator of the requirement stated in subsection (a) of this section.

(7) Sediment and Erosion Control Plan (“SECP”).

(a) Prior to obtaining a building permit or other permit issued by the Building Department for a Land Disturbing activity the applicant shall be required to provide to the Town a SECP. For projects that disturb an area of land greater than one (1) acre in size, a copy of the SWPPP may be provided in lieu of a SECP when submitting the SECP application. (See Sec. 6(c)).

(b) The SECP shall comply with the erosion control standards provided in the latest edition of the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual.

(c) SECP shall be drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of

the proposed grading on water resources, and measures proposed to minimize soil erosion and off-site sedimentation. The property owner and/or operator shall perform all clearing, grading, drainage, construction, and development in strict accordance with the approved plan.

(d) Each SECP must meet the following basic objectives:

- (1) Identify areas of concern. Identify the on-site areas which are subject to severe erosion, and off-site areas, including storm drain locations, that are vulnerable to damage from erosion and/or sedimentation.
- (2) Limit exposure. Any Land-Disturbing activity must be planned and conducted in a manner that limits the exposure of soil to disturbing activities.
- (3) Limit exposed areas. Any Land-Disturbing activity must be planned and conducted in a manner that limits the size of the area and duration exposed to Land-Disturbing activities.
- (4) Control surface water. Surface water runoff originating upgrade, or as a result of Land-Disturbing activities, must be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) Control sedimentation. Any Land-Disturbing activity must be planned and conducted in a manner as to prevent off-site sedimentation damage.
- (6) Stormwater management. When the increase in the velocity of stormwater runoff resulting from a Land-Disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(7) Site map, including areas of soil disturbance, areas that are not to be disturbed, and locations of all structural and non-structural controls to be implemented.

(e) Minimum BMPs for sediment and erosion for all development sites shall include the following, or as deemed applicable according to scope of work and Building Department plan review:

(1) Temporary Gravel Construction Entrance and Exit

(2) Storm Drain Inlet Protection for all drains within 100 feet of construction, or any drains that may be affected by construction activities.

(3) Staked Turbidity Barrier (Silt Fence)

(4) Turbidity Curtain

(8) Application and Approval of the SECP.

(a) Each proposed SECP shall be submitted with an SECP Application to the Building Department and shall require the approval of the Director or designee.

(b) The SECP application must include a copy of the building permit application/processing number, that is not expired.

(c) The SECP shall be approved if it adheres to the requirements and provisions of this article.

(d) An application fee related to the SECP shall be established by resolution of the Town Council and shall be assessed for each SECP.

(e) Upon approval from the Building Director or designee, the approved SECP shall be included with the building permit application for issuance. Building Department approval of a SECP shall be a condition precedent to the issuance of a building permit, and therefore, no building permit shall be issued unless the applicant has obtained an approved SECP.

(9) Sediment and Erosion Control Standards and Prohibited Activities.

- (a) Construction entrance(s) shall be stabilized wherever traffic will be leaving a construction site and traveling on paved roads or other paved areas within the site that is open to the public.
- (b) Any sediment that is tracked onto road pavement shall be removed immediately (prior to the end of the workday).
- (c) Pavement shall not be cleaned by washing/flushing street unless proper drain protection is in place to prevent discharges into the MS4.
- (d) All sediments/soils shall remain on site.
- (e) Perimeter protection is required for all development or redevelopment activities.
- (f) Catch basin inserts (or other approved BMP) are to be used to prevent sediments from entering drainage system. Inserts are to be inspected and cleaned weekly and after each rainfall event.
- (g) If water truck is used to control dust on dirt/graded areas only, water truck will only drop enough water to control the dust or reach the optimum moisture content of the soil for compaction. No run-off is to be generated.
- (h) Controlling dust on paved roadways will be done by use of sweeper with water-jet sprayers. Only enough water should be applied to control dust while sweeping. Do not generate runoff from sprayers that runs into catch basins.
- (i) All disturbed areas of the site shall be vegetated or otherwise temporarily stabilized until construction completion.
- (j) Sediment/soil erosion entering the right of way or adjacent private property shall be prohibited.

