

**ORDINANCE NO. 2625**

AN ORDINANCE BY THE CITY OF PANAMA CITY AMENDING THE CITY OF PANAMA CITY CODE OF ORDINANCE CHAPTER 12; TO ADOPT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STANDARDS, TO DEFINE ILLICIT DISCHARGE, TO ADOPT PROCEDURES AND CRITERIA TO ADDRESS ILLICIT DISCHARGE, AND FOR OTHER PURPOSES ACCORDANCE WITH THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM; PROVIDING FOR APPLICABILITY; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE

**WHEREAS**, The city desires to provide for the health, safety, and general welfare of the citizens of the City of Panama City, through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law; and

**WHEREAS**, To regulate the contribution of pollutants to the City of Panama City Municipal Separate Storm Sewer System (MS4) by storm water discharges by any user; and

**WHEREAS**, To prohibit illicit connections and discharges to the MS4; and

**WHEREAS**, To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

**Section 1. Recital**

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

**Section 2. This ordinance repeals and replaces the following ordinance(s) and regulation(s): Chapter 9-87 Illicit Discharge.**

**ARTICLE VII. STORMWATER SYSTEM ILLICIT DISCHARGE AND CONNECTION.**

**SECTION 12-200. TITLE OF ARTICLE, APPLICABILITY AND INTERPRETATION.**

This article shall be known as the stormwater system illicit discharge and connection ordinance. The provisions of this article shall be effective within the boundaries of the city and shall set prohibitions and restrictions to prevent illicit and illegal discharges from entering or being deposited into the city's stormwater collection system. This article shall be liberally construed to affect the purposes set forth in this ordinance.

**SECTION 12-201. PURPOSE AND INTENT.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of stormwater and non-stormwater discharges into the storm drainage system to the maximum extent practicable as required by federal and state law.

This article establishes methods for controlling the introduction of pollutants into the city's municipal separate storm sewer system (MS4) in order to comply with requirements of the Federal "National Pollutant Discharge Elimination System" (NPDES) permit process.

The objectives of this article are to:

- (a) Regulate the contribution of pollutants to the city's municipal separate stormwater system by stormwater discharges by any user.
- (b) Prohibit illicit connections and discharges to the city's municipal separate stormwater system.
- (c) Establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this article.

## **SECTION 12-202. DEFINITIONS.**

**Authorized enforcement agency** means the city code enforcement department acting through the city engineer or designated employees in the engineering department, hereinafter referred to in this article as the "department" who is authorized to enforce the provisions of this article.

**Best management practices (BMPs)** means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**Clean Water Act** means the Federal Water Pollution Control Act, and any subsequent amendments thereto.

**Construction activity** means any activity subject to NPDES construction permits including construction project activities resulting in land disturbance of all any parcel of land in the City limits. Such activities include but are not limited to clearing and grubbing, demolition, grading, excavating, utility installation, building erection, paving and landscaping.

**Hazardous materials** means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Illicit or illegal discharge** means any direct or indirect non-stormwater discharge into any part of the storm drainage system located within the city limits, or stormwater discharge not meeting standards except as exempted in section 12-204 (D.2) of this ordinance. Illegal discharges are discharges including, but not limited to, municipal sewage (wastewater), process wastewater, wash water and discharges from indoor drains and sinks, regardless of

whether said drain or connection had been previously allowed, permitted, or approved by the city, as well as any pollutants and hazardous materials or other substances regulated by the US EPA or the FL DEP.

**Illicit or illegal connection** means either:

- (a) Any drain or conveyance, whether on the surface or subsurface, that conveys an illegal discharge into the storm drainage system, or
- (b) Any drain or conveyance connected from a commercial or industrial facility to the storm drainage system whose source has not been thoroughly investigated and documented on plans, maps, or equivalent records and approved in writing by the city or any authorized regulatory or enforcement agency.

**Industrial activity** means any activity subject to NPDES industrial stormwater permits, as defined in 40 CFR, Section 122.26(b)14.

**Municipal separate storm sewer system (MS4)** means the entire storm drainage system as hereinafter defined, located within the city limits that is both publicly and privately owned and that has been designed and is used specifically for the collection and conveyance of stormwater, as hereinafter defined.

