

Ordinance 08-31

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA, RELATING TO DRAINAGE AND FLOOD CONTROL; CONTAINING FINDINGS; DEFINITIONS; REGULATING DISCHARGES INTO THE CITY'S MUNICIPAL STORMWATER SYSTEM; PROVIDING FOR INSPECTION AND MONITORING; PROVIDING FOR MAINTENANCE OF STRUCTURES; PROVIDING EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND LEGAL PROCEEDINGS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA:

Section 1. Chapter 7 of the St. Augustine Beach Code is hereby created to read as follows:

CHAPTER 7.

DRAINAGE AND FLOOD CONTROL

Cross Reference: Former Chapter 7, Drainage and Flood Control, previously codified herein and containing portions of Ord. Nos. 167 and 182, was repealed by Ord. No. 91-7. Other provisions relating to Drainage and Flood Control are contained the City Land Development Regulations as Articles V and VI..

Article I

STORMWATER ILLICIT DISCHARGE

Sec. 7-1 Authority.

The city is authorized by the Florida Constitution and the provisions of the chapters 125, 163 and 403, Florida Statutes, to establish and administer programs for stormwater management, including the control of pollution discharged to the city's storm sewer system.

Sec. 7-2 Findings.

The City Commission finds, determines and declares as follows:

(1) The contribution of pollutants through discharges from storm sewer systems has a significant impact on receiving waters in the city.

(2) Improperly treated discharges from industrial or commercial activities, interconnected municipal separate storm sewer systems, illicit discharges and discharges from spilling, dumping or disposal of material other than stormwater to the municipal storm sewer system of the city adversely affects the quality of water receiving such discharges.

(3) The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Register, has mandated the city, through the issuance of National Pollution Discharge Elimination System (NPDES) permit, to control discharges from the city's storm sewer system to waters of the United States.

Sec. 7-3 Definitions.

For the purposes of this regulation, the following definitions shall apply; words used in the singular shall include plural, and the plural, singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use.

Best management practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, treatment methods and other management practices to prevent or reduce pollutants from entering the municipal storm sewer system or being discharged from the municipal storm sewer system.

City. City of St. Augustine Beach, Florida.

Clean Water Act or CWA. Public Law (PL) 92-500, as amended PL95-217, PL95-576, PL6-483, PL97-117 and 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, PL100-4.

Construction activities. The alteration of land during construction and include such activities as clearing, grading and excavation.

Director. Director of public works of the city or his or her designee.

Discharge. The release of liquid, solid or gaseous material and includes, but is not limited to, a release, spilling, leaking, seeping, pouring, emitting, emptying and/or dumping of any substance of material.

Illicit connection. Point source discharge to the city's municipal stormwater system or to waters of the United States, which is not entirely of stormwater and/or which is not authorized by a permit.

Illicit discharge. A discharge to the city's storm sewer system or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to this regulation, and/or the discharge to the city's storm sewer system or to waters of the United States and which is not in compliance with federal, state and city permits.

Industrial activities. Activities at facilities identified by the United States.

Environmental Protection Agency. Requiring an NPDES stormwater permit in Accordance with 40 Code of the Federal Register, Part 122.26 and/or amendments thereto.

Municipal separate storm sewer system (MS4). A conveyance, storage area or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, treatment ponds and other structural BMPs, owned or operated by local government that discharges to waters of the United States or to other MS4s, that is designed solely for collecting, treating or conveying stormwater, and this is not part of a publicly owned treatment works (POTW), as defined by 40 Code of the Federal Register 122.2 or any context may require.

Person. Any individual, partnership, firm, organization, corporation, association or other legal entity, whether singular or plural, as the context may require.

Point source. 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.

Pollutant. Includes, but is not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.), heat, wrecked or damaged equipment, rock, sand and industrial, municipal (excepting the city's discharges) and agricultural waste discharged into the MS4, and not excluding other materials which the director, his/her representative, federal or state regulatory agencies may deem appropriate to be included.

