ORDINANCE NO. 10-08-19-26

AN ORDINANCE REGULATING THE USE OF THE DISCHARGE OF WATERS AND WASTE INTO THE CITY'S STORMWATER SYSTEM, DRAINAGE FACILITIES AND OUTFALLS; PROHIBITING CERTAIN DISCHARGES, PROVIDING FOR SUSPENSION OF SERVICES; PROVIDING A PENALTY FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Corinth, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the local Government Code; and

WHEREAS, the City Council finds that adoption of this ordinance prohibiting certain discharges into the City's stormwater system and drainage facilities and outfalls will promote and protect the public health, safety and welfare; **NOW THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CORINTH:

SECTION 1 PURPOSE AND INTENT.

(A) The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of Corinth through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

(B) This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(C) The objectives of this Ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.

3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.

SECTION 2 DEFINITIONS.

For the purposes of this Ordinance, the following terms shall have the meanings ascribed to them below:

CITY. The City of Corinth, Texas.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DIRECTOR OF PUBLIC WORKS. The director of public works of the City or the director's designated representative.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 6 of this Ordinance.

ILLICIT CONNECTION. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

INDUSTRIAL ACTIVITY. An Activity subject to a NPDES Industrial Permit, as defined in 40 CFR, Section 122.26 (b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by EPA (or by the TCEQ) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and 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.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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

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

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

SECTION 3 APPLICABILITY.

This Ordinance shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the City.

SECTION 4 RESPONSIBILITY FOR ADMINISTRATION.

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

SECTION 5 ULTIMATE RESPONSIBILITY.

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

SECTION 6 DISCHARGE PROHIBITIONS.

(A) A person commits an offense if the person discharges or causes to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

(B) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Ordinance:

a. water line flushing or other potable water sources

b. landscape irrigation or lawn watering

c. diverted stream flows

d. rising ground water

e. ground water infiltration to storm drains

f. uncontaminated pumped ground water

g. foundation or footing drains (not including active groundwater dewatering systems)

h. crawl space pumps

i. air conditioning condensation

j. springs

k. non-commercial washing of vehicles

l. natural riparian habitat or wet-land flows

m. swimming pools (if dechlorinated - and water containing less than one PPM chlorine)

n. fire fighting activities

o. any other water source not containing Pollutants

p. any discharges specified in writing by the City as being necessary to protect public health and safety.

2. Dye testing is an allowable discharge, but requires a verbal notification to the Director of Public Works prior to the time of the test.

(C) It is an affirmative defense to prosecution that the non-storm water discharge was permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

SECTION 7 PROHIBITION OF ILLICIT CONNECTIONS.

(A) A person commits an offense if the person constructs, uses, or maintains an illicit connection to the storm drain system.

(B) Subsection (A) applies to an illicit connection made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(C) A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION 8 SUSPENSION OF MS4 ACCESS.

(A) 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 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Director of Public Works may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(B) If a person is determined to be discharging to the MS4 in violation of this Ordinance, the Director of Public Works may have the person's MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director of Public Works will notify a violator of the proposed termination of its MS4 access. The alleged violator may petition the City Manager for a reconsideration and hearing by the City Manager. If requested, the City Manager shall set a time within three days, to consider any evidence presented by the person and find that the termination should be made.

(C) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Director of Public Works or, upon reconsideration, if requested, the approval of the City Manager.

SECTION 9 NOTIFICATION OF SPILLS.

(A) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in

illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the United States, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(B) In the event of a release of hazardous materials, the person responsible for the facility or operation, or responsible for emergency response for a facility or operation, shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director of Public Works in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works, at City Hall, 3300 Corinth Parkway, Corinth, Texas 76208 within three business days of the phone notice.

(C) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 10 VIOLATON; PENALTIES; INJUNCTIVE RELIEF.

(A) A person commits an offense if the person violates any provision or fails to comply with any of the requirements of this Ordinance.

(B) Any person who violates any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars and no cents ($2,000.00) for each violation of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(C) The city attorney is authorized to commence an action for appropriate legal or equitable relief in a court of competent jurisdiction. Such relief may include:

(1) An injunction to prevent a violation of this ordinance;
(2) Recovery for damages to the storm drainage system resulting from a violation of this ordinance;
(3) Recovery for expenses incurred by the city in responding to a violation of this ordinance;
(4) A civil fine of up to one thousand dollars ($1,000.00) per day for a violation of sections 6 or 7; and
(5) All other damages, costs and remedies to which the city may be entitled.

(D) The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

SECTION 11 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

SECTION 12 PROVISIONS CUMULATIVE.

This Ordinance shall be cumulative of all provisions of Ordinances and of the Code of Ordinances of the City of Corinth, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances and such Code, in which event the conflicting provisions of such Ordinances and such Code are hereby repealed.

SECTION 13 PUBLICATION.

The City Secretary of the City of Corinth is directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance to the extent required by law.

SECTION 14 SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 15 EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 19 **DAY OF** August **, 2010.**

CITY OF CORINTH TEXAS

Paul Ruggiere, Mayor

ATTEST:

Kimberly Pence, City Secretary

APPROVED AS TO FORM:

Debra A. Drayovitch, City Attorney