

SATELLITE BEACH
OFFICIAL CODE OF ORDINANCES

PART II. CITY CODE
CHAPTER 26. ENVIRONMENT

SATELLITE BEACH

CHAPTER 26. ENVIRONMENT

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SATELLITE BEACH

CHAPTER 26. ENVIRONMENT

Article I. In General

§§ 26-1--26-25. Reserved

Article II. Nuisances

§ 26-26. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building materials and debris means any and all accumulations of sand, wood, stone, brick, cement, concrete, roofing and any other materials used or which may be used for building construction, renovation or alteration.

Commercial trash means any and all accumulations of paper, rags, excelsior or wooden, paper or cardboard boxes or containers and any other accumulation, not included in the definition of garbage, generated by the operation of stores, offices and other business places. Commercial trash shall also include all trash placed in public receptacles in parks, playgrounds, public streets, golf courses and all other public places in the city.

Garbage means all accumulations of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in or storage of meat, fish, fruit, fowl, vegetable and any other matter, excluding human body waste, or of any nature whatsoever which is subject to decay, putrefaction, the generation of noxious and offensive gases or odors, which, during and after decay, may serve as breeding or feeding material for flies and any other germ-carrying insects and rodents.

Garden and yard trash means any and all accumulation of grass, palm fronds, leaves, branches, shrubs, vines, tree stumps and other similar items which are normally generated by maintenance of lawns, shrubs, gardens and trees.

Household trash means any and all accumulations of waste materials from the operation of the home, which are not included in the definition of garbage. Household trash shall include all appliances, furniture, toys, building material wastes from do-it-yourself projects and anything else put out for collection. Waste generated by building contractors, subcontractors and/or tree surgeons rendering professional services is not to be considered household trash.

Industrial wastes means any and all debris and waste products generated by canning, manufacturing, food processing (except restaurants), and public works type construction projects, whether performed by governmental unit or by contract.

Land clearing debris means all trees, trunks, stumps, rocks, scrub brush and other materials accumulated during site preparation.

Refuse means all garbage, garden and yard trash, rubbish, household trash, commercial trash and industrial waste trash.

Trash includes commercial and industrial trash, household trash and garden and yard trash as defined in this section, unless specifically provided to the contrary.

(Code 1976, § 9.1-1)

Cross Reference

Definitions generally, § 1-2.

§ 26-27. Penalty

Any person who is found guilty of violating any provision of this article shall, upon conviction thereof, be subject to punishment as provided in section 1-13.

(Code 1976, § 9.1-6)

§ 26-28. Remedies cumulative

The remedies provided in this article are cumulative and shall not limit any remedies available to the city to abate nuisances or code violations.

(Code 1976, § 9.1-9)

§ 26-29. Conditions declared to be nuisance

The following conditions existing, permitted, maintained, kept or caused by any person shall constitute prima facie evidence in maintaining a nuisance injurious to health:

- (1) Untreated or improperly treated human waste, garbage, trash, dead animals or dangerous waste materials from manufacturing process as harmful to human or animal life and air pollutants, gases and noisome odors which are harmful to human and animal life.
- (2) Improperly built or maintained septic tanks, water closets or privies.
- (3) The keeping of diseased animals dangerous to human health.
- (4) The creation, maintenance or causing of any condition capable of breeding flies, mosquitoes or other arthropods capable of transmitting diseases directly or indirectly to humans.
- (5) The creation, maintenance or causing of any condition capable of breeding vermin and rodents.
- (6) The creation, maintenance or causing the accumulation of any refuse, building material and debris or land clearing debris exposed to the weather or which, because of its characteristics, may cause damage to life or property in storm conditions.
- (7) The natural presence of mosquito larvae in standing or running water.
- (8) The creation or maintenance of any type of condition which makes it difficult to ascertain the depth of any pool.
- (9) Any condition which may prove detrimental to children and other members of the general public whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to, any abandoned or unsecured, structure, grease pit, pool, excavation, appliance with door, lid or other closure, shafts, vehicles or vessel; enclosed sealed container, any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard.

(Code 1976, § 9.1-2; Ord. No. 984, § 1, 3-5-08)

§ 26-30. Deposits in streets or on property

No person shall deposit or cause to be deposited on any land, public square, street, alley, vacant lot or unoccupied lot, water of the Banana River or Atlantic Ocean or any other watercourse or ditch within the city any garbage, trash, building waste materials and debris or land clearing debris.

(Code 1976, § 9.1-3)

§ 26-31. Burning refuse

(a) No person shall cause, suffer, allow, or permit open burning except as permitted by the fire department or exempted by this section. For purposes of this section, "outdoor burning" shall mean the combustion of material outside of a structure with or without control of combustion air and without a stack or chimney to vent emitted products of combustion into the atmosphere.

(b) Exemptions. The following activities shall be exempt from the prohibition set forth in subparagraph (a).

- (1) Outdoor fires used for cooking of food, including barbeques in outdoor fireplaces, tar pots and commercial and industrial operations requiring open flames for operation. Such outdoor fires shall be operated in a safe manner.
- (2) Ceremonial fires, recreational fires, bon fires, camp fires and similar fires shall be permitted on Samsons Island only (i) in areas designated by the city for such use and (ii) on grills approved by the city.

