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ORDINANCE NO. 05-2019

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA AMENDING CHAPTER 9, NUISANCES, SECTIONS 9-7 AND 9-8 OF ITS CODE OF ORDINANCE TO PROVIDE FOR THE SECURING OF CONSTRUCTION SITES AT THE TIME OF HURRICANE EVENTS AND TO PROVIDE REGULATIONS FOR THE CONTROL OF EROSION, FUGITIVE DUST AND STORMWATER PROTECTION DURING LAND DISTURBING ACTIVITIES; BY AMENDING CHAPTER 18, UTILITIES, ARTICLE III. STORMWATER CONTROL, SECTIONS 18-41, 18-44 AND 18-45 IN ORDER TO CLARIFY THE PURPOSE AND INTENT OF SAID ARTICLE, TO AMEND THE NOTIFICATION PROCEDURES IN THE EVENT OF A SPILL OR DUMPING INCIDENT AND TO AMEND THE ENFORCEMENT ACTIONS AVAILABLE TO THE TOWN IN THE EVENT OF A VIOLATION OF THE ARTICLE; BY AMENDING CHAPTER 19 VEGETATION, ARTICLE II. FERTILIZER, SECTIONS 19-22, 19-25 AND 19-29 TO PROVIDE THAT STORMWATER INLETS OR STRUCTURES SHALL BE FERTILIZER FREE ZONES, TO MODIFY THE REGULATIONS PERTAINING TO GRASS CLIPPINGS AND VEGETATIVE MATTER AND TO AMEND THE ENFORCEMENT ACTIONS AND PROCEDURES AVAILABLE FOR ARTICLE II; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

SECTION 1. Chapter 9 NUISANCES, Sections 9-7 and 9-8 of the Code of Ordinances of the Town of Jupiter Inlet Colony are hereby amended to read as follows:

Sec. 9-7. – Cleaning Hurricane Watch; securing of construction sites.

(a) In the event any construction is being performed upon any property within the Ttown and a hurricane watch is issued for an area encompassing the Ttown, the owner of the property and contractor who obtained the building permit shall, within twenty-four (24) hours of issuance of the hurricane watch, be responsible to insure that all construction materials, equipment, debris or other items located or stored on that property are removed, stored or secured so as to not, in the discretion of the building official, present a danger in the event of high winds or hurricane.

(b) In the event the owner and contractor fail to adequately remove, store or secure such materials, equipment, debris or other items as provided in paragraph (a), the ~~town~~ building official may have such items removed, stored or secured, and the cost of any such work, including

storage fees, may be imposed as a lien against the real property upon which the construction is being performed.

Sec. 9-8. – Land disturbing activities; Fugitive dust or blowing sand.

~~(a) It shall be unlawful for any owner, tenant, contractor or other person to cause, permit, or allow the emissions of particulate matter from any source whatsoever, including, but not limited to, incidents caused by vehicular movement, transportation of materials, wind, construction, alteration, demolition or wrecking of buildings or structures, failure to plant or maintain sod or landscaping so as to control the blowing of sand or dirt, or the stockpiling of sand or dirt, without taking reasonable precautions to prevent such emissions or to preclude fugitive particulates that may trespass on neighboring properties. In the case of stockpiled particulate materials, such materials shall be stabilized by adequate covering, by wetting or by chemical application to the satisfaction of the building official.~~

~~(b) In addition to other remedies for violation of this Code, the violation of this section shall constitute grounds for issuance of a stop-work order by the building official in accordance with provisions of the building code.~~

(a) Land disturbing activities can cause excessive runoff and accelerate the process of soil erosion, resulting in the damage and loss of natural resources, including the degradation of water quality. The Town finds that:

1. Excessive quantities of soil may erode from areas undergoing development due to land disturbing activity.

2. Soil erosion can result in the degradation of valuable shoreline resources, such as dunes and coastlines of communities along the lagoon.

3. Sediment from soil erosion can clog storm sewers and swales, and silt navigational channels.

4. Sediment and sediment-related pollutants degrade wetland systems, including the Indian River, resulting in the destruction of aquatic life and degradation of water quality.

