

CITY OF PALM COAST ORDINANCE NO. 2004-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE PROHIBITION OF DISCHARGES INTO WATERS OF THE CITY; PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES AND WATERS OF THE CITY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED ACTS; PROVIDING FOR OBLIGATIONS AND DUTIES; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the citizens of the City of Palm Coast desire to maintain high water quality within the various and diverse surface waters located within the City of Palm Coast; and

WHEREAS, Article II, Section 7(a) of the *Constitution of the State of Florida* provides that:

It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources; and

WHEREAS, Chapter 187, *Florida Statutes*, sets forth the State Comprehensive Plan and that Palm provides for the protection of water resources, recreational resources and marine resources; and

WHEREAS, the City Council of the City of Palm Coast desires to ensure the adequate protection of natural resources within the City Limits of the City and those waters used, in whatever manner, by the citizens of the City and others; and

WHEREAS, instituting and enacting reasonable regulations for the protection of the environment and natural resources, such as Waters of the City, serves a valid and legitimate public purpose and benefits the public health, safety and welfare; and

WHEREAS, it is the goal and desire of the City Council of the City of Palm Coast to maintain and ensure the continuation of the high quality of life of citizens of the City of Palm Coast which can be accomplished, in part, by means of protecting the natural resources of the County; and

WHEREAS, the City Council has concluded that the enactment of this Ordinance is consistent with the applicable goals, objectives and policies of the City's Comprehensive Plan and the State of Florida Comprehensive Plan as well as other applicable law and serves a valid and important public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE FINDINGS/INTENT.

(a). The above recitals set forth in the whereas clauses of this Ordinance are adopted by the City Council of the City of Palm Coast as legislative findings.

(b). It is also the intent and purpose of the City Council of the City of Palm Coast

to prohibit activities that result in the depositing into the Waters of the City of any hazardous material, liquid or pollutant that by itself, or in combination with other activities or substances, would impair the environmental integrity of a body of water or bodies of water or which would, thereby, impair or adversely impact the recreational use or other public use of a body of water or may cause, or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment located within the City.

(c). It is not the intent of the City Council of the City of Palm Coast to prohibit lawfully permitted activities for which a valid and current permit has been issued by an agency of competent jurisdiction.

(d). It is the intent of the City Council of the City of Palm Coast to ensure that use of docks and related facilities or structures located on or along the Waters of the City occurs in a manner that is conducive to the public interest, which protects the environment and natural resources and is otherwise in the public interest.

SECTION 2. DEFINITIONS. The following words and phrases shall have the meanings as hereinafter defined when used in this Ordinance:

(a) **Best Management Practices** means and includes, but is not limited to, scheduled activities, prohibitions, practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, treatment requirements, operating procedures, design specifications, and other management practices that are generally accepted in the field that are intended to ensure that waters

and water bodies are not polluted or degraded and are adequately protected and preserved.

(b). **Hazardous Materials** means any material including, but not limited to, 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.

(c). **Liquid** means any and all types of liquids except rainwater.

(d) **Material** means and includes, but is not limited to, dirt, bricks, grass clippings, lumber, trash, yard debris or wood.

(e) **Person** means a natural person or individual or any firm, corporation, association, club, society or other organization.

(f). **Pollutant** means anything which causes or contributes to pollution which may include, but is not limited to, paints, varnishes, solvents, oil, automotive fluids, solid wastes, wastewater, sewage, fecal coliform and pathogens, yard wastes, refuse, rubbish, garbage, litter, pesticides, herbicides, fertilizers, hazardous substances and wastes, dissolved and particulate metals, animal wastes, construction related wastes and residues, debris, noxious or offensive matter, and related or similar matters or materials , in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere

with the enjoyment of life or property.

(g). **Waters of the City** means lakes, ponds, impoundments, the Intracoastal Waterway, streams, or any other body of water or waterway, or any tributary to said bodies of water or waterways, located within the City Limits of the City of Palm Coast or abutting the City Limits of the City of Palm Coast.

SECTION 3. PROHIBITED ACTS/OBLIGATIONS AND DUTIES.

(a). It is unlawful for a person to throw, deposit or discharge or otherwise cause to be placed any materials, including but not limited to pollutants or liquid containing any pollutants that cause or contribute to a violation of applicable water quality standards, into any street, gutter, storm or sewer system, and into Waters of the City except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water and sanitary sewer activities in direct support of water supply and treatment plant operations as permissible by law, landscape irrigation or lawn watering, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, non-commercial washing of vehicles and vessels, storm water from permitted or properly designed storm water systems, natural wetland flows, swimming pools less than one parts per million (PPM) chlorine, fire fighting activities, fertilizers

and pesticides applied for normal lawn treatment and maintenance and any other water source not containing pollutants.

2. Discharges specified in writing by the authorized federal, State, or other applicable enforcement agency as being necessary to protect public health and safety.

