

**ORDINANCE 2018- 25**  
**AMENDING CHAPTER 24 OF**  
**THE CODE OF ORDINANCES**

**AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA,  
AMENDING THE CITY’S CODE OF ORDINANCES, CHAPTER 24  
– ENVIRONMENT, ARTICLE II, POLLUTION CONTROL,  
DIVISION 2, EROSION CONTROL; AND ARTICLE VI,  
PROHIBITION OF DISCHARGES; TO ALIGN WITH  
AMENDMENTS TO CHAPTER 9 OF THE ULDC; PROVIDING  
FOR SEVERABILITY; PROVIDING FOR CODIFICATION;  
PROVIDING FOR CONFLICTS; AND PROVIDING AN  
EFFECTIVE DATE**

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, changes to Chapter 9 of the Unified Land Development Code are being made to bring stormwater and engineering standards up to current requirements for the City’s FDEP MS4 Permit; and

**WHEREAS**, the City Council of Palm Coast desires to change Chapter 24 of the Code of Ordinances so it aligns with the updated Chapter 9 of the Unified Land Development Code; and

**WHEREAS**, words with underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (\* \* \*) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

**NOW, THEREFORE**, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:

**SECTION 1. LEGISLATIVE FINDINGS.** The foregoing whereas clauses are incorporated here as legislative findings by this reference and made a part hereof for all intents and purposes.

**SECTION 2. Chapter 24 – ENVIRONMENT, ARTICLE II. POLLUTION**

**CONTROL, DIVISION 2. – EROSION CONTROL** is hereby amended to read as follows:

**Sec. 24 – 76. - Protection of surface water bodies.**

(a) *Definitions.* The following terms, when used in this section, shall have the meanings ascribed herein, except where context clearly indicates a different meaning:

*Bulkhead* means a structure built between a waterbody on one side and land on the other side.

*Water bodies* means fresh and salt water canals, ditches, lakes, marshes, rivers, swamps and swales in the City.

*Surface water* means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface [Section 373.019(21), F.S.]

(b) *Violations.* It shall be a violation:

- (1) To dump vegetative material or a container of yard clippings into a waterbody.
- (2) To allow material from a construction site to be deposited or to erode into a waterbody, and fails to remove same within 15 days after notification of noncompliance.
- (3) For an owner or his agent to allow or maintain hazards from objects projecting or hanging into water bodies.
- (4) For a contractor to fail to backfill bulkheads within 30 days after construction or repair of the bulkhead.
- (5) For persons onshore or aboard a water craft to discharge human wastes into a waterbody.

(c) *Exceptions to violations.* [The following are exceptions to the violations listed in subsection (b):]

- (1) Temporary water bodies created to hold runoff water during construction.
- (2) Special exceptions granted by the City on application where sufficient reason and safeguards are shown to protect the public interest.

(d) *Methods to prevent erosion.* Persons involved in the construction, remodeling or repair of buildings and/or pools in the City shall ~~take steps~~ use Best Management Practices to prevent erosion of surface soil into adjoining water bodies. Best Management Practices shall be designed in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (June 2007) and the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual (FDEP July 2008) and shall be shown on the "Grading and Drainage Plan" or on a separate "Erosion Control Plan". Any one or more of the following methods shall be used at the option of the contractor or owner on side and backyard water bodies, unless directed to the contrary by the City:

- (1) A strip of vegetated land not less than eight-feet wide shall be left undisturbed on the site adjacent to a waterbody, as defined in subsection (a) above;

- (2) In the rear or side yard leading to a waterbody, a properly staked and installed filter cloth screen across the lot line shall be maintained until the lot has been sodded and landscaped;
- (3) Bales of straw or hay may be used to prevent soil runoff in place of a filter cloth screen or eight-foot vegetated strip;
- (4) Any other erosion control devices approved by the City Manager or designee.

(e) *Installation of erosion control devices.* Staked filter cloth or other approved erosion control devices shall be installed and its function maintained at the downstream end of a roadside swale adjoining the property to prevent soil run-off.

(f) *Erosion control during construction/repair of seawalls, bulkheads.* Prior to the start of construction, persons involved in the construction or repair of seawalls and bulkheads shall ~~take action~~ use Best Management Practices to prevent erosion from the adjoining property into the waterbody.

- (1) For properties on which building construction will begin within 90 days, backfill shall be to the top of the seawall, establishing a swale not less than five feet from the seawall to collect any eroded material. On completion of final grade on the site, the work shall be sodded. In instances where sodding is delayed, erosion control devices must be maintained until the site is sodded.
- (2) For properties on which construction is not to start within 90 days, the site shall be left with minimal clearing and approved erosion control devices installed sufficient in size and number to catch and retard erosion until the site is developed.

