

ORDINANCE NO. 3299

**AN ORDINANCE OF THE CITY OF PANAMA CITY,
FLORIDA, AMENDING CHAPTER 12 TO REQUIRE
MAINTENANCE OF RAILROAD RIGHTS-OF-WAY BY
RAILROAD OWNERS AND OPERATORS OUTSIDE OF THE
OPERATIONAL TRACK AND BALLAST ZONE AREA;
PROVIDING FOR VEGETATION, DRAINAGE, AND
NUISANCE CONTROL OUTSIDE OF THE IMMEDIATE
BALLAST AREA; AND PROVIDING FOR SEVERABILITY
CLAUSE, REPEALER PROVISION, CODIFICATION, AND AN
EFFECTIVE DATE.**

WHEREAS, the City of Panama City ("City") is a municipality granted home rule authority pursuant to Article VIII, Section 2 of the Constitution of the State of Florida and Section 166.021, Florida Statutes, constitutionally and statutorily guaranteeing it the right to exercise its governmental, corporate, and proprietary powers for municipal purposes, including to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the City of Panama City ("City") seeks to provide stormwater, fire, and nuisance control for the health, safety and benefit of its residents, businesses, visitors, and property owners; and

WHEREAS, pursuant to 49 CFR 213.33, the Genesee & Wyoming Railroad is required to maintain its rights-of-way to be "kept free of obstruction, to accommodate expected water flow for the area concerned"; and

WHEREAS, pursuant to 49 CFR 213.37, the Genesee & Wyoming Railroad is required to maintain its rights-of-way free of vegetation "on railroad property which is on or immediately adjacent to roadbed" and said property "shall be controlled so that it does not—(a) Become a fire hazard to track-carrying structures; (b) Obstruct visibility of railroad signs and signals; (1) Along the right-of-way, and (2) At highway-rail crossings"; and

WHEREAS, there has been an ongoing issue concerning the failure of the Genesee & Wyoming Railroad to maintain its rights of way that run throughout the City of Panama City to be free

of vegetation, sightline hazards, fire hazards, and obstructions to water flow affecting flooding and drainage for the area creating flooding hazards, fire hazards and nuisances within the City and to its residents, businesses, visitors, and property owners; and

WHEREAS, the City of Panama City has been forced for some time to cut, mow and maintain the ditches in the rights of way adjacent to the railroad roadbeds outside the ballast area that run throughout the City at a substantial cost to the City in order to eliminate said hazards of fire, flooding and nuisance to protect its residents, businesses, visitors, and property owners; and

WHEREAS, Section 823.01, Florida Statutes, declares nuisances that “injure the health of the citizens in general, or endanger the safety of persons or property” subject to abatement; and

WHEREAS, Section 403.0891, Florida Statutes, requires municipalities to operate stormwater programs consistent with state goals, which includes ensuring the maintenance of drainage features on private properties to prevent flooding; and

WHEREAS, Chapter 162, Florida Statutes, provides for local code enforcement procedures to protect the City’s residents, businesses, visitors and property owners from hazards and nuisances created by the failure of private property owners to maintain their property; and

WHEREAS, Section 60.05, Florida Statutes, provides for the abatement of nuisances allowing for the city attorney to sue the owner or agent of the ground on which the nuisance exists to enjoin the nuisance; and

WHEREAS, Section 197.3632, Florida Statutes, authorizes local governments to collect nuisance abatement costs and assessments through the non-ad valorem uniform method of collection by the tax collector; and

WHEREAS, the City has broad powers in the furtherance of the health, safety, and welfare of the City and a legitimate government interest in ensuring that residents, businesses, visitors and property owners are safe from the hazards of stormwater flooding in neighborhoods, fires that threaten

nearby woods and structures, and nuisances, such as vermin, trash, and encampments, harmful to public health and safety caused by unmaintained growth outside the ballast zone areas of the railroad rights-of-way and outside railroad track operations areas; and

WHEREAS, local codes apply equally to all owners, and the municipal code of the City of Panama City requires property owners to maintain grass and weeds under twelve (12) inches, abate fire hazards, and keep drainage features open, and owners of railroads and their rights of way, as property owners, are subject to the same requirements; and

