

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, PROVIDING FOR THE REGULATION OF SPILLS AND DUMPING; PROVIDING FOR PROHIBITION OF ILLICIT CONNECTIONS; PROVIDING FOR ENFORCEMENT AND PENALTY; PROVIDING FOR INSPECTION AND MONITORING; PROVIDING A CODIFICATION, SEVERABILITY, AND CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Federal Clean Water Act (33 U.S.C. 1251 et seq.), as implemented by regulations of the U.S. Environmental Protection Agency adopted November 16, 1990 (40 CFR Part 122), make necessary the adoption of local ordinance provisions relating to the Stormwater System; and

WHEREAS, the City of West Palm Beach is seeking to comply with all provisions of federal and state law; and

WHEREAS, the City Commission has conducted legally noticed public hearings and has provided all interested parties an opportunity to be heard on these ordinance provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA that:

SECTION 1: ARTICLE 1.0 TITLE, PURPOSE AND DEFINITIONS.

This Ordinance shall be known as the "City of West Palm Beach Initial Stormwater Control Ordinance," and may be so cited.

Section 1.1 Purpose and Intent

The purpose of this Ordinance is to promote the health, safety and general welfare of the inhabitants of the City of West Palm Beach. This Ordinance is intended to comply with federal and state law and regulations regarding water quality.

Section 1.2 Definitions.

- (a) Authorized Official: Any employee or agent of the City of West Palm Beach authorized in writing by the Director to administer or enforce the provisions of this Ordinance.
- (b) Director: The Director of Public Utilities.
- (c) Discharge: Any direct or indirect entry of any solid, liquid or gaseous matter.
- (d) Person: Any natural individual, corporation, partnership, institution, or other entity.
- (e) Site of Industrial Activity: Any area or facility used for manufacturing, processing or storing of raw materials, as defined under 40 CFR Section 122.26(a)(14) of regulations of the U.S.

Environmental Protection Agency, as amended.

- (f) Stormwater: Any stormwater runoff, and surface runoff and drainage.
- (g) Stormwater System: The system of conveyances within the City of West Palm Beach used for collecting, storing, and transporting stormwater but not including any facilities intended to be used in accordance with applicable laws for collecting and transporting sanitary or other wastewater.

ARTICLE 2.0 INDUSTRIAL ACTIVITY.

Section 2.1 General Prohibitions.

Any Discharge into the Stormwater System in violation of any federal, state, county, municipal or other law, rule, regulation or permit is prohibited.

Section 2.2 Specific Prohibitions.

By adoption of industrial activity stormwater regulations or by issuance of industrial activity stormwater permits, or both, the Director may impose reasonable limitations as to the quality of Stormwater (including, without limitation, the designation of maximum levels of pollutants) discharged into the Stormwater System from Sites of Industrial Activity. Any promulgation of such regulations and issuance of permits by the Director shall be in accordance with applicable law.

Section 2.3 Administrative Orders.

The Director may issue an order to any Person to immediately cease any Discharge determined by the Director to be in violation of any provision of this Ordinance, or in violation of any regulation or permit issued hereunder.

Section 2.4 NPDES Permits.

Any Person who holds a National Pollutant Discharge Elimination System (NPDES) permit shall provide a copy of such permit to the Director no later than the later of sixty (60) calendar days after the effective date of this Ordinance or sixty (60) calendar days after issuance.

ARTICLE 3.0 ILLICIT DISCHARGES

Section 3.1 General Prohibitions.

Except as set forth under Section 3.3 of this Ordinance or as in accordance with a valid NPDES permit, any Discharge to the Stormwater System that is not composed entirely of Stormwater is prohibited.

Section 3.2 Specific Prohibitions.

Any Discharge to the Stormwater System containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits, is prohibited.

Section 3.3 Authorized Exceptions.

Unless the Director determines that it is not properly managed or otherwise is not acceptable, the following Discharges are exempt from the general prohibition set forth under Section 3.1 of this Ordinance: flows from fire fighting, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration to the Stormwater System, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, and dechlorinated swimming pool contributions.

Section 3.4 Illicit Connections.

No person may maintain, use or establish any direct or indirect connection to the Stormwater System that results in any Discharge in violation of this Ordinance. This prohibition is retroactive and applies to connections made in the past, regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time of the connection was made.