(k) Sediment/soil erosion from uplands into environmentally sensitive areas shall be prohibited.

(l) Dumping or piling vegetative debris or clippings in right-of-way or environmentally sensitive areas shall be prohibited.

(m) Tracking sediment or soil onto a roadway shall be prohibited.

(n) Floating turbidity curtain labeled with contractor name shall be required for construction or development activities occurring in or adjacent to a waterway, or that may cause sedimentation of the adjacent waterway.

(10) Enforcement and penalties.

(a) The Town shall have the authority to conduct any and all necessary inspections, conduct surveillance and monitoring procedures in order to determine compliance with permit conditions.

(b) Any fines and fees collected under this article shall be (1) deposited in the Town of Medley Stormwater Utility Fund, and (2) used by the Town for the administration, education, and enforcement of this article, and to further water conservation, nonpoint pollution prevention activities, water quality improvements, and ecosystems enhancements that protect the Town's water resources.

(c) Enforcement. This article shall be enforced in accordance with Section 8 of the Town Code.

(d) A violator who has been served with a notice of violation must elect to either

(1) Pay the following civil fine:

i. First violation within a 12-month period: \$250.00;

ii. Second violation within a 12-month period: \$500.00;

iii. Third or subsequent violation within a 12-month period: \$500.00; or

(2) Request an administrative hearing before a special master to appeal the notice of

violation, which must be requested within ten (10) days of the service of the notice of violation. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 8-5 and 8-6 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the Town Council, which shall be refunded if the named violator prevails in the appeal.

(e) Failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly. Unpaid fines shall accrue interest at the highest legal limit authorized by law.

(f) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three months following the recording of any such lien that remains unpaid, the Town may foreclose or otherwise execute upon the lien for the amount of the lien, plus accrued interest, collection costs, and attorneys' fees.

(g) The violator shall pay for any water quality control violations from any agency that results in fines being assessed to the Town because of the violator's failure to eliminate turbid runoff from leaving the site and raising background levels of turbidity above existing background levels.

(h) The violator is responsible for reimbursement to the Town of all investigative and

cleanup costs incurred by the Town. Costs shall include, but are not limited to, cost of equipment operation and maintenance associated with the investigation, cost of materials used in the investigation, personnel cost of contract services, waste disposal cost, laboratory costs, and Department labor costs. The Town shall submit an itemized invoice with all the reimbursable costs to the violator.

Section 3. **Codification.** That it is the intent of the Town Council that the provisions of this ordinance shall become and be made a part of the Town’s Code, and that the sections of this ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. **Severability.** That the provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Conflicts.** That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this ordinance shall be effective immediately upon adoption on second reading.

PASSED on First Reading this 4th day of December, 2023.

PASSED AND ADOPTED on Second Reading this 5th day of February, 2024.

ROBERTO MARTELL, MAYOR

ATTEST:

VICTORIA MARTINEZ, FRP, CMC, TOWN CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

MICHAEL A. PIZZI JR., TOWN ATTORNEY

SUMMARY OF VOTE – FIRST READING

The motion to PASS the foregoing Ordinance on FIRST READING was made by

_____ and seconded by _____ and on roll call, the following vote
was had:

Mayor Roberto Martell _____

Vice-Mayor Edgar Ayala _____

Councilperson Ivan Pacheco _____

Councilperson Karina Pacheco _____

Councilperson Lizelh Rodriguez _____

SUMMARY OF VOTE – SECOND READING

The motion to ADOPT the foregoing Ordinance on SECOND READING was made by _____ and seconded by _____ and on roll call, the following vote was had:

Mayor Roberto Martell _____

Vice-Mayor Edgar Ayala _____

Councilperson Ivan Pacheco _____

Councilperson Karina Pacheco _____

Councilperson Lizelh Rodriguez _____