Reclaimed water. Water that has received at least advanced secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

Reuse. The deliberate application of reclaimed water, in compliance with Florida Department of Environmental Protection and/or St. Johns River Water Management District rules, for a beneficial purpose.

Runoff. The surface flow of water which results from, and occurs following, a rainfall event.

Significant construction activities. Construction activities which result in the disturbance of five acres or more of total land area.

Significant redevelopment. The alteration of an existing development which results in the increase and in the discharge of a stormwater facility beyond its previously designed and constructed capacity, or increased pollution or changed points of discharge, except emergency repairs.

Spill. Illicit discharge.

Stormwater. Surface runoff and the discharge of runoff water resulting from rainfall.

Waters of the United States. Surface and ground waters as defined by 40 Code of the Federal Register 122.2

Sec. 7-4. Discharges to the municipal separate storm sewer system.

(a) No discharge to the city's municipal separate storm sewer 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.

(b) Stormwater discharges to the MS4 from industrial, 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.

(c) 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 director, and shall be liable for fines and damages.

Sec. 7-5. Stormwater discharges from industrial, commercial and construction activities.

(a) Stormwater discharges from 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.

(b) 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 control 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 of stormwater from construction activities, or according to a state permit issued by the Florida Department of Environmental Protection or St. Johns River Water Management District.

(c) Construction activity which is characterized as an illicit connection or illicit discharge if the activity causes and 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.

(d) 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.

Sec. 7-6. Control of pollutant contributions from interconnected municipal storm sewer systems.

The discharge of stormwater between interconnected state, county, cities or other MS4s 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.

Sec. 7-7. Prohibition of illicit discharges and illicit connections.

- (a) Illicit discharges and illicit connections to the city's MS4 are prohibited.
- (b) 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 discharge.
- (c) 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.
- (d) 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.
- (e) Persons responsible for illicit discharges or illicit connections shall immediately cease the illicit discharge or connection, and obtain appropriate approvals from regulatory agencies prior to resuming the discharge or connection.

Sec. 7-8. 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 article 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.

Sec. 7-9. 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.

Sec. 7-10. Exemptions.

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.

- (1) Discharges from:
 - a. Water line flushing;
 - b. Flushing of reclaimed water lines;
 - c. Street cleaning;
 - d. Sidewalk/building power washing;
 - e. Construction dust control;
 - f. Landscape irrigation;

- g. Diverted stream flows or lake waters;
- h. Foundation, footing and roof drains;
- i. Uncontaminated ground water infiltration (as defined at 40 Code of Federal Register 35.205 (20));
- j. Discharges from potable water sources;
- k. Air conditioning condensate or cooling water;
- l. Irrigation water;
- m. Springs;
- n. Lawn watering;
- o. Individual residential car washing
- p. Flows from riparian habitat and wetlands; and
- q. Discharges or flow from emergency fire fighting activities and emergency response activities done in accordance with adopted spill response/action plan.

(2) Discharges for which all appropriate federal, state and local permits have been obtained.

Sec. 7-11. Discharges of polluting matter in storm systems prohibited.

(a) 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 matter which causes pollution, pursuant to the water quality standards established by all applicable regulatory agencies. Polluting matter includes, but is not limited to, the following:

- (1) Petroleum products, including, but not limited to oil, gasoline and grease;
- (2) Solid waste;
- (3) Paints;
- (4) Steam cleaning waste;
- (5) Pesticides, herbicides or fertilizers;
- (6) Degreasers, solvents;
- (7) Sanitary sewage;
- (8) Chemically treated cooling water;
- (9) Antifreeze and other automotive products;
- (10) Lawn clippings, leaves, branches, etc;
- (11) Animal carcasses;
- (12) Recreational vehicle waters;
- (13) Dyes;
- (14) Construction materials;
- (15) Any liquids in quantity or quality which are capable of causing a violation of the city's NPDES permit; and
- (16) Solids in such quantities or of such size capable of causing interference or obstruction to the flow in the city's stormwater system.