(c) The following "outdoor burning" shall be allowed only pursuant to a permit issued by the fire department:

- (1) Ceremonial fires, recreational fires, bonfires, camp fires and similar outdoor burning activities not otherwise covered in subparagraph (b).
- (2) Fires set for the training and instruction of public and/or private personnel who are responsible for fire control and extinguishment activities, and "open burning" for habitat management, control burns and similar purposes on city property.
- (3) Notwithstanding the exemptions to the prohibition provided in subparagraph (a), or otherwise permitted under this section or by a permit issued by any other regulatory agency, the fire department may extinguish or cause to be extinguished such fires or open burning if based upon environmental, atmospheric or local circumstances such fires are or may create a nuisance, health hazard or safety hazard. Further, the fire chief may prohibit any and all open burning based upon environmental, atmospheric or local circumstances which would make such fires or open burning a hazard.

(Code 1976, § 9.1-4; Ord. No. 804, § 1, 3-21-01)

§ 26-32. Burying refuse

No person shall bury any garbage, trash, building waste materials and debris or land clearing debris.

(Code 1976, § 9.1-5)

§ 26-33. Action upon noncompliance

Upon the failure, neglect or refusal of any owner, or agent of such owner, to abate a nuisance within 15 days after receipt of written notice of violation of section 26-29; or within 15 days after the date of such notice if it is returned to the city because of the inability of the postal service to make delivery thereof, provided that notice was properly addressed to the last known address of the owner, or the agent of such owner; or within 15 days of personal service of the notice upon the owner, or the agent of the owner, the code enforcement officer may authorize the nuisance to be remedied. The city, its agents, employees or contractors are authorized to enter upon the property described in this notice to remedy the violations. The code enforcement officer shall invoice the owner of the property for the services rendered pursuant to this section. Also, the city may seek other remedies provided by law.

(Code 1976, § 9.1-7)

§ 26-34. Recorded statement constitutes lien

Where the amount due the city is not paid by the owner within 30 days after the nuisance is remedied by or on behalf of the city under section 26-33 the city manager shall cause to be recorded in the public records of the county a sworn statement showing the cost and expense incurred for the work done and the date, place and property on which the work was done. The recordation of such sworn statement shall constitute a lien on the property for the amount due in principal for labor, administrative costs and fees incurred by the city, plus interest and costs of court, if any, for collection, including reasonable attorney's fees, until payment has been made. The effective date of such lien shall relate back to the mailing of the invoice provided for in this article. Such costs and expenses shall be collected in the manner fixed by law for the foreclosure of mortgages or, alternatively, for the foreclosure of special assessment liens, and further, shall be subject to interest at the highest rate established by law. Sworn statements recorded in accordance with the provisions of this section shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that it is due and collectible as provided by law. A lien created under this article shall have the same force, effect, stature and character of liens for special assessments authorized pursuant to F.S. ch. 170, with the same penalties and with the same rights of collection, foreclosure, sale, payment, fees, and costs and all other rights and remedies that pertain to special assessment liens. Specifically, the lien shall remain in force as long as it shall remain unpaid.

(Code 1976, § 9.1-8)

§§ 26-35--26-54. Reserved

Article III. Lost Or Abandoned Property

§ 26-55. Designation of code enforcement officer as additional enforcement authority

The code enforcement officer for the city is hereby authorized and empowered to administer and enforce the provisions of this chapter, as well as F.S. ch. 705, pursuant to the authority granted therein. This designation shall not affect the powers and ability of the police department to enforce such provisions.

(Ord. No. 614, § 4(14-5), 11-23-94))

§ 26-56. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned property means all tangible, personal property having no value other than nominal salvage value, if any, which has been left abandoned or unprotected from the elements or which has no identifiable owner, and shall include junked, disabled, wrecked, discarded or otherwise unused or partially dismantled vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar article which has no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements.

However, it shall be prima facie evidence that a motor vehicle, boat or trailer is abandoned property within the meaning of this definition, irrespective of its age or value, if such motor vehicle or trailer does not have a current vehicle registration and a current license plate issued pursuant to the laws of the state or if such boat does not have a current registration issued pursuant to the laws of the state. Such presumption may be rebutted by the owner of such vehicle, boat or trailer by providing the city with a current vehicle registration, boat registration or license plate reflecting his ownership within five days from the date of any notice provided pursuant to this article.

Boat dealers who have a valid or current occupational license shall be exempt from the registration requirements of this section.

Inoperable condition means any condition or disability of a vehicle over a period exceeding 72 consecutive hours which disables or prevents its normal operation.

Lost property means all tangible, personal property which does not have an identifiable owner and which has been mislaid on public property, upon a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas or other places open to the public and which is in a substantially operable, functioning condition, or which has an apparent intrinsic value to the rightful owner.

Major repairs means:

- (1) Any painting accomplished by spraying, whether by aerosol application or by mechanical or electrical spray application, when such work disables a vehicle or boat or prevents the normal use or operation of a vehicle or boat over a period exceeding 48 consecutive hours.
- (2) Any sheet metal work or other repair work to the body of a vehicle or boat where such work disables a vehicle or boat or prevents the normal use or operation of a vehicle or boat over a period exceeding 48 consecutive hours.
- (3) Any mechanical or electrical repair of any nature which disables a vehicle or boat or prevents, over a period exceeding 72 hours, its normal use or operation.
- (4) Performing the activities set forth in subsections (1), (2) or (3) on more than one vehicle or boat, irrespective of the length of time such vehicles or boats are disabled or precluded from normal operation.

Residential zoning means any area within the city zoned R-1, R-2, R-3, R-4, R-5, 1M-1, RM-2 or RM-3, in accordance with the zoning ordinance of the city.