5. Airborne sediments can constitute a nuisance for adjacent property owners and degrade the quality of the air.

(b) The purpose of this Section is to safeguard persons, protect property, prevent damage to the environment, and promote the public

welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity which disturbs or otherwise results in the movement of earth on land situated in the Town. In furtherance of this purpose:

1. No land disturbing activity during periods of construction or improvement to land shall be permitted in proximity to any shoreline unless a 25-foot buffer zone is provided along the margin of the watercourse.
2. Silt barriers should be provided around the perimeter of any area under construction and be installed in all storm drains within a 50-foot radius of the edge of property.
3. The angle for graded slopes and fills shall not be greater than the angle that can be retained by vegetative cover, or other adequate erosion-control, devices or structures (generally 4:1 or less). Slopes left exposed will, within ten (10) working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices or structures sufficient to restrain erosion.
4. Groundcover sufficient to restrain erosion must be planted or otherwise provided on portions of cleared land upon which further construction activity is not being undertaken within 15 days of clearing.
5. All measures taken to control erosion shall be properly maintained for the life of the project, inclusive of delays in overall construction time. Failure to maintain erosion control measures will result in a violation and possible fine. The following are examples of a failure to maintain these erosion control measures:
 - a. Fugitive dust and sediment observed on adjacent properties and valley gutters
 - b. Tracking of sediment in roadways
6. Failure to properly maintain erosion as outlined above constitutes grounds for the issuances of a stop work order by the building official in accordance with the provisions of the building code.
7. Minor land disturbing activities, such as home gardens and individual landscaping, repairs, maintenance work, and other related activities are exempted from the requirements of this

Section; provided, such activities do not contribute to any on-site generated erosion or sediment dispersion in the Town, or degradation of lands or water beyond the boundaries of the property of the residence involved.

(c) No owner, tenant, contractor or other person shall cause, permit, or allow the emissions of particulate matter from any source whatsoever, including, but not limited to, incidents caused by vehicular movement, transportation of materials, wind, construction, alteration, demolition or wrecking of buildings or structures, failure to plant or maintain sod or landscaping so as to control the blowing of sand or dirt, or the stockpiling of sand or dirt, without taking reasonable precautions to prevent such emissions or to preclude fugitive particulates that may trespass on neighboring properties. In the case of stockpiled particulate materials, such materials shall be stabilized by adequate covering, by wetting or by chemical application to the satisfaction of the building official.

(d) All vacant lots within the Town shall be planted with sod. In the event of the demolition of a house or structure on a property, unless the owner has applied for a building permit for new construction, sod shall be planted within (15) days of the demolition of any house or structure on the property.

(e) In addition to other remedies for violation of this Code, the violation of this Section shall constitute grounds for issuance of a stop-work order by the building official or the planning and zoning administrator.

SECTION 2. Chapter 18 UTILITIES, Article III. Stormwater Control, Sections 18-41, 18-44 and 18-45 of the Code of Ordinances of the Town of Jupiter Inlet Colony are hereby amended to read as follows:

Sec. 18-41. - Purpose and intent.

The purpose of this Article is to promote the health, safety and general welfare of the inhabitants of the Town of Jupiter Inlet Colony. This Article is intended to comply with federal and state law and regulations regarding water quality. In furtherance of these objectives:

(a) All sites within the Town, whether under construction or not, are required to implement structural or nonstructural measures to prevent exposure of substances or contaminants, which cause or contribute to stormwater pollution, to precipitation and subsequent entry into the stormwater system. The required measures include, but are not limited to, covered storage, containment or other materials management practices.

(b) If a property is under construction, the following requirements shall be met:

(1) Construction site operators for construction projects within the Town, which require NPDES construction activities permit coverage, shall submit a notice of intent (NOI) to the State Department of Environmental Protection, prior to construction activities.

(2) Construction site operators for construction projects, which require NPDES construction activities permit coverage and discharge to the County MS4, shall provide a copy of the stormwater pollution prevention plan to ERM, prior to construction activities.

(3) Construction site operators for construction projects within the Town or discharge to the County MS4 which obtain NPDES construction activities permit coverage, shall maintain compliance with the erosion and sediment control best management practices (BMPs) required by the permit as well as other permit conditions.

Sec. 18-44. - Spills and dumping.

(a) *General prohibitions.* Except as set forth under section 18-43(c) of this Article or as in accordance with a valid NPDES permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited.

(b) *Specific prohibitions.* Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits, is prohibited.

(c) *Notification of spills.* As soon as any person has knowledge of any discharge to the stormwater system in violation of this article, such person shall immediately notify the Mayor or Town ~~clerk~~ Administrator by telephone. and if such person is directly or indirectly responsible for such discharge, then such person shall also take immediate action to ensure the containment and clean-up of such discharge and shall confirm such telephone notification in writing to the Mayor or Town Administrator within three (3) calendar days. If the person having knowledge of any discharge to the stormwater system is not the responsible party, the Town will immediately notify the responsible party via telephone. The Town

shall also follow-up in writing to the responsible party, within 2 calendar days of gaining knowledge of the spill. In such a case, the party at fault will be responsible for providing the Town with an estimated schedule and plan for remediation within one (1) week of receipt of notification from the Town. The party at fault shall be responsible for notifying the Town of completion and providing appropriate documentation to the Town.

