

CHAPTER 34

ILLICIT DISCHARGE DETECTION AND ELIMINATION

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ILLCIT DISCHARGE DETECTION AND ELIMINATION

34.01 FINDINGS OF FACT AND DECLARATION OF POLICY

The City of Middleton finds that pollutants from spills, illicit connections or other illicit discharges into the City storm drainage system or into Waters of the State have significant adverse impacts upon regional water resources and the health, safety, property and general welfare of the community, and diminishes the public enjoyment and use of natural resources. Therefore, it is declared through this ordinance to be the policy of the City of Middleton to minimize the likelihood of occurrence of such spills, and illicit connections discharges, and to provide for a means to clean up, remove or discontinue the described sources of pollution.

34.02 DEFINITIONS

The key terms, as they appear in this ordinance, are defined as follows:

- (1) **AUTHORIZED ENFORCEMENT AGENCY** means the office of the City Engineer or his or her designee.
- (2) **HAZARDOUS SUBSTANCES** 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.
- (3) **ILLCIT DISCHARGE** means any direct or indirect non-storm water discharge to the storm drainage system, except as exempted in Section 34.07 of this Chapter.
- (4) **ILLCIT CONNECTION** means either of the following:
 - (a) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drainage system 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 drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City; or
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the storm drainage system that has not been documented in plans, maps, or equivalent records and approved by the City.
- (5) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Middleton and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.
- (6) **NON-STORM WATER DISCHARGE** means any discharge to the storm drainage system that is not composed entirely of storm water.
- (7) **PERSON** means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- (8) **POLLUTANT** means 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.

- (9) **STORM DRAINAGE SYSTEM** means publicly-owned facilities by which storm water is collected 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.
- (10) **STORM WATER** means the flow of water that results from, and occurs during or immediately following, a rainfall, or snow or ice melt event.
- (11) **STORM WATER RUNOFF** means the waters derived from rains falling or snow melt or ice melt occurring within a drainage area, flowing over the surface of the ground and/or collected in channels, watercourses or conduits.
- (12) **WASTEWATER** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- (13) **WATERS OF THE STATE** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, storm drainage systems and other surface water or groundwater, natural or artificial, public or private, within the State or its jurisdiction under s. 281.01(18), Wis. Stats. except those waters that are entirely confined and retained completely within the property of a person or business.
- (14) **WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) STORM WATER DISCHARGE PERMIT** means a permit issued by the State of Wisconsin Department of Natural Resources (WDNR) that authorizes the discharge of pollutants to Waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.
- (15) **WRMC** means City of Middleton Water Resources Management Commission.

34.03 PURPOSE AND GOALS

- (1) The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Middleton through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:
 - (a) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
 - (b) To prohibit illicit connections and discharges to the MS4.
 - (c) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

34.04 APPLICABILITY

Unless otherwise exempted by section 34.07, this ordinance shall apply to all discharges from any lands in the City, by runoff or direct conveyance, entering the City's storm drainage system.

34.05 PROHIBITION OF ILLICIT DISCHARGES AND CONNECTIONS

- (1) It shall be unlawful for any person, firm, or corporation to discharge or cause to be discharged, into the public storm drainage system or any waterway within the city, any materials other than storm water runoff or other discharges specifically exempted under Section 34.07. Prohibited discharges include, but are not limited to, pollutants or any liquids containing pollutants that

cause or contribute to a violation of applicable water quality standards. The commencement, conduct, or continuance, of any illicit discharge to the public storm drainage system is prohibited.

- (2) It shall be unlawful for any person, firm, or corporation to construct, use, maintain, or continue the existence of an illicit connection to the public storm drainage system.
- (a) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.
 - (b) It shall be considered a violation of this article to convey sanitary waste to the public storm water system or allow such a conveyance to continue.

34.06 REQUIREMENT TO CLEAN, REPORT, AND SECURE

- (1) All persons delivering, hauling, disposing, storing, discharging, or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to the following; agricultural chemicals and other chemicals, fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank waste, sewage sludge, sanitary sewer wastes, oil, or petroleum products or wastes, shall comply with the following:
- (a) Immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing the pollution of the waterways within the jurisdiction of the City.
 - (b) Any such spilled material that cannot adequately be cleaned up by the responsible party or parties shall be reported immediately to the City Fire Department so that the proper agency can respond.
 - (c) The party or parties responsible for the release, escape, or discharge of spilled materials may be held financially responsible for the cost of any clean up undertaken by the City or its designated agent, to eliminate or mitigate potential adverse effects caused by discharged materials.
 - (d) It shall be unlawful for any person to store any potentially polluting substances unless such substances are stored in such a manner as to securely prevent them from escaping onto the ground surface or into any street, storm drainage system, ditch, or drainage way, or waterway within the jurisdiction of the City.

34.07 EXEMPTIONS

- (1) Categories of non-storm water discharges that are not considered illicit discharges include:
- (a) water line flushing;
 - (b) landscape irrigation;
 - (c) diverted stream flows;
 - (d) uncontaminated groundwater infiltration;
 - (e) uncontaminated pumped groundwater;
 - (f) discharges from potable water sources;
 - (g) foundation drains;
 - (h) air conditioning condensation;
 - (i) irrigation water;
 - (j) lawn watering;
 - (k) individual residential car washing;

- (l) flows from riparian habitats and wetlands;
 - (m) de-chlorinated swimming pool water;
 - (n) street wash water;
 - (o) fire-fighting; and
 - (p) discharges authorized under a WPDES permit.
- (2) The occurrence of a discharge listed above may be considered an illicit discharge on a case-by-case basis if the City identifies it as a significant contributor of a pollutant to Waters of the State.

34.08 ADMINISTRATION AND ENFORCEMENT

- (1) The City Engineer shall administer, implement, and enforce the provisions of this Chapter. Except as provided in sub. (2) below, upon finding a violation, the City Engineer shall provide written notice of the nature of the violation and order the initiation of corrective action within twenty-four (24) hours of receipt of the notice. Noncompliance shall result in further enforcement action. Notice may be delivered by personal service, certified mail, or posted conspicuously on the property with a copy sent by regular mail to the property owner's address as shown on the City tax roll.
- (2) Remedial Action
If a violation of this ordinance is likely to result in imminent damage to properties, public facilities or Waters of the State, the City Engineer may take emergency actions necessary to prevent such damage. The City Engineer may take such emergency actions immediately without providing notification of noncompliance.
- (3) Forfeitures
If any person violating any provision of this Chapter shall be subject to forfeiture with penalties as provided in Section 30.04 of this Code of Ordinances.
- (4) Injunctions
Compliance with this Chapter may be enforced by an action for injunction. It shall not be necessary to prosecute for a forfeiture before pursuing injunctive relief.

34.09 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

34.10 INTERPRETATION

The provisions of this Chapter shall be considered minimum requirements and shall be liberally construed to further the purposes of this Chapter and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

34.11 SEVERABILITY OF ORDINANCE PROVISIONS

If any section, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court, the remainder of this ordinance shall not be affected thereby.