Storing, depositing and keeping means placing in location for safekeeping, preservation, future use or disposal.

Vehicle means motor vehicles and trailers as defined in F.S. § 316.003.

(Code 1976, § 14-2; Ord. No. 614, § 2(14-2), 11-23-94)

Cross Reference

Definitions generally, § 1-2.

§ 26-57. Storing, depositing, keeping abandoned property

It shall be unlawful for any person, either as owner, occupant, lessee, agent, tenant or otherwise, to store, deposit or keep or cause to be stored, deposited or kept, any abandoned property upon any private real property within the city limits except in an enclosed building or structure. Up to five abandoned vehicles may be stored within an area enclosed by a six-foot opaque fence by a business licensed by the city to perform automotive repairs. Vehicles may not be stacked.

(Code 1976, § 14-3)

§ 26-58. Presumption of abandonment; rebuttal

It shall be prima facie evidence that a motor vehicle, boat or trailer is abandoned property within the meaning of this definition irrespective of its age or value, if the motor vehicle or trailer does not have a current vehicle registration and a current license plate issued pursuant to the laws of the state or if the boat does not have a current registration issued pursuant to the laws of the state. Such presumption may be rebutted by the owner of such vehicle, boat or trailer by providing the city, within the time established by the city, a vehicle registration or license plate reflecting his ownership. Boat dealers who have a valid and current occupational license shall be exempt from the registration requirements of this section.

(Code 1976, § 14-2)

§ 26-59. Certain repairs to vehicles, certain vehicles in inoperable condition prohibited in residential zones

(a) *Restriction on major repairs.* No person shall accomplish, perform or permit to be accomplished or performed any major repair of a vehicle or boat in a residential zone unless such major repair is done within an area enclosed by a six-foot opaque fence.

(b) *Restriction on vehicles in inoperable condition.* No person shall leave or permit or allow to be left in a residential zone any vehicle or boat in an inoperable condition except one inoperable vehicle or boat is permitted within enclosed building or structure or an area enclosed by a six-foot opaque fence.

(Code 1976, § 14-4(a), (b))

§ 26-60. Notice of violation; disposition of abandoned and lost property

(a) *Notice to owner of vehicle or boat found in violation.* If any vehicle or boat is found in violation or apparent violation of section 26-57 or 26-59, any police officer or the code enforcement officer shall place or cause to be placed on such vehicle or boat a weather-resistant notice of the violation or apparent violation. Such notice shall be in substantially the following form for each section:

As to section 26-57:

NOTICE TO THE OWNER AND ALL PERSONS
INTERESTED IN THE ATTACHED PROPERTY

This property, to wit: _____,

is in violation or apparent violation of section 26-57 of the Satellite Beach City Code. That section prohibits the storing, depositing or keeping of abandoned property, which includes vehicles and boats, within the city except in an enclosed building or structure. This vehicle or boat must be removed or the violation corrected within 72 hours of the time of this notice; otherwise, this vehicle or boat will be subject to removal and impoundment by the City of Satellite Beach if found in violation by the Satellite Beach Code Enforcement Board.

LOCATION OF VEHICLE OR BOAT:

DATE OF NOTICE:

TIME OF NOTICE:

NAME OF ENFORCING OFFICER:

City of Satellite Beach
510 Cinnamon Drive
Satellite Beach, FL 32937
(407) 773-4400

As to section 26-59:

NOTICE TO THE OWNER AND ALL
PERSONS INTERESTED IN THE
ATTACHED PROPERTY

This property, to wit: _____,

is in violation or apparent violation of section 26-59 of the Satellite Beach City Code. That section prohibits the storage, depositing or keeping of abandoned property, which includes inoperable vehicles and boats in residential areas, within the city, except in an enclosed building or structure. This vehicle or boat must be removed or the violation corrected within 72 hours of the time of this notice; otherwise, this vehicle or boat will be subject to removal and impoundment by the City of Satellite Beach if found in violation by the Satellite Beach Code Enforcement Board.

LOCATION OF VEHICLE OR BOAT:

DATE OF NOTICE:

TIME OF NOTICE:

NAME OF ENFORCING OFFICER:

City of Satellite Beach
510 Cinnamon Drive
Satellite Beach, FL 32937
(407) 773-4400

(b) *Impoundment of vehicles or boats after notice and hearing.* If any vehicle or boat to which a notice has been affixed pursuant to subsection (a) of this section is not removed by the owner or otherwise brought into compliance with this section within 72 hours of the time such notice has been affixed by the city, the matter shall be referred to the code enforcement board. If after a hearing on the alleged violation the code enforcement board finds a violation exists, the city shall be authorized to impound such vehicle or boat in accordance with section 34-41 of this Code in addition to any other remedy available. If the vehicle or boat is so impounded, notice shall be given to the owner as set forth in section 34-41 and the vehicle or boat may be disposed of by the city as provided in section 34-41

(c) *Removal of article from public property.*

(1) Whenever a law enforcement officer or the code enforcement officer determines that an article of lost or abandoned property is present on public property and is of such a nature that it cannot be easily removed, such officer shall comply with the procedures set forth in F.S. § 705.103.

(2) Whenever a law enforcement officer or the code enforcement officer determines that an article of lost or abandoned property is present on public property and is of such nature that it can be easily removed, such officer shall take such article into custody and shall make a reasonable attempt to ascertain the rightful owner or lienholder pursuant to the provisions of F.S. ch. 705.

