



City of North Port

ORDINANCE NO. 05-47

AN ORDINANCE AMENDING AND RESTATING CHAPTER 180, POLLUTION, ARTICLE II WATER POLLUTION CONTROL; SECTIONS 180-20 THROUGH 180-25 INCLUSIVE, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH PORT; PROVIDING FOR LEGISLATIVE INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESPONSIBILITY OF ADMINISTRATION; PROVIDING FOR INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES; PROVIDING FOR PROHIBITION OF ILLICIT DISCHARGES; PROVIDING FOR PENALTIES AND REMEDIES; PROVIDING FOR EFFECT ON CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY OF PROVISIONS, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, municipalities and counties within the State of Florida are required to annually submit a Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Report to the State of Florida Department of Environmental Protection; and

WHEREAS, the City of North Port is required as part of their 2004 Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Report due on November 1, 2005, to adopt legislation governing Illicit Discharge Regulations; and

WHEREAS, a review of the City of North Port Code, Chapter 180, Article II found that other sections needed to be revised and updated.

NOW, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT FLORIDA, THAT:

SECTION 1: Chapter 180, Pollution, Article II, Water Pollution, Sections 180-20 through 180-25, inclusive of Ordinances of the City of North Port is hereby amended and restated as set forth in the attached Exhibit A, attached hereto and incorporated herein.

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SECTION 2: All Ordinances or parts of Ordinances in conflict herewith and the same are hereby repealed.

SECTION 3: SEVERABILITY

3.01 - If any section, subsection, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: CONFLICTS

4.01 - In the event of any conflict between the provisions of this Ordinance and any other ordinance, resolution, or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 5: EFFECTIVE DATE

5.01 - The provisions of this Ordinance shall become effective immediately upon passage.

Read in public session this 11th day of October, 2005.

PASSED AND ADOPTED on the second and final reading in public session this 26th day of October, 2005.

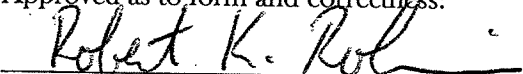
CITY OF NORTH PORT, FLORIDA


RICHARD A. LOCKHART, COMMISSION
CHAIR

ATTEST:


HELEN M. RAIMBEAU, CMC
CITY CLERK

Approved as to form and correctness:


ROBERT K. ROBINSON
CITY ATTORNEY


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EXHIBIT A

ARTICLE II. WATER POLLUTION CONTROL ILLICIT DISCHARGE REGULATIONS.

§ 180-20. Findings

~~A. Pursuant to Article VIII, Section 2(b), of the Florida Constitution and FS § 166.021, the City of North Port may exercise any power for municipal purposes, except when expressly prohibited by law.~~

~~B. The Charter of the City of North Port, Section 1.02, grants to the City Commission the power to make regulations to secure the general health of the inhabitants and to prevent and remove nuisances affecting the health of the community.~~

~~C. The jurisdiction of the City of North Port has full force and effect over the waters of all rivers, creeks, harbors, bays and other watercourses contained within its corporate limits.~~

~~D. Discharges of organic and inorganic matter which cause water pollution or nuisances adversely affect the public health, safety and welfare of the people of the City of North Port.~~

~~E. The prevention and abatement of pollution of the waters of the City of North Port and the suppression of nuisances are affected with a public interest, and the provisions of this article are enacted for municipal purposes in the exercise of the police power of the City for the purpose of protecting the health, safety and general welfare of the people of the City of North Port.~~

~~F. The provisions of this article are not expressly prohibited by law nor in conflict therewith.~~

~~G. The proliferation of discharges of organic or inorganic matter into the waters of the City of North Port and the possibility of additional discharges with the commencement of the summer rainy season pose a substantial and imminent threat to human health and welfare and plant and animal life, necessitating the adoption of this emergency ordinance.~~

~~H. It is the unanimous opinion of the City Commission that this emergency ordinance is deemed necessary for the public health, safety and welfare for the City of North Port.~~

LEGISLATIVE INTENT AND PURPOSE.

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the City of North Port 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. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Ordinance are:

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(1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.

(2) To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this Ordinance.

§ 180-21. Definitions.

As used in this article, the following terms shall have the meanings indicated:

~~NUISANCE — The commission of any act or the causing, keeping, maintaining, propagation, existence or permission of any condition by which the health or life of an individual or individuals may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused. Discharges which create, maintain or cause any condition capable of breeding flies, mosquitoes or other arthropods capable of transmitting diseases, directly or indirectly, to humans shall be deemed a "nuisance." Discharges consisting of human waste or waste materials from manufacturing processes which have not been treated or disposed of as required by federal, state or county law or any permit issued pursuant thereto shall be deemed a "nuisance."~~

~~PERSON — Any public or private corporation, individual, partnership, association or other entity and includes any officer or agent thereof.~~

~~SITE OF INDUSTRIAL ACTIVITY — Any area or facility used for manufacturing, processing or raw materials storage, as defined under 40 CFR 122.26(b)(14) of regulations of the United States Environmental Protection Agency, as the same may from time to time be amended. [Added 4-12-1993 by Ord. No. 93-15; amended 4-7-1997 by Ord. No. 97-10]~~

~~WATER POLLUTION — The presence in the waters of the City of North Port of any substances, contaminants or man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water in quantities or levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life or property or which unreasonably interfere with the enjoyment of life or property, including recreation. Discharges which violate the water quality criteria established for the receiving water by Chapter 17-3, Florida Administrative Code, as the same may from time to time be amended, hereby incorporated by reference, are deemed to constitute "water pollution." Discharges authorized pursuant to a currently valid federal, state or county permit and which are in compliance with all terms and conditions of such permits are deemed not to constitute "water pollution" for the purposes of this article. The City of North Port does not hereby waive its rights to contest the issuance of any federal, state or county permit authorizing any discharge into waters of the City nor to contest a federal, state or~~

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county determination with regard to compliance with the terms and conditions of said permits.