**National pollutant discharge elimination system (NPDES) stormwater discharge permit** means a permit issued by Florida Department of Environmental Protection under authority delegated pursuant to 33 USC & 1342(b), that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-stormwater discharge** means any discharge to the storm drain system that is not composed entirely of stormwater.

**Person** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant** means anything which causes or contributes to pollution. Pollutants may include but are not limited to: turbidity, sediment, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Premises** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Storm drainage system** means the entire infrastructure within the city limits comprised of many components, both publicly and privately owned, by which stormwater is collected and

conveyed through the city including, but not limited to, city, county, state and private street and road drainage systems comprised of gutters, curbs, inlets and storm pipes; storm pumping facilities; drainage retention and detention areas/basins, both publicly and privately owned; natural and human-made or altered drainage swales, ditches, channels, and reservoirs; and all other stormwater related storm drainage facilities within the city.

**Stormwater** means any surface flow, runoff, pollutants, and drainage consisting entirely of accumulated water from natural precipitation and resulting from such precipitation.

**Stormwater management plan** means a document prepared according to Florida Department of Environmental Protection regulations that describes the best management practices and other required activities to be undertaken by a person or business to first identify sources of pollution and/or contamination at a site and the follow-up actions to be taken by such persons or businesses to eliminate or reduce pollutant discharges into municipal stormwater, storm drainage systems, and/or receiving waters to the maximum extent practicable. Also known as Stormwater Pollution Prevention Plan.

**Wastewater** means any waters that are discharged from residential, commercial or industrial sanitary facilities including toilets, sinks, showers and wash-down operations.

**Watercourse** means either:

- (a) Any stream, river, creek, slough or other naturally occurring stormwater conveyance feature in which water usually flows over the surface of the land, or
- (b) Any artificial or man-made swale, ditch, channel or other man-made stormwater conveyance feature in which water usually flows in a defined bed or bottom.

#### **SECTION 12-203. ADMINISTRATIVE RESPONSIBILITY: AUTHORIZED ENFORCEMENT AGENCY.**

The Code Enforcement Department is the authorized enforcement agency for this article. The Code Enforcement Department shall administer, implement, and otherwise enforce all provisions of this article. Any powers granted or duties imposed upon the division under this article may be delegated in writing by the City Engineer to individuals or entities acting in the beneficial interest of or in the employ of the Engineering Division.

## **SECTION 12-204. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

### **A. Stormwater Discharges from Residential, Industrial, Commercial and Construction Activities:**

- (1) Stormwater discharges to the city's MS4 from residential, industrial and commercial or construction activities and from new development or redevelopment projects are required to obtain appropriate local, state and/or federal permits prior to discharging to the MS4. All stormwater discharges from residential, industrial and commercial activities shall be treated or managed on site, in accordance with appropriate federal, state or local permits and regulations, prior to discharge to the city's MS4.
- (2) All stormwater discharges from significant construction activities shall be treated or managed on site in accordance with appropriate federal, state or local permits and regulations, prior to discharge to the city's MS4. Erosion, sediment and pollution controls for the construction site shall be properly implemented, maintained and operated according to a pollution prevention plan required by an NPDES permit for the discharge or stormwater from construction activities, or according to a state permit issued by the Florida Department of Environmental Protection.
- (3) All construction activity which is not defined as significant is still characterized as an illicit connection or illicit discharge if the activity causes an impairment of the operation of the MS4 or contributes to the failure of the MS4 to meet any local, state or federal requirements, including, but not limited to NPDES permits.
- (4) All the owners or operators of industrial facilities, commercial entities and construction sites which discharge stormwater to the city's MS4 shall provide prior written notification to the city of the discharge and shall have received prior approval of the discharge from the city. Any person determined by the city to be responsible for a discharge contributing to the failure of the city's MS4 to comply with the provisions and conditions of an NPDES permit shall be guilty of a violation of this chapter and shall provide corrective measures as determined necessary by the NPDES Stormwater Permit Manager or city inspector(s), and shall be liable for fines and damages.
- (5) Reduction of pollutants associated with stormwater discharges from construction activity disturbing any off-site properties must also be included if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

### **B. Control of Pollutant Contributions from Interconnected Municipal Storm Sewer Systems.** The discharge of stormwater between interconnected state, county, city, or other MS4s shall not, and shall not be permitted, to cause the city's MS4 to be in violation of the provisions of an NPDES permit. Owners of any portion of the City interconnected

MS4 shall be responsible for controlling the quality and quantity of discharge of stormwater to the city's MS4.