(Ord. No. 614, § 5(14-6), 11-23-94)

§ 26-61. Abandoned refrigerators, iceboxes, deep-freeze lockers, clothes washers, clothes dryers, other airtight units

No person shall place, discard, abandon or store any refrigerator, icebox, deep-freeze locker, clothes washer, clothes dryer or similar airtight unit from which the doors or latch have not been removed, outside of any building or in any unenclosed garage or carport within the city.

(Code 1976, § 14-1; Ord. No. 614, § 1, 11-23-94)

State law reference

Abandoned refrigerators or containers, F.S. §§ 823.07—823.09.

§§ 26-62--26-80. Reserved

Article IV. Noise

§ 26-81. Prohibited generally

No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city.

(Code 1976, § 14-24)

§ 26-82. Exceptions

This article shall not be construed to prohibit music upon streets or sidewalks by brass bands or other bands, nor to prohibit religious organizations from beating drums in the course of their religious services.

(Code 1976, § 14-25)

§ 26-83. Certain acts construed as noise

The following acts are declared to be loud, disturbing and unnecessary noises, but such enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place, except as a danger warning, the creation of any unreasonably loud or harsh sound by means of any such signaling device and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, stereos, phonographs, electronic devices, etc.* Using, operating or permitting to be played, used or operated any radio receiving set, stereo, phonograph, electronic device or other machine or device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the building, structure or vehicle in which the machine or device is operated and who is a voluntary listener thereto. The operation of any such set, stereo, phonograph, electronic device, machine or device in such a manner as to be heard at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

(3) *Sound trucks*. Sound trucks or other devices or mediums for amplifying sound operated or permitted to be operated within the city for advertising purposes or to attract the attention of the public, where the sound therefrom is transmitted from, to, in or over any public thoroughfare, park or other public place. This subsection shall not prohibit the use of sound amplification for dissemination of religious or political messages, or information concerning civic, recreational and other matters of general public interest; provided that prior permission has been obtained from the chief of police, who is hereby authorized, directed and empowered to make and enforce reasonable conditions as to the time, place, volume of sound, etc.

(4) *Dropping or throwing objects*. The unnecessary dropping or throwing of objects on or against the ground, pavement, concrete walk or other object so as to create loud or unnecessary clanging, grating, rattling or other noise.

(5) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or any time or place so as to annoy or disturb the quiet, comfort or repose of any person in any office, dwelling, hotel or other type of residence or of any person in the vicinity.

(6) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(7) *Steam whistles*. The blowing of any train whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of city officials.

(8) *Exhausts*. Discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(9) *Defect in vehicle or load*. The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(10) *Loading, unloading, opening boxes*. Creation of a loud and excessive noise in connection with loading or unloading any vehicle, or opening and destruction of bales, crates and containers.

(11) *Construction or repairing of buildings*. Erection (including excavation), demolition, alteration or repair which requires a permit of any building other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 7:00 p.m. on Saturdays.

(12) *Schools, courts, churches, hospitals*. Creation of any excessive noise on any street adjacent to a school, institution of learning, church or court while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients therein; provided, that conspicuous signs are displayed in such streets indicating the proximity of a school, hospital, church or court.

(13) *Hawkers, peddlers, etc.* Shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(14) *Noises to attract attention*. Use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by the creation of noise.

(15) *Transportation of metal rails, etc.* Transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause noises or as to disturb the peace and quiet of such streets or other public place.

(16) *Pile drivers, hammers, etc.* Operation, between the hours of 7:00 p.m. and 7:00 a.m., of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other machine or equipment, the use of which is attended by loud or unusual noise.

(17) *Blowers, fans, etc.* Operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the blower or fan is equipped with a muffler device sufficient to deaden the noise.

(18) *Equipment, machinery or tools utilized for lot leveling or clearing*. Operation of any mechanical equipment, power tools, engines (gasoline, diesel or steam) or other equipment, machinery or tools which disturb the peace and are utilized for leveling or clearing of lots, other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 7:00 p.m. on Saturdays.

(Code 1976, § 14-26)

§§ 26-84--26-100. Reserved

Article V. Attractive Nuisance Condition

§ 26-101. Attractive nuisance defined

As used in this article, the term "attractive nuisance" shall be construed to mean any artificial condition, whether in a building, on the premises of a building or upon an unoccupied job site, which by its nature, location or character would tend to attract and substantially endanger the safety of any minor person. This includes, but is not limited to, unsecured swimming pools, abandoned wells or shafts; excavations; abandoned refrigerators/freezers with doors or motor vehicles with unlocked doors; any structurally unsound fences or structures; lumber, trash/debris, or any other materials which may provide a hazard; or any condition which is determined to be a life safety violation. A "life safety violation" includes: i) a violation of the Florida Fire Prevention Code, as adopted pursuant to Rule 69A-60.002(3), Florida Administrative Code, which includes the National Fire Protection Association (NFPA) 101, Life Safety Code and National Fire Protection Association (NFPA) 1, Life Safety Code; or ii) a violation of the Preston de Ibern/McKenzie Merriam Residential Swimming Pool Act, F.S. § 515.21 et seq., and in particular F.S. §§ 515.27(1)(a) and 515.29.

(Ord. No. 1013, § 1, 4-15-09)

§ 26-102. Attractive nuisance prohibited

No person shall have, keep, maintain, cause or permit an attractive nuisance condition on any parcel of land within this city. Having, keeping, maintaining, causing, or permitting an attractive nuisance in violation of this section is hereby prohibited and declared to be a public nuisance.