(b) 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 public works director), then the street, building, etc., may only be washed with the public works director's written approval, which may include requirements to clean the affected drainage pipelines or provide treatment of wastewater to prevent downstream pollution.

Sec. 7-12. Enforcement, penalties and legal proceedings.

(a) *This regulation may be administered by the director.* All persons in violation of this regulation shall remedy such violations immediately. All persons in violation shall, in addition to all other required remedial actions, upon detection and/or written notification by the city, provide a written response to the director outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the corrective measures. All such proposals for corrective action are subject to the approval of the director.

(b) The director is authorized to issue cease and to desist orders in the form of written official notices hand delivered or sent by registered mail to the persons(s) believed to be responsible for the violation and/or the owner of the property from or on which the violation is believed to be occurring. Specific activities and operations may be ordered to cease based upon the following conditions:

(1) In a situation that may have a serious effect on the health, safety or welfare of the public or the environment, including the quality of stormwater in the city's MS4; or

(2) When irreversible or irreparable harm may result, in the reasonable opinion of the director, and immediate cessation of the activity is necessary to protect the quality of the stormwater in the city's MS4, the public or the environment.

(c) Any person who violates this regulation and/or who fails to comply with the requirements of any provision of this regulation shall, without limitation on the city's legal recourse, be subject to prosecution before the St. Augustine Beach Code Enforcement Board or a special magistrate of the city. Each day of violation shall constitute a separate violation.

(d) In addition to any fines which may be imposed by the St. Augustine Beach Code Enforcement Board or a special magistrate, persons responsible for violation of this regulation shall be liable for all costs incurred by the city in sampling, analyzing and/or monitoring the discharge, together with all state and/or federal fines imposed as a result of the discharge and cost of removing, remedying or properly treating the discharge.

(e) Should any person responsible for a violation of this regulation fail to take the remedial action as required by the city, the city shall take such remedial action, and all costs incurred by the city shall be the responsibility of the person or persons responsible for the violation, and the city may record a lien against the personal and/or real property of the violators to recover said costs and to collect all fines and penalties imposed.

(f) In addition to the remedies provided herein, the city may make application to a court of competent jurisdiction for injunctive relief to restrain any person from violating or continuing to violate the provisions of this regulation. In addition, the city may also seek entry of a court order requiring restoration and mitigation of any impacted facilities, land or waters, and may request

any other appropriate legal remedy, including reimbursement of court costs. The city shall be entitled to an award of attorney's fees in prosecuting such actions, together with all attorney's fees and costs on appeal.

(g) In accordance with the City Code, any person willfully or negligently violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine in the lesser amount of the maximum amount permitted by law, \$1,000.00 or by imprisonment not to exceed the maximum amount permitted by law for violation of a municipal ordinance or one year, or by both such fine and imprisonment. Additionally, any person who has violated or continues to violate this chapter shall be liable to the city for a civil penalty of up to maximum amount permitted by law per day, and in no event, plus damages, for as long as the violation continues, together with attorney's fees, court costs and other expenses incurred by the city associated with the enforcement activities, including, but not limited to, sampling and monitoring expenses.

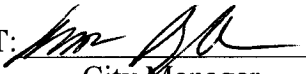
(h) The city may elect to take any or all of the above remedies concurrently, and the pursuit of one shall not preclude the pursuit of another.

Section 2. This Ordinance shall take effect immediately.

PASSED by the City Commission of the City of St. Augustine Beach, Florida, upon

Second Reading this 1st day of December, 2008.

**CITY COMMISSION OF THE CITY OF
ST. AUGUSTINE BEACH**

ATTEST: 
City Manager

By: 
Mayor-Commissioner

First reading: November 3, 2008

Second reading: December 1, 2008