### **SECTION 3. CHAPTER 24 – ENVIRONMENT, ARTICLE VI. – PROHIBITION**

**OF DISCHARGES,** is hereby amended to read as follows.

#### **Sec. 24-203. Intent and purpose.**

(a) It is the intent and purpose of the City Council of the City of Palm Coast to prohibit activities that result in the depositing (e.g., illicit discharging) 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, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment; or 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, following the Federal Clean Water Act (33 U.S.C. 1251 et seq.) and Municipal Separate Storm Sewer Systems Rules (Chapter 62-624 F.A.C. pursuant to the authority of Section 403.0885 F.S.) as guidelines.

(b) 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.

(c) 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.

**Sec. 24-204. - Definitions.**

The following words and phrases shall have the meanings as hereinafter defined when used in this article:

(a) *Best ~~m~~Management ~~p~~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 to prevent or reduce pollutants from entering the City stormwater system or being discharged from the City stormwater system.~~

(b) *Clean Water Act or CWA* means 33 U.S.C. 1251 et seq., as amended .

(c) *Construction and demolition debris* means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes:

- (1) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;
- (2) Except as provided in F.S. 403.707(9) (j), yard trash and unpainted, non-treated wood scraps and wood pallets from sources other than construction or demolition projects;
- (3) Scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding, concrete and similar materials from industrial or commercial facilities.

(d) *Garbage* means any waste accumulation of animal, fruit, or vegetable matter used or intended for food or that accompanies the preparation, use, cooking, processing, handling or storage of meat, fish, fowl, fruit or vegetables or any other matter which is subject to decomposition, decay, putrefaction and the generation of offensive and noxious gases or odors.

(e) *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.

(f) Hazardous waste means any solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed. The term does not include human remains that are disposed of by persons licensed under F.S. Chapter 497.

(g) *Illicit connection* means a point source discharge to the city's stormwater system or to waters of the United States, which is not composed entirely of stormwater or which is not authorized by a permit.

(h) *Illicit discharge* means any discharge to the city's stormwater system or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to this regulation or an NPDES permit.

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

(j) *Litter* means all waste and discarded materials, including but not limited to, glass, cans, scrap metal, paper, plastic, rubber, garbage, building materials, disposable packages or containers, chemicals, or deleterious materials not properly disposed.

(k) *Litter receptacle* means a container with a capacity of not less than ten (10) gallons, constructed and placed for use as a depository for litter.

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

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

(n) *Point source* means any discernible and confined conveyance including, but not limited to, any pipe, ditch, channel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are discharged. This term does not include return flows from irrigated agriculture.

(o) *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~~ petroleum products, including, but not limited to, oil, gasoline, and grease, solid waste, dredged soil, refuse, rubbish, garbage, litter, debris, paints, varnishes, steam cleaning waste, pesticides, herbicides, or fertilizers, degreasers, solvents; hazardous substances and wastes, dissolved and particulate metals, sanitary sewage, filter backwash, sewage sludge, fecal coliform and pathogens, wastewater, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.), chemically treated cooling water, chemical wastes, incinerator residue, antifreeze and



other automotive products, lawn clippings, leaves, branches, etc., animal carcasses and wastes, biological materials, munitions, heat, wrecked or damaged equipment, rock, sand and industrial, (excepting the county's discharges), recreational vehicle waters, dyes, noxious or offensive matter, construction materials, any liquids in quantity or quality which are capable of causing a violation of the City's NPDES stormwater permit; and solids in such quantities or of such size capable of causing interference or obstruction to the flow in the City's stormwater system (MS4). Not excluding other materials which the City Manager or designee, federal or state regulatory agencies may deem appropriate to be included. .

(p) *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.

(q) *Water or Waters in the State* means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state. [Section 373.019(22), F.S.]

(r) *Wetland* means those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands is delineated pursuant to Sections 62-340.100 through 62.340.550, FAC as ratified by F.S. § 373.4211 (Subsection 40C-4.021(30), FAC).

#### **Sec. 24-205. - 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: (a) No discharge to the City's stormwater system ("MS4") shall be permitted to impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES permits.~~

- ~~1. The following discharges are exempt from discharge prohibitions established by this article: 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, noncommercial 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.~~

(b) 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 City Manager, or designee, and shall be responsible for fines and damages as indicated in Subsection I below.

(c) *Prohibition of illicit discharges and illicit connections:*

(1) Illicit discharges and illicit connections to the City's MS4 are prohibited.

(2) Failure to report a connection to the City's MS4 or to waters of the United States from industrial activities, commercial entities, or construction activities constitutes an illicit connection.

(3) Failure to report to the City a discharge to the City's MS4 or to waters of the United States from industrial activities, commercial entities, or construction activities constitutes an illicit discharge.

(4) Any discharge to the City's MS4 or to waters of the United States which is in violation of federal, state, or local permits or regulations constitutes an illicit discharge.

(5) Persons responsible for illicit discharges or illicit connections shall immediately cease the illicit discharge or illicit connection, and obtain appropriate approvals from applicable regulatory agencies prior to resuming the discharge or connection.