(Ord. No. 1013, § 1, 4-15-09)

§ 26-103. Attractive nuisance condition—Violation

(a) Any person responsible for any parcel of land on which an attractive nuisance condition shall exist shall take all necessary measures to remedy the attractive nuisance condition within three days after written notice by the city, or within such reasonable time as may be specified in the notice from the city.

(1) If a code enforcement officer finds and determines that a public nuisance as described in § 26-101 exists and declares same to exist on a particular parcel of land, the code enforcement officer shall so notify the owner and the occupant of record of the offending property and any mortgagee. Said notice shall be given in writing and shall require that the condition be remedied. The notice shall specify a date for the completion of the remedying of the attractive nuisance condition. The notice shall be given by certified U.S. mail, return receipt requested, or as otherwise provided in F.S. § 162.12, said notice being addressed to the owner or owners of the property described and any mortgagee of the property. If notice is mailed, notice to a property owner shall be given as their names and addresses are shown upon the record of the county property appraiser, and notice given to a mortgagee shall be addressed to the address as shown by any mortgage, note or assignment in the public records. Mailed notice shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid.

(2) Simultaneous with mailing the notice, the property shall be posted with a notice in substantially the following form:

NOTICE OF PUBLIC NUISANCE

Name of owner

Address of owner

Name of mortgagee, if any (§ _____, City Code)

Address of mortgagee

Our records indicate that you are the owner(s) of the following property in the CITY OF SATELLITE BEACH, Florida:

(describe property)

An inspection of this property reveals that a public nuisance exists and constitutes a violation of § 26-101 of the CITY OF SATELLITE BEACH Code, in that:

(describe here the condition which places the property in violation)

You are hereby notified that unless the above-described condition is remedied so that it is no longer in violation of the City Code within _____ (_____) days from the date of this notice, the CITY OF SATELLITE BEACH will proceed to remedy this condition and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the property if not otherwise paid within thirty (30) days after receipt of billing. Appeal of such billing or lien of the property may be undertaken pursuant to § 26-103(b) and (c), Satellite Beach City Code, within not more than twenty-one (21) consecutive days after the taking of the action complained of. Further information regarding this notice or any appeal may be obtained by contacting . . . , at Satellite Beach City Hall, 565 Cassia Boulevard, Satellite Beach, FL 32937, telephone number. . . ; e-mail . . .

(b) Within ten days after the mailing or other service of the notice to the property owner and mortgagee (if the property is registered), and the posting of the property, the owner or mortgagee of the property may make written request to the city manager for a hearing before the city manager or said manager's designee to show that the condition alleged in the notice does not exist or that such condition does not constitute a public nuisance.

(c) At the hearing, the city and the property owner or mortgagee may introduce such evidence as is deemed necessary. The city manager, or said manager's designee, shall establish rules and regulations for the hearing procedure. The formal rules of evidence shall not apply; provided, that fundamental due process is provided. Following a review by the city manager, the owner or mortgagee, as applicable, will have exhausted said owner's or mortgagee's administrative remedies.

(d) Should the condition to be abated be deemed an emergency condition necessitating immediate action to preserve the health, safety or welfare of the neighborhood in which the parcel of land on which an attractive nuisance exists, the city may, but shall not be obligated, to abate the nuisance as provided in this article absent written notice but after it has attempted reasonable means of notifying the owner, occupant, lessee, mortgagee, or other person in control of the land. As soon as practicable after abatement, notice shall be sent to said owner, occupant, lessee, mortgagee, or other person in control of the parcel of land on which the attractive nuisance exists, of the action taken and a lien shall arise as provided in section 26-104

(Ord. No. 1013, § 1, 4-15-09)

§ 26-104. Condition may be remedied by city

(a) If within 21 days after mailing of the notice, no hearing has been requested, or if the property owner or mortgagee, as applicable, has been found in violation at the hearing specified in section 26-103 before the city manager or said manager's designee, and the condition described in the notice has not been remedied, the attractive nuisance condition may be remedied by the city at the expense of the property owner and mortgagee.

(b) After causing the attractive nuisance condition to be remedied, the city manager, or said manager's designee, shall certify to the city clerk the expense incurred in remedying the condition and shall include a copy of the notice above-described and a copy of the decision, if any, by the city manager, or said manager's designee. If the expense is not paid within 30 days, a special assessment lien and charge will be made upon the property, which shall be payable with interest at the then legal rate of interest on judgments from the date of such certification until paid. Such lien may be satisfied at any time by payment thereof including accrued interest. Such lien shall be recorded in the public records of the county and shall remain a lien, co-equal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims until paid. Upon payment of a lien, the satisfaction and cancellation of such lien shall be recorded in the public records of the county. If the charge and special assessment lien shall not be paid within two years from the date of recording of said lien, the city may at anytime thereafter institute foreclosure and other proceedings as provided in F.S. § 170.10, or F.S. ch. 173, to recover the amount of the charge plus interest, court costs, and attorneys' and paralegals' fees.

(Ord. No. 1013, § 1, 4-15-09)

Article VI. Fertilizer Use On Urban Landscape

§ 26-105. Purpose and intent

This Article regulates and promotes the proper use of fertilizers by any applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes prohibited application periods; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones; and exemptions. This Article requires the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on natural and constructed stormwater conveyances and surface waters located within the City. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of City of Satellite Beach residents and the health of the public in general. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-106. Definitions

For purposes of this Article, the following terms shall have the following meanings:

Administrator means city manager or designee authorized to administer and enforce the provisions of this Article.