**C. Prohibition of Illicit Discharges and Illicit Connections:**

- (1) All illicit discharges and illicit connections to the city's MS4 are prohibited.
- (2) No discharge to the city's MS4 shall be permitted to impair the operation of the MS4 or contribute to the failure to meet any local, state or federal requirements, including, but not limited to, the city's NPDES permit.
- (3) Failure to report a connection from industrial activities, commercial entities or construction activities to the city's MS4 or to waters of the United States constitutes an illicit connection.
- (4) All causes for pollution, pursuant to the water quality standards established by all applicable regulatory agencies, are prohibited. Polluting matter includes, but is not limited to the following:
  - (a) Petroleum products, including, but not limited to oil, gasoline and grease;
  - (b) Solid waste (as defined in Section 23, Code of Ordinance);
  - (c) Paints;
  - (d) Steam cleaning wastes;
  - (e) Pesticides, herbicides or fertilizers;
  - (f) Degreasers, solvents;
  - (g) Sanitary sewage;
  - (h) Chemically treated cooling water;
  - (i) Antifreeze and other automotive products;
  - (j) Lawn clippings, leaves, branches, etc.;
  - (k) Animal carcasses;
  - (l) Recreational vehicle waters;
  - (m) Dyes;
  - (n) Construction materials;
  - (o) Any liquids in quantity or quality which are capable of causing a violations of the city's NPDES stormwater permit; and
  - (p) Solids in such quantities or of such size capable of causing interference or obstruction to the flow in the city's stormwater system.
  - (q) Any debris, (ex. Garbage, grocery baskets, etc.)
  - (r) Turbidity/Sediment

**D. Exceptions to the prohibition of illegal discharges: Stormwater discharges that are mixed with non-stormwater or stormwater discharges associated with industrial activity, are not authorized under this generic permit unless such discharges are:**

1. In compliance with a separate NPDES permit; or

2. Within one of the following categories of non-stormwater discharges and provided they do not cause a violation of water quality standards:
  - water line flushing,
  - landscape irrigation,
  - diverted stream flows,
  - rising ground waters,
  - uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
  - uncontaminated pumped ground water,
  - discharges from potable water sources,
  - foundation drains,
  - air conditioning condensate,
  - irrigating water,
  - springs,
  - water from crawl space pumps,
  - footing drains,
  - lawn watering runoff,
  - water from individual residential car washing,
  - flows from riparian habitats and wetlands,
  - dechlorinated swimming pool discharges,
  - residual street wash water, and
  - discharges or flows from fire fighting activities

E. **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of materials as defined in Section 12-202 of this ordinance said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City's NPDES Stormwater Permit Manager or City's Inspector(s) within three business days of the phone notice. 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 shall be retained for at least three years.

**F. Enforcement.**

- (1) Violations deemed a public nuisance: In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such a nuisance may be taken.
- (2) Criminal Prosecution: Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of two hundred (\$200) dollars per violation per day. The authorized enforcement agency may recover all attorney fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.
- (3) Compensatory action in lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance. The authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, etc.
- (4) Any Construction Site in Violation: The City may issue a stop work order on a construction site if they are not operating properly or in compliance with their Stormwater Management Plan or if Best Management Practices are not being followed. The stop work order will be in effect until the construction site is in compliance.

**G. Remedies.** Remedies that are listed in this section are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**EFFECTIVE DATE.** This ordinance shall take effect on November 14, 2017.

**PASSED** on first reading October 24, 2017

**PASSED, APPROVED and ADOPTED** at the regular meeting of the City Commission of the City of Panama City, Florida, this 14 day of November, 2017.

CITY OF PANAMA CITY, FLORIDA  
A Municipal Corporation

By:

Mayor Greg Brudnicki

**ATTEST:**

T.D. Hachmeister  
T.D. Hachmeister, City Clerk-Treasurer