(d) *Administrative order.* The Mayor, or his designee, may issue an order to any person to immediately cease any discharge, or connection to the stormwater system, determined by the Mayor, or his designee, to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.

(e) *NPDES Permits.* Any person owning property within the Town who holds an NPDES permit shall provide a copy of such permit to the Town no later than thirty (30) calendar days after issuance.

Sec. 18-45. - Enforcement.

(a) *Injunctive relief.* Any violation of any provision of this Article, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety or general welfare.

(b) *Continuing violation.* A person shall be deemed guilty of a separate violation for each and every day during any continuing violation of any provision of this Article, or of any regulation or permit issued hereunder.

(c) *Enforcement actions.* ~~The mayor, or his designee,~~ Town may take all actions necessary, including the issuance of notices of violation, the filing of court actions for injunctive or other relief, the issuance of a stop work order and/or referral of the matter to ~~the T~~ town code enforcement board to require and enforce compliance with the provisions of this ordinance and with any regulation, order or permit issued hereunder.

SECTION 3. Chapter 19 VEGETATION, Article II. Fertilizer, Sections 19-22, 19-25 and 19-29 of the Code of ordinances of the Town of Jupiter Inlet Colony, Florida are hereby amended to read as follows:

Sec. 19-22. - Fertilizer free zones.

(a) Fertilizer shall not be applied within ten (10) feet, or three (3) feet if a deflector shield or drop spreader is used, of any pond, stream, water body, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340), Florida Administrative Code or from the top of a seawall or lake bulkhead. The same fertilizer free zone criteria shall be applied to

any stormwater structure or inlet that conveys stormwater to groundwater or to one of the Town's stormwater outfalls.

(b) Newly planted turf or landscape plants may be fertilized in this zone only for a sixty-day period beginning thirty (30) days after planting if needed to allow the vegetation to become well established. Caution shall be used to prevent direct deposition of fertilizer into the water.

Sec. 19-25. - Management of grass clippings and vegetative matter.

(a) In no case shall grass clippings, vegetative material, and/or vegetative debris intentionally be washed, swept, or blown on to or into storm-water drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Vegetative material may be placed within the roadway right-of-way, but not over the storm drains, for pick-up by the ~~municipality's~~ Town's vegetative waste hauler.

(b) Hauling vegetative material shall maintain compliance with best management practices (BMPs) to prevent spreading of debris. BMPs may be outlined in the Town's NPDES permit or UF/IFAS.

(c) Failure to properly manage materials for any property constitutes grounds for issuance of a citation and an associated fine as set forth in the Penalties section of this article.

Sec. 19-29. - Enforcement.

~~The provisions of this article shall be enforced by (1) the Town of Jupiter Inlet Colony Code special master pursuant to the authority granted by F.S. § 162.01 et seq., (2) the Town of Jupiter Inlet Colony through its authority to enjoin and restrain any person violating its Code of Ordinances, or (3) the Town of Jupiter Inlet Colony through the provisions of F.S. Ch. 162, Pt. II, as may be amended. The code enforcement director may pursue these or any other enforcement remedies available to and applicable to the Town of Jupiter Inlet Colony.~~

(a) *Injunctive relief.* Any violation of any provision of this Article, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety or general welfare.

(b) *Continuing violation.* A person shall be deemed guilty of a separate violation for each and every day during any continuing violation of any provision of this Article, or of any regulation or permit issued hereunder.

(c) *Enforcement actions.* The Town may take all actions necessary, including the issuance of notices of violation, the filing of court actions for injunctive or other relief and/or referral of the matter to Town code enforcement to require and enforce compliance with the provisions of this ordinance and with any regulation, order or permit issued hereunder.

SECTION 4. Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Jupiter Inlet Colony, Florida.

SECTION 5. That all ordinances or parts or ordinances, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 6. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 7. This Ordinance shall become effective upon its passage and adoption.

FIRST READING this 15 day of October, 2019.

SECOND READING and FINAL PASSAGE this ____ day of _____, 2019.

TOWN OF JUPITER INLET COLONY,
FLORIDA

Mayor Daniel J. Comerford, III

Vice-Mayor Milton J. Block

Commissioner Michael A. Armato

Commissioner Saeed A. Khan

ATTEST:

Town Clerk Jude M Goudreau

Commissioner Richard D. Busto