Application or *apply* means the actual physical deposit of fertilizer to turf, specialized turf, or landscape plants.

Applicator means any person who applies fertilizer on turf and/or landscape plants in the City.

Best management practices means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

Council means the City Council of the City of Satellite Beach, Brevard County, Florida.

City of Satellite Beach approved best management practices training program means a training program approved pursuant to §403.9338, Florida Statutes, or any more stringent requirements set forth in this Article that includes the most current version of the Florida Department of Environmental Protection's "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008," as revised, and approved by the Administrator.

Code enforcement officer, official, or inspector means any designated employee or agent of the City of Satellite Beach whose duty it is to enforce codes and ordinances enacted by the City.

Commercial fertilizer applicator, except as provided in §482.1562(9), Florida Statutes, means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

Fertilize, fertilizing, or fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Guaranteed analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

Institutional applicator means any person, other than a private, non-commercial or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional Applicators shall include, but shall not be limited to, owners, managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Landscape plant means any tree, shrub, or groundcover (excluding turf).

Low maintenance zone means an area a minimum of ten (10) feet wide adjacent to surface waters which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

Person means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

Prohibited application period means June 1 through September 30 and/or the time period during which a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of Brevard County, issued by the National Weather Service, or if heavy rain is likely.

Saturated soil means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

Slow release, controlled release, timed release, slowly available, or water insoluble nitrogen means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a rapid or quick release product.

Surface waters as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) means waters on the surface of the earth, contained in bounds created naturally or artificially, including the Atlantic Ocean, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, and ditches.

Turf, sod, or lawn means a piece of grass-covered soil held together by the roots of the grass.

Urban landscape means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this section, agriculture has the same meaning as in §570.02, Florida Statutes.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-107. Applicability

The provisions of this Article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the city limits of Satellite Beach, unless such applicator is specifically exempted by the terms or regulatory provisions of this Article. The provisions of this Article shall be prospective only, and shall not impair any existing contracts.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-108. Timing of fertilizer application

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the prohibited application period, or to saturated soils.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-109. Fertilizer free zone

The direct deposit of nutrients into the water shall be prohibited. Fertilizer shall not be applied within ten (10) feet of any surface waters, pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or within ten (10) feet from the top of a seawall. Newly planted turf and/or landscape plants may be fertilized in this Zone for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the plants to become well established. The requirements of Section 26-108 above also apply to newly planted turf and landscape plants.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-110. Low maintenance zone

A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any surface waters, pond, stream, watercourse, lake, wetland or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material should be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-111. Fertilizer content and application rates

- a. Only "No Phosphate Fertilizer" as defined in Rule 5E-1.003(2), Florida Administrative Code, may be applied to turf or landscape plants in the City of Satellite Beach without a soil or plant tissue deficiency as verified by a University of Florida, Institute of Food and Agriculture Sciences, approved testing methodology. In the case that a deficiency has been verified, the application of a fertilizer containing phosphorous shall be in accordance with the rates and directions provided by Rule 5E-1.003(2), Florida Administrative Code. Deficiency verification shall be no more than two (2) years old. However, recent application of compost, manure, or top soil shall warrant more recent testing to verify current deficiencies.
- b. The nitrogen content of fertilizer applied to turf or landscape plants within the City of Satellite Beach shall contain at least 50% slow release nitrogen, controlled release, timed release, slowly available, or water insoluble nitrogen per guaranteed analysis label. Caution shall be used to prevent direct deposition of nutrients in the water.
- c. Fertilizers applied to turf within the City of Satellite Beach shall be applied at rates that are in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers.
- d. Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution Prevention Plan for that site.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-112. Application practices

- a. Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones, surface waters and water bodies, including wetlands.
- b. Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- c. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.
- d. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-113. Management of grass clippings and vegetative matter

Grass clippings, vegetative material, and/or vegetative debris shall not be washed, swept, or blown off into surface waters, stormwater drains, ditches, conveyances, watercourses, water bodies, wetlands, sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-114. Exemptions

The provisions of this Article shall not apply to:

- a. Bona fide farm operations, as defined in the Florida Right to Farm Act, §823.14, Florida Statutes;
- b. Any lands used for scientific research supported by an accredited institution of higher learning or a government entity, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture;
- c. Athletic fields at public parks and school facilities that apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of their specialized turf areas;
- d. Vegetable gardens owned by individual or community property owners and trees grown for their edible fruit.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-115. Training

- a. Prior to January 1, 2014, all commercial and institutional applicators of fertilizer within the incorporated area of Satellite Beach, shall abide by and successfully complete the six-hour training program in the "*Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries*" offered by the Florida Department of Environmental Protection through the University of Florida Extension "Florida-Friendly Landscapes" program, or an approved equivalent.
- b. Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-116. Commercial and institutional applicators

- a. After December 31, 2013, all commercial applicators of fertilizer within the incorporated area of Satellite Beach, shall abide by and have successfully completed training and continuing education requirements in the "*Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries*", offered by the Florida Department of Environmental Protection through the University of Florida IFAS "Florida-friendly Landscapes" program, or an approved equivalent program, prior to obtaining a business tax receipt for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial fertilizer applicators shall provide proof of completion of the program to the City of Satellite Beach clerk's office upon application or renewal of business tax receipt.
- b. After December 31, 2013, all commercial applicators of fertilizer within the incorporated area of Satellite Beach, shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a commercial fertilizer applicator pursuant to Rule 5E-14.117(18), Florida Administrative Code.
- c. Institutional Applicators who apply fertilizer to turf and/or landscape plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a business tax receipt. Owners for any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program to the City of Satellite Beach clerk's office.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-117. Enforcement and monitoring

