

406. Stormwater

§406.010 AUTHORIZATION, FINDINGS, PURPOSE AND SCOPE.

Subd. 1. Statutory Authorization. This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462, Minnesota Rules, Parts 6120.2500-6120.3900, and Minnesota Rules Chapters 8410, 8420 and 7050.0210, and to be consistent with regional watershed organization rules.

Subd. 2. Findings. The City of White Bear Lake finds that stormwater runoff and erosion from land development and land disturbing activity can have significant adverse impacts upon local and regional water resources diminishing the quality of public health, safety, public and private property and natural resources of the City. Specifically, land development and land disturbing activity can:

- a) Threaten public health, safety, property, and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;
- b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
- c) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;
- d) Undermine floodplain management efforts by increasing the incidence and levels of flooding;
- e) Alter wetland communities by changing wetland hydrology and increasing pollutant loading; and
- f) Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.

Subd. 3. Purpose. The purpose of this ordinance is to promote, preserve, and enhance the natural resources within the City and protect them from adverse effects by activities that would have an adverse and potentially irreversible impact on water quality. This ordinance will set forth minimum requirements for stormwater management that will diminish threats to public health, safety, public and private property and natural resources within the City by:

- a) Protecting life and property from dangers associated with flooding;
- b) Protecting public and private property and the natural resources from damage resulting from runoff and erosion;
- c) Ensuring site design minimizes the generation of stormwater runoff and maximizes pervious areas for stormwater treatment;
- d) Promoting regional stormwater management;
- e) Providing a single, consistent set of performance standards that apply to all developments;
- f) Protecting water quality from nutrients, pathogens, toxics, debris, and thermal stress;
- g) Promoting infiltration and groundwater recharge;
- h) Providing vegetated corridors (buffers) to protect water resources from degradation;

- i) Protecting functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds);
- j) Complying with requirements of the Minnesota Pollution Control Agency (MPCA) Municipal Separate Storm Sewer System (MS4) Permit and General Permit for Construction Activities; and
- k) Meeting requirements set forth by the Ramsey-Washington Metro Watershed District (RWMWD), Rice Creek Watershed District (RCWD), Vadnais Lake Area Water Management Organization (VLAWMO), or Valley Branch Watershed District (VBWD) depending on the appropriate boundaries.

Subd. 4. Scope.

- a) The City's Municipal Stormwater Management System consists of lift stations, catch basins and manholes, collection piping, forcemain, ditches, ponds, lakes, structural BMPs (Best Management Practices), and associated appurtenances located within public right-of-way and applicable easements;
- b) No person, firm or corporation shall disturb any land for residential, commercial, industrial, or institutional uses without having provided stormwater management measures as required by the City's Engineering Design Standards. No person, firm or corporation shall connect any drainage system to the municipal stormwater management system or make use of any drainage system extension connected to the municipal stormwater management system except in a manner provided in this chapter.

Subd. 5. Permits.

- a) Persons undertaking land disturbance activity and/or desiring a connection to the municipal stormwater system shall apply to the City for a permit;
- b) The applications shall be accompanied by plans, specifications, and other required information, complying with the City's Zoning Code, Subdivision Code, and Engineering Design Standards, as amended from time to time;
- c) The fee for each permit shall be as determined by the City Council. All costs and expenses associated with the installation and connection shall be borne by the owner and installer. The owner and installer shall indemnify the City for any loss or damage that may, directly or indirectly, be occasioned by the installation of the stormwater system connection, including restoring streets and street surfaces.

Subd. 6. Right of Entry and Inspection.

- a) The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site. The applicant shall allow the City and their authorized representatives, upon presentation of credentials to:
 - 1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
 - 2. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
 - 3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted site.
 - 4. Inspect the stormwater pollution control measures.

- 5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.
- 6. Correcting deficiencies in stormwater and erosion and sediment control measures.

Subd. 6. Severability.

- a) The provisions of this ordinance are severable, and if any provision of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.

§406.020. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Subd. 1. Findings. The City Council hereby finds that nonstormwater discharges to the City's municipal separate storm sewer system are subject to higher levels of pollutants that enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City to provide adequate water, sewage, flood control and other community services.

Subd. 2. Purpose. The purpose of the ordinance is to promote, preserve and enhance the natural resources within the City and protect them from adverse effects occasioned by nonstormwater discharges by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land. In addition to requirements relative to the City's sanitary sewer system, this article establishes methods for controlling the introduction of pollutants into the City's municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process and for controlling the introduction. The objectives of this ordinance are:

- a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- b) To prohibit illicit connections and discharges to the municipal separate storm sewer system, and
- c) To establish legal authority to carry out all inspection, surveillance, enforcement, and monitoring procedures necessary to ensure compliance with this ordinance.
- d) This Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462; Minnesota Rules, Parts 6120.2500-6120.3900, Minnesota Rules Chapters 8410, 8420 and 70510.0210.

Subd. 3. Definitions. The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

- a) *Best management practice or BMP*. Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.
- b) *Discharge*. Adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant in a location where it is likely to pollute public waters.
- c) *Erosion*. The process by which ground surface is worn away by action of wind, water, ice, or gravity.
- d) *Groundwater*. Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or in rock formations deeper underground.
- e) *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.
- f) *Illicit connection*. Either of the following:
 - 1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system (including any nonstormwater discharge) including sewage, process wastewater, and wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - 2) Any drain or conveyance connected from a residential, 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.
- g) *Illicit discharge*. Any direct or indirect nonstormwater discharge to the storm sewer system, except as exempted in Subd. 7. of this article.
- h) *Industrial activity*. Activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).
- i) *MPCA*. The Minnesota Pollution Control Agency.

- j) *Municipal separate storm sewer system or MS4.* The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.
- k) *NPDES.* The National Pollutant Discharge Elimination System, which is the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Section 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Section 1317, 1328, 1342, and 1345 authorizing the discharge of pollutants to water of the United States.
- l) *Person.* Any individual, firm, corporation, partnership, franchise, association, or government entity.
- m) *Pollutant.* Any substance which, when discharged has potential to or does any of the following:
- 1) Interferes with state designated water uses;
 - 2) Obstructs or causes damage to public waters;
 - 3) Changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater;
 - 4) Adds an unnatural surface film on the water;
 - 5) Adversely changes other chemical, biological, thermal, or physical condition, in any surface water or stream channel;
 - 6) Degrades the quality of ground water; or
 - 7) Harms human life, aquatic life, or terrestrial plant and wildlife.
 - 8) Includes but is not limited to dredged soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.
- n) *Pollute.* To discharge pollutants into public waters.
- o) *Pollution.* The direct or indirect distribution of pollutants into public waters.
- p) *Public waters.* Waters of the state, as defined