For the purposes of this Ordinance, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the director of the municipal agency designated to enforce this Ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water 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. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. 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 Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 180-24 of this Ordinance.

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of North Port and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by the State of Florida Department of Environmental Protection 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-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person. 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. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: 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 coli form 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. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

§ 180-22. Prohibited discharges.

~~A. It shall be unlawful for any person to throw, drain, run or otherwise discharge into any of the waters within the corporate limits of the City of North Port or to cause, permit or suffer to be thrown, drained, run, allowed to seep or otherwise discharged into such waters any organic or inorganic matter which shall:~~

- ~~(1) Cause water pollution as defined herein; or~~
- ~~(2) Cause a nuisance as defined herein.~~

~~B. It shall also be unlawful for any person to dispose of, dump or spill any materials other than those composed entirely of~~

~~stormwater in the separate storm sewer system, whether such materials are in a solid or liquid form.~~

Responsibility for Administration.

The Public Works Department and Engineering Department shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Public Works Department and Engineering Department may be delegated in writing by the Director of the Public Works Department and the Director of the Engineering Department to persons or entities acting in the beneficial interest of or in the employ of the agency.

§ 180-23. Penalties and Remedies.

- ~~A. The City of North Port may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this article and to seek injunctive relief to prevent irreparable injury to the waters and property of the City, including animal, plant and aquatic life, and to protect human health, safety and welfare caused or threatened by any violation of this article.~~
- ~~B. The City of North Port may institute a civil action in a court of competent jurisdiction to establish liability and recover damages for any injury to the waters or property of the City, including animal, plant and aquatic life, caused by any violation of this article. Damage shall include reasonable costs and expenses of the City in tracing the source of the discharge, in controlling and abating the source and in restoring the waters and property, including animal, plant and aquatic life, to their former condition.~~
- ~~C. The City of North Port may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation of this article in an amount of not more than \$10,000 per offense. Each day during any portion of which such violation occurs constitutes a separate offense.~~
- ~~D. Violations of this article may be enforced by resort to the City of North Port Code Enforcement Board.~~
- ~~E. It is the intent of this article to impose strict liability for discharges prohibited herein.~~
- ~~F. All remedies contained in this section are independent and cumulative.~~
- ~~G. The City of North Port shall be entitled to recover all reasonable costs, expenses and attorneys fees incurred by the City in its enforcement of this article from any person adjudicated as having violated this article.~~
- ~~H. Sites of industrial activity with stormwater discharges that fail to meet the above discharge criteria or otherwise violate any federal, state, City or other local law or regulation will be required to cease all violating discharges to the municipal separate storm sewer system.~~

Industrial or Construction Activity Discharges.

A Notice of Intent (NOI) shall be submitted to the Public Works Department Director and Engineering Department Director for their review and approval. In addition, the following criteria shall be met:

(1) Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of North Port Public Works Department and Engineering Department prior to the allowing of discharges to the MS4.

(2) The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the NOI to the City of North Port Public Works Department and Engineering Department at the same time the operator submits the original Notice of Intent to the State of Florida Department of Environmental Protection as applicable.

(3) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial or construction activity without having submitted a copy of the NOI to do so to the City of North Port Public Works Department and Engineering Department.

§ 180-24. Effect on Conflicting Provisions.

~~The provisions of this article shall prevail in the event of conflict with the provisions of any existing ordinance or regulation of the City of North Port.~~

Prohibition of Illicit Discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water. The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning

condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

(2) Discharges or flow from firefighting, and other discharges specified in writing by the City of North Port Fire/Rescue District as being necessary to protect public health and safety.

(3) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Florida Department of Environmental Protection, 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 has been granted for any discharge to the storm drain system.

§ 180-25. Additional Powers. Penalties and Remedies.

A. The City of North Port may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this article and to seek injunctive relief to prevent irreparable injury to the waters and property of the City, including animal, plant and aquatic life, and to protect human health, safety and welfare caused or threatened by any violation of this article.

B. The City of North Port may institute a civil action in a court of competent jurisdiction to establish liability and recover damages for any injury to the waters or property of the City, including animal, plant and aquatic life, caused by any violation of this article. Damage shall include reasonable costs and expenses of the City in tracing the source of the discharge, in controlling and abating the source and in restoring the waters and property, including animal, plant and aquatic life, to their former condition.

C. The City of North Port may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation of this article in an amount of not more than \$10,000 per offense. Each day during any portion of which such violation occurs constitutes a separate offense.

D. Violations of this article may be enforced by resort to the City of North Port Code Enforcement Board.

E. It is the intent of this article to impose strict liability for discharges prohibited herein.

F. All remedies contained in this section are independent and cumulative.

G. The City of North Port shall be entitled to recover all reasonable costs, expenses and attorneys fees incurred by the City in its enforcement of this article from any person adjudicated as having violated this article.

H. Sites of industrial activity with storm water discharges that fail to meet the above discharge criteria or otherwise violate any

federal, state, City or other local law or regulation will be required to cease all violating discharges to the municipal separate storm sewer system.

§ 180-26. Effect on conflicting provisions.

The provisions of this article shall prevail in the event of conflict with the provisions of any existing ordinance or regulation of the City of North Port.

§ 180-27. Additional powers.

~~In addition to any other powers vested thereto by law, the Health and Public Environment Department shall conduct all inspection, surveillance and monitoring procedures to determine compliance and noncompliance with this article.~~

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DATE: 10-26-05