Section 3.5 Administrative Order.

The Director may issue an order to any Person to immediately cease any Discharge, or any connection to the Stormwater System, determined by the Director to be in violation of any provision of this Ordinance, or in violation of any regulation of permit issued hereunder.

ARTICLE 4.0 SPILLS AND DUMPING

Section 4.1 General Prohibitions.

Except as set forth under Section 3.3 of this Ordinance or as in accordance with a valid NPDES permit, any Discharge to the Stormwater System that is not composed entirely of Stormwater is prohibited.

Section 4.2 Specific Prohibitions.

Any Discharge to the Stormwater System containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits, is prohibited.

Section 4.3 Notification of Spills.

As soon as any Person has knowledge of any Discharge to the Stormwater System in violation of this Ordinance, such Person shall immediately notify the Director by telephoning (561) 659-8085, and if such Person is directly or indirectly responsible for such Discharge, then such Person shall also take immediate action to ensure the containment and cleanup of such Discharge and shall confirm such telephone notification in writing to the Director of Public Utilities, City of West Palm Beach, P.O. Box 3506, West Palm Beach, FL 33402, within three (3) calendar days.

Section 4.4 Administrative Order.

The Director may issue an order to any Person to immediately cease any Discharge, or connection to the Stormwater System, determined by the Director to be in violation of any provision of this Ordinance, or in violation of any regulation or permit issued hereunder.

ARTICLE 5.0 ENFORCEMENT

Section 5.1 Injunctive Relief.

Any violation of any provision of this Ordinance, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety or general welfare.

Section 5.2 Continuing Violation.

A Person shall be deemed guilty of a separate violation for each and every day during any continuing violation of any provision of this Ordinance, or of any regulation or permit issued hereunder.

Section 5.3 Enforcement Actions.

The Director may take all actions necessary, including the issuance of notices of violation, the filing of court actions and/or referral of the matter of the local Code Enforcement Board to require and enforce compliance with the provisions of this Ordinance and with any regulation or permit issued hereunder.

ARTICLE 6.0 INSPECTIONS AND MONITORING.

Section 6.1 Authority for Inspections.

Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, or regulation or permit issued hereunder, or whenever an Authorized Official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this Ordinance, or regulation or permit issued hereunder, any Authorized Official may enter any property, building or facility at any reasonable time to inspect the same or to perform any duty related to enforcement of the provisions of this Ordinance or any regulations or permits issued hereunder; provided that (a) if such property, building or facility is occupied, such Authorized Official shall first present credentials and request permission to enter, and (b) if such property, building or facility is unoccupied, such Authorized Official shall make a reasonable effort to locate the owner or other person having charge or control of the property, building or facility, and shall request permission to enter. Any request for permission to enter made hereunder shall state that the owner or person in control has the right to refuse entry, and that in such event that entry is refused, the Authorized Official may enter to make inspection only upon issuance of a search warrant by a duly authorized magistrate. If the owner or person in control refuses permission to enter after such request has been made, the Authorized Official is hereby authorized to seek assistance from any court of competent jurisdiction in obtaining entry. Routine or area-wide inspections shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this Ordinance, including, but not limited to, random sampling and sampling in areas with evidence of stormwater contamination, non-stormwater discharges, or similar factors.

Section 6.2 Authority for Monitoring and Sampling.

Any Authorized Official may establish on any property such devices as are necessary to conduct sampling or metering of Discharges to the Stormwater System. During any inspections made to enforce the provisions of this Ordinance, or regulations or permits issued hereunder, any Authorized Official may take any samples deemed necessary.

Section 6.3 Requirements for Monitoring.

The Director may require any Person engaging in any activity or owning any property, building or facility (including, but not limited to, a Site of Industrial Activity) to undertake such

reasonable monitoring of any Discharge(s) to the Stormwater System and to furnish periodic reports.

SECTION 2: Specific authority is hereby granted to codify this Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4: Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or any part thereof other than the part declared to be invalid.

SECTION 5: This ordinance shall take effect in accordance with law.

FIRST READING THIS _____ DAY OF _____, 1998.

SECOND, FINAL READING IN FULL THIS _____ DAY OF _____, 1998.

(CORPORATE SEAL)

CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION

ATTEST:

PRESIDING OFFICER

CITY CLERK

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