(d) *Inspection and Monitoring for Compliance.* City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to the City's MS4 or waters of the United States in order to effectuate the provisions of this chapter and to investigate violations or potential violations of any of the terms herein. All structures and processes which allow discharges to the City's MS4, as well as records concerning them, shall be made accessible to the City's personnel for this purpose.

(e) *Maintenance of Structures.* Structural control and other BMPs used for controlling the discharge of pollutants to the City's MS4 or to waters of the United States, shall be operated and maintained so as to function in accordance with permitted design and performance criteria and in compliance with federal, state, or local permit conditions and regulations.

(f) *Exemptions.* Discharges from the following activities shall not be considered an illicit discharge or illicit connection, unless such activities cause, or significantly contribute to, the impairment of the use of the City's MS4 or the violation of the conditions of the City's NPDES permit. The following discharges are exempt from discharge prohibitions established by this article:

(1) Water line flushing;

- (2) Flushing of reclaimed water lines;
- (3) Street cleaning;
- (4) Sidewalk/building power washing (that does not utilize chemicals, detergents, etc.);
- (5) Construction dust control;
- (6) Landscape irrigation;
- (7) Diverted stream flows or lake waters;
- (8) Foundation, footing, and roof drains (not including active groundwater dewatering systems);
- (9) Uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20));
- (10) Discharges from potable water sources;
- (11) Air conditioning condensate or cooling water;
- (12) Springs;
- (13) Lawn watering;
- (14) Individual residential car washing;
- (15) Flows from riparian habitat, surface waters, and wetlands;
- (16) Discharges or flow from emergency firefighting activities and emergency response activities done in accordance with adopted spill response/action plan;
- (17) Fertilizers and pesticides applied for normal lawn treatment and maintenance;
- (18) Discharges specified in writing by the authorized federal, State, or other applicable enforcement agency as being necessary to protect public health and safety; and
- (19) The prohibition shall not apply to any non-stormwater 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.

(g) It shall be unlawful for any person to drain, deposit, place or otherwise discharge pollutants into any stormwater system within the City, or to cause or permit to be drained, deposited, placed or otherwise discharged into such stormwater systems, any organic or inorganic matter which causes pollution, pursuant to the water quality standards established by all applicable regulatory agencies.

(h) It shall be unlawful to wash any public or private streets, buildings, sidewalks or parking areas, unless all visible debris and sediments have been removed prior to washing. If the removal of the debris and sediments is not feasible, as determined by the Land Use Administrator, then the street, building, sidewalk or parking area may only be washed with the City Engineer's



written approval, which may include requirements to clean the affected drainage pipelines or provide treatment of wastewater to prevent downstream pollution.

(i) 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.

(j) 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.

(k) 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.

(l) Construction site refuse, solid waste, and litter.

(1) Owner, agent, and contractor shall not permit the accumulation of litter before, during or after completion of any construction or demolition project.

(2) It shall be the responsibility of the owner, agent and contractor to provide litter receptacles and prevent scattering of litter on a daily basis. All litter shall be removed from construction sites not less than once a week.

(3) No person shall place any refuse, recyclable materials, trash, garbage cans or trash bags on, upon or over any storm drain, or so close thereto as to be drawn by the elements into a storm drain, which would result in or tend to cause a blockage of any part of such storm drainage system.

(4) It shall be the responsibility of owners or agents to keep areas free of garbage, trash, etc. The owners, agents, tenants or lessees of all property, whether improved or unimproved, including residential homes, apartment units, and businesses, shall be responsible for complying with the provisions of this chapter. The owners, agents, tenants or lessees shall be severally and jointly responsible for keeping the following areas free from garbage, solid waste, recyclable materials, and refuse at all times, exclusive of those periods immediately prior to collection, such areas to include the entire premises as well as the roadway, swale, and easement adjoining the property.

(5) Builders, building contractors, construction tradesmen, and homeowners shall be responsible for removing all excavation, construction and demolition wastes emanating from their work, and shall use vehicles designed or outfitted so as to prevent the wastes carried therein from being blown, dropped, or spilled from such vehicles.

(l) (1) Any persons convicted of violating any of the provisions of this Section shall 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.

(2) The provisions of this Section may be enforced by any and all lawful means by the City pursuant to 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 in this Code prohibits the City from enforcing this Section by other means set forth in the City's codes and ordinances, provided in the statutory law of the State of Florida, or otherwise available to the City.

**SECTION 4. SEVERABILITY.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 5. CODIFICATION.** It is the intent of the City Council that the provisions of this ordinance shall become and be made a part of the City of Palm Coast Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 6. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**Approved** on first reading this 16th day of October 2018.

**Adopted** on the second reading after due public notice and hearing this 6<sup>th</sup> day of November, 2018.

**CITY OF PALM COAST, FLORIDA**



MILISSA HOLLAND, MAYOR

ATTEST:



VIRGINIA SMITH, CITY CLERK

Approved as to form and legality:



William E. Reischmann, Jr., Esq.