WHEREAS, nuisance conditions in railroad rights of way create direct public risks as overgrown vegetation increases fire hazards and obstructs visibility at crossings, blocked or neglected ditches cause neighborhood flooding, debris and encampments with the right of way create nuisance conditions injurious to health and safety; and

WHEREAS, the City has the authority to ensure property or business owners with rights of way maintain them and keep their property free from nuisances and in a reasonably safe condition; and

WHEREAS, federal preemption does not apply to nuisance enforcement as this ordinance does not regulate train operations, signaling, crew conduct, or the ballast/track zone, and applies only to the rights of way property maintenance outside the ballast zone, under the City's general police power; and

WHEREAS, in the case of railroad rights of way, ensuring property owner cooperation and compliance is clearly related to the legitimate public interest in protecting the public's health, safety, and welfare, and is a reasonable use of the City's broad police powers

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF PANAMA CITY, FLORIDA:

SECTION 1. The foregoing "**WHEREAS**" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. Chapter 12 of the Code of Ordinances of the City of Panama City, is hereby amended to add ARTICLE VIII – RAILROAD RIGHTS-OF-WAY VEGETATION, DRAINAGE, AND NUISANCE MAINTENANCE, to read as follows:

(a) Applicability. This section applies to all railroad companies, their successors, and assigns that own, lease, or operate railroad rights-of-way within the City of Panama City.

(b) Definitions.

a. *Ballast/Track Zone* shall mean the area of track, ties, ballast, and shoulders extending no more than fifteen (15) feet from the centerline of the track extending on both sides.

b. *Right-of-Way (ROW)* shall mean the full width of land owned, leased, or used for railroad purposes, excluding the Ballast/Track Zone.

c. *Vegetation* includes grass, weeds, brush, and other plant growth.

d. *Drainage Facilities* include ditches, culverts, swales, and stormwater conveyances within the ROW.

(c) Maintenance Standards. Railroads shall:

a. Vegetation. Maintain grass and weeds outside the Ballast/Track Zone so they do not exceed twelve (12) inches in height.

b. Drainage. Keep open all ditches, culverts, and stormwater conveyances within the ROW to prevent flooding or standing water affecting public or private property.

c. Fire/Nuisance Abatement. Keep ROW outside the Ballast/Track Zone free of fire hazards (uncontrolled vegetation, debris) and free from trash, encampments, or vermin harborage.

d. Crossing Sightlines. Ensure vegetation outside the Ballast/Track Zone does not obstruct visibility at public street crossings.

- e. Failure to adhere to Maintenance Standards shall constitute a Nuisance as defined in Section 12-19 of this Chapter.

(d) Enforcement.

- a. Notice. Violations shall be enforced in accordance with Chapter 12, Article II Nuisances Generally, and Ch. 162, Florida Statutes. Written notice shall allow a minimum of thirty (30) days to correct any Nuisance, except in emergencies.
- b. Abatement. If the railroad fails to comply, the City may abate the condition and invoice the railroad.
- c. Lien. Unpaid costs can be certified and levied as a non-ad valorem special assessment under Sec. 197.3632, Florida Statutes, however, this does not prevent the City from using any other legally available method for collection, including the remedies found in Ch. 162, Florida Statutes.

(e) Federal Preemption. This section shall not apply within the Ballast/Track Zone or to any matter preempted by federal law.

SECTION 3. All Ordinances or parts of Ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

SECTION 5. It is the intention of the Commission of the City of Panama City, Florida, that the provisions of this Ordinance shall become and be made part of the City of Panama City Code of Ordinances; and that the sections of this "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase to accomplish such intentions.

SECTION 6. If the Official Code of the City of Panama City is affected by these provisions, then changes are approved as part of this Ordinance to codify appropriately.

SECTION 7. This Ordinance shall take effect immediately upon approval by the City Commission and the signature of the Mayor.

PASSED AND ADOPTED on this _____ day of February, 2026.

**CITY OF PANAMA CITY, FLORIDA,
A Municipal Corporation,**

By: _____
Allan Branch, Mayor

ATTEST:

Janette Smith, CPA, CMC, City Clerk-Treasurer

APPROVED AS TO FORM:

Nevin J. Zimmerman, City Attorney