

AN ORDINANCE AMENDING CHAPTER 11 OF THE TOWN CODE
OF THE TOWN OF HILLSBOROUGH

THE BOARD OF COMMISSIONERS OF THE TOWN OF HILLSBOROUGH ORDAINS:

Section 1. Chapter 11 (Solid Waste and Environmental Regulations) of the Town Code is amended as follows:

A. Adding the following definition to Article I (Definitions), Section 11-1 (Definitions):

(5) *Owner*. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

B. Renumbering the definitions in Section 11-1 (Definitions) to accommodate the newly added definition of "Owner."

C. Changing the title of Article V (Enforcement) to read (Control of Illicit Discharges Into Stormwater System).

D. Adding the following language into the newly retitled Article V as follows:

Sec. 11-36. Authority.

The Town of Hillsborough is authorized to adopt this article pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; Chapter 160A, §§ 174, 185; as well as Chapter 113A, Article 4 (Sedimentation Pollution Control).

Sec. 11-37. Purpose.

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum

regulations to control the adverse effects of illicit discharges into the Town's stormwater system.

Sec. 11-38. Applicability, jurisdiction and exemptions.

(a) The provisions of this article shall apply to all portions of the Town of Hillsborough and its extraterritorial jurisdiction as defined in an ordinance adopted and recorded in the Orange County Register of Deeds, unless exempt pursuant to subsection (b) of this section.

(b) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this article.

Sec. 11-39. Illicit discharges and connections.

(a) *Illicit Discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in a manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Irrigation water;

- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Individual residential car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) De-chlorinated swimming pool discharges;
- (18) Street wash water; and
- (19) Other non-stormwater discharges for which a valid NPDES (National Pollutant Discharge Elimination System) discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the Town of Hillsborough.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) *Illicit connections.*

(1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this article. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

- a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
- b. Was made in violation of any applicable regulation or ordinance, other than this article;

the Stormwater Administrator or their designee shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator or their designee shall take into consideration:

1. The quantity and complexity of the work,
2. The consequences of delay,
3. The potential harm to the environment, to the public health, and to public and private property, and
4. The cost of remedying the damage.

(c) *Spills*. Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed of. All affected areas shall be restored to their pre-existing condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the following Town of Hillsborough staff: Stormwater Administrator or their designee, Fire Marshal, Safety Officer, Town Engineer, Public Works Supervisor and the Orange Rural Fire Department, of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(d) *Nuisance*. Illicit discharges and illicit connections which exist within the Town of Hillsborough and its extraterritorial jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set

forth in section 11-42 (Nuisance Abatement) of article VI (Enforcement), Part I (Ordinary Penalties and Remedies), of this chapter.

- E. Creating a new Article VI entitled “Enforcement” to accommodate previously existing code language moved from Article V (formerly entitled “Enforcement.”
- F. Revising the numbering system of the newly created Article VI to accommodate shifting of language from the old Article V to new Article VI.
- G. Making cross reference corrections throughout Chapter 11 reflecting revisions in article, section and subsection numbers.

Section 2. All provisions of any Town ordinance in conflict with this ordinance are repealed.


Section 3. This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this 12th day of December, 2011.

Ayes: 5

Noes: 0

Absent or Excused: 0



Donna F. Armbrister, Town Clerk