3. The prohibition shall not apply to any non-storm water discharge permitted under a National Pollutant Discharge Elimination System (NPDES) or Industrial Wastewater treatment (IWWT) permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency (EPA), or Florida Department of Environmental Protection (FDEP) provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval or all necessary permits have been granted for any discharge into Waters of the City.

(b). It is unlawful for a person in charge of or occupying a vessel docked at or moored to land, docks, piers or wharfs abutting Waters of the City to fail to observe the applicable health and sanitary laws, rules and regulations relating to such activities and waters which prohibit acts contrary to the public health, safety, morals or welfare.

(c) The City shall take all appropriate actions relating to vessels that are abandoned in Waters of the City and shall coordinate its activities with the Florida Fish and Wildlife Conservation Commission in accordance with the provisions of State law.

(d). It is the obligation and duty of all persons to utilize Best Management Practices in conducting activities abutting, on or proximate to the Waters of the City and it is unlawful for a person to fail to use Best Management Practices as required.

SECTION 4. PENALTIES.

(a). Any person or persons convicted of violating any of the provisions of this Ordinance be punished by a fine of not more than Five Hundred and no/100 Dollars (\$500.00) plus costs of prosecution or by imprisonment for not more than sixty (60) days, or by both fine and costs and imprisonment in the discretion of the Court.

(b). The provisions of this Ordinance may be enforced by any and all lawful means by the City pursuant of all codes and ordinances duly adopted by the City Council or as may otherwise be available to the City pursuant to State law and nothing contained in this Ordinance shall prohibit the City from enforcing this Ordinance by other means set forth in the City's codes and ordinance, provided in the statutory law of the State of Florida, or otherwise available to the City.

SECTION 5. CONFLICTS. All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 6. SEVERABILITY. If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 7. CODIFICATION. This Ordinance shall be codified in the *City Code of the City of Palm Coast* except that Sections 5, 6, 7 and 8 shall not be codified.

SECTION 8. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

APPROVED on first reading the 20th day of January 2004.

ADOPTED on second reading the 3rd day of February 2004 at a public hearing.

ATTEST:



CLARE HOENI
City Clerk

**CITY COUNCIL
CITY OF PALM COAST, FLORIDA**



JAMES V. CANFIELD
Mayor

**Flagler/Palm Coast
NEWS-TRIBUNE**

Published Each Wednesday and Saturday
Flagler County, Florida

2004-01

**State of Florida,
County of Flagler:**

Before the undersigned authority personally appeared

Kevin Hancock

Who, on oath says that he is

Classified Call Center Manager

of The Flagler/Palm Coast NEWS-TRIBUNE, a
twice weekly newspaper published Flagler County,
Florida; that the attached copy of advertisement,
being a

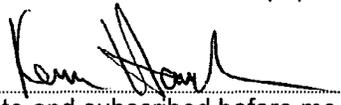
Notice of Public Hearing

in the matter of Ordinance No. 2004-xx – Concerning
Protection of Natural Resources and Water

in the Court

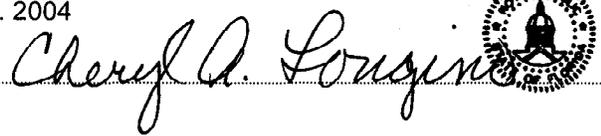
was published in said newspaper in the issues
January 24, 2004

Affiant further says that The Flagler/Palm Coast
News-Tribune is a newspaper published in said
Flagler County, Florida, and that the said newspaper
has heretofore been continuously published in said
Flagler County, Florida, each Wednesday and
Saturday and has been entered as second-class mail
matter at the post office in Flagler Beach, in said
Flagler County, Florida, for a period of one year next
preceding the first publication of the attached copy of
advertisement; and affiant further says that he has
neither paid nor promised any person, firm or
corporation any discount, rebate, commission or
refund for the purpose of securing this advertisement
for publication in the said newspaper.



Sworn to and subscribed before me

this 26th day of January
A.D. 2004



CHERYL A. LONGINO
Notary Public, State of Florida
My comm. expires Aug. 29, 2007
Comm. No. DD 232199

LEGAL ADVERTISEMENT

**CITY OF PALM COAST
NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held before the City Council of the City of Palm Coast on February 3, 2004 beginning at 6:30 p.m. in Council Chambers at 305 Palm Coast Parkway North East, Palm Coast, Florida. The purpose of the hearing is to hear all interested parties and act upon the adoption of Ordinance Number 2004-xx entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE PROHIBITION OF DISCHARGES INTO WATERS OF THE CITY; PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES AND WATERS OF THE CITY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED ACTS; PROVIDING FOR OBLIGATIONS AND DUTIES; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE". This ordinance is available for review at Palm Coast City Hall, 2 Commerce Drive, Palm Coast, FL.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in these proceedings should contact Clare M. Hoenl, City Clerk, at 386-986-3713 at least 48 hours prior to the meeting.

If any person decides to appeal any decision made by Council with respect to any matter considered at such hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Legal NT8532. January 24, 2004 lt.

2004

ENTERED FEB 19 2004