Fines collected for violations of this Article shall be deposited in a trust fund dedicated to fulfill the purposes of this Article. Funds generated by penalties imposed under this section shall be used by the City for the administration and enforcement of §403.9337, Florida Statutes, and the corresponding sections of this Article, and to further water conservation and nonpoint pollution prevention activities.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-118. Penalty; additional remedies

Penalties for violations of this Article shall be as specified in Section 125.69, F.S., Chapter 162, F.S., Article VIII, Ch. 2, Satellite Beach City Code, Section 1-13, Satellite Beach City Code or any other appropriate remedy provided by law. The City may seek enforcement action against both the owner of record, any person in actual or constructive possession and any person or entity responsible for carrying out any prohibited action. The provisions of this section are an additional and supplemental means of enforcing City codes and ordinances. Nothing in this section shall prohibit the City from enforcing this Code by injunctive relief, or by any other means provided by law.

(Ord. No. 1074, § 1, 11-6-13)

§ 26-119. Appeals

Appeals relating to any administrative decision or determination concerning implementation or application of the provisions of this Article shall be filed in writing within 30 calendar days after the decision is rendered by the Public Works Director and/or Building Official. Requests for appeals will be considered by the city manager.

(Ord. No. 1074, § 1, 11-6-13)

§ 120-130. [Reserved]

Article VII. Illicit Discharges

§ 26-131. Purpose and Intent

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Satellite Beach through the regulation of non-stormwater discharges to the City's municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the City's MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- (a) To regulate the contribution of pollutants to the City's MS4 by stormwater discharges by any user;
- (b) To prohibit illicit connections and discharges to the City's MS4; and
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Article.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-132. Definitions

For the purposes of this ordinance, the following terms shall have the following meanings:

Best Management Practices or *BMPs* means 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 stormwater, receiving waters, or stormwater 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 or *CWA* means the federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto.

Construction activity means any on-site activity which will result in the creation of a new stormwater discharge, including the building, assembling, expansion, modification or alteration of the existing contours of the site, the erection of buildings or other structures, or any part thereof, or land clearing.

Hazardous materials means 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 or *illegal discharge* or *illegal dumping* means any discharge to the City's MS4 which is not entirely of stormwater, unless exempted pursuant to this ordinance, or the discharge to the City's MS4 which is not in compliance with federal, state or local permits.

Illicit connection means either of the following: 1) any drain or conveyance, whether on the surface or subsurface, which allows an illegal or illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City Public Works department; or 2) any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the City Public Works department.

Industrial activities means activities at facilities identified by the United States Environmental Protection Agency as requiring an NPDES stormwater permit in accordance with 40 CFR§122.26(b)(14) or amendments thereto, or any unit operation, complex, area or multiple of unit operations that produce, generate, handle, process or cause to be processed, any materials which may cause water pollution.

Municipal separate storm sewer system or MS4 means 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 and operated by a local government that discharge to waters of the United States or to other MS4s, that are designed solely for collecting, treating or conveying stormwater and that are not part of publicly owned treatment works (POTW) as defined by 40 CFR §122.2 or any amendments thereto.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit means a permit issued by the Florida Department of Environmental Protection (FDEP) that authorizes the discharges of pollutants to waters of the United States.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal entity.

Pollutant means anything that 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, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides; herbicides; fertilizers; hazardous substances and wastes; sewage, fecal coliform 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.

Receiving bodies of water means any water bodies, watercourses and wetlands into which surface waters flow.

Stormwater management system means the designed features of the property that collect, convey, channel, hold, inhibit or divert the movement of stormwater.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Watercourse means any natural or artificial stream, creek, channel, ditch, canal, waterway, gully, ravine or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed or banks.

Water body means any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-133. Applicability

This ordinance shall apply to the entire City's MS4 unless explicitly exempted by the City in writing.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-134. Ultimate responsibility

The standards set forth herein, and promulgated pursuant to this ordinance, are minimum standards. This ordinance does not intend or imply that compliance by any person will ensure there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-135. Control of pollutant contributions from interconnected MS4s

Interconnected MS4s, including MS4s not owned by the City, shall be controlled so that they do not impair the operation of the receiving MS4 or contribute to the failure of the receiving MS4 to meet any applicable local, state, or federal law or regulation. Owners of sections of an interconnected MS4 shall be responsible for the quality of stormwater within their portion of the system and shall coordinate with the owners of the downstream segments.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-136. Prohibitions

(a) *Illicit/illegal discharges and illegal dumping.* No person shall throw, drain, or otherwise discharge, cause, or allow others under such person's control to throw, drain, or otherwise discharge into the City's MS4 any pollutants or waters containing any pollutants, other than stormwater, whether such discharges occur through piping connections, runoff, exfiltration, infiltration, seepage or leaks. Polluting matter includes, but is not limited to, the following:

- (1) Petroleum products, including, but not limited to oil, gasoline, 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 and waste;
- (15) Any liquids in quantity or quality that are capable of causing a violation of the City's NPDES stormwater permit; and
- (16) Solids in such quantities or of such size capable of causing interference or obstruction to the flow of the City's MS4.

(b) *Illicit connections.*

- (1) No person may maintain, use or establish any direct or indirect connection to the City's MS4 that results in any discharge in violation of any provision of federal, state, county, city or other governmental law, rule, regulation.
- (2) This subsection is retroactive, and applies to illicit connections made prior to the effective date of the ordinance from which this subsection is derived, regardless of whether made under a permit or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the City's MS4, or allows such a connection to continue.

(c) *Violation of permits.* Any discharge into the City's MS4 in violation of any federal, state, county, city or other governmental law, rule, regulation or permit is prohibited, except those discharges set forth in this section or as in accordance with a valid NPDES permit.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-137. Stormwater discharges from commercial, industrial or construction activities to the MS4 or regulated waters

- (a) Stormwater from areas of any commercial activity, industrial activity or construction activities shall be controlled, treated and managed on-site using best management practices so as not to cause an illicit or illegal discharge to the City's MS4 or regulated waters.
- (b) All erosion, pollutant, and sediment controls required by City Code or by any applicable local, state, or federal permit, including elements of a stormwater pollution prevention plan required under an NPDES permit, shall be properly implemented, installed, operated, and maintained.
- (c) Authorized discharges to the City's MS4 shall be controlled so that they do not impair the operation of Brevard County or the City of Indian Harbour Beach MS4 or contribute to the failure of those MS4s to meet any applicable local, state, or federal law or regulation.
- (d) Authorized discharges to regulated waters shall be controlled so that they do not adversely impact the quality or beneficial uses of those waters or result in violation of any applicable local, state, or federal law or regulation.

- (e) Any person who has been issued an NPDES permit authorizing discharges to the City's MS4 shall submit a complete copy of the permit to City of Satellite Beach Public Works Department within thirty (30) days after the effective date of this ordinance, or within thirty (30) days after the issuance of a permit.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-138. Authorized exemptions

The commencement, conduct or continuance of any illicit or illegal discharge to the City's MS4 is prohibited, except as described as follows:

- (a) Water line flushing;
- (b) Flushing of reclaimed water lines;
- (c) Street cleaning;
- (d) Diverted stream flows;
- (e) Rising ground waters;
- (f) Foundation and footing drains;
- (g) Dechlorinated swimming pool discharges;
- (h) Uncontaminated ground water infiltration (as defined at 40 C.F.R. §35.205(20));
- (i) Uncontaminated pumped ground water;
- (j) Discharges from potable water sources;
- (k) Air conditioning condensate;
- (l) Irrigation water, including landscaping and lawn water;
- (m) Springs;
- (n) Individual residential car washing;
- (o) Flows from riparian habitat and wetlands; and
- (p) Discharges or flows from emergency firefighting activities and emergency response activities done in accordance with an adopted spill response/action plan.

The prohibitions provided in this Article shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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 MS4.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-139. Emergency conditions

Notwithstanding any other provisions of this ordinance, whenever the City determines that conditions or activities require immediate action to protect public health, safety or welfare, or to provide for compliance with these regulations, rules promulgated hereunder, or City approved construction plans, City inspectors and employees are authorized to enter at a reasonable time in or upon any property for the purpose of testing, inspecting, investigating, measuring, sampling and correcting such emergency conditions. Failure to admit personnel responding to emergency conditions, as determined and authorized by the City, shall constitute a separate violation of this ordinance.

- (a) Suspension due to illicit discharges in emergency situations. The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- (b) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. It is considered an offense of this ordinance if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the City.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-140. Inspection and monitoring for compliance

City code inspectors shall be granted access for inspection of facilities discharging or suspected of discharging to the City's MS4 in order to effectuate the provisions of this ordinance 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 connecting them, shall be made accessible to City code inspectors for this purpose.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-141. Reporting requirements

Illicit discharges to the City's MS4 are prohibited. Any person owning or occupying a premise or facility who has knowledge of a discharge of pollutants from those premises or facilities or other type of evidence which might result in a violation of the prohibitions found in this ordinance shall immediately take action to abate the discharge of pollutants, and shall notify the City Public Works and City Code Enforcement division within twenty-four (24) hours of the discharge of pollutants. The initial notification may be by telephone, but the person responsible shall submit a written report within seventy-two (72) hours of discovery. The written report shall include a description of the discharge volume, content, frequency, discharge point location to the MS4, measures taken or to be taken to terminate the discharge, and the name, address and telephone number of the person who may be contacted for additional information. Hazardous materials discharges shall be reported to the City, the Brevard County Public Safety Office, the Brevard County Health Department, and the Florida Department of Environmental Protection.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-142. Penalty; additional remedies

Penalties for violations of this Article shall be as specified in Section 125.69, F.S., Chapter 162, F.S., Article VIII, Ch. 2, Satellite Beach City Code, Section 1-13, Satellite Beach City Code or any other appropriate remedy provided by law. The City may seek enforcement action against the owner of record, any person in actual or constructive possession and any person or entity responsible for carrying out any prohibited action. The provisions of this section are an additional and supplemental means of enforcing City codes and ordinances. Nothing in this section shall prohibit the City from enforcing this Code by injunctive relief, or by any other means provided by law.

(Ord. No. 1075, § 1, 10-16-13)

§ 26-143. Appeals

Appeals relating to any administrative decision or determination concerning implementation or application of the provisions of this Article shall be filed in writing within 30 calendar days after the decision is rendered by the Public Works Director and/or Building Official. Requests for appeals will be considered by the City Manager.

(Ord. No. 1075, § 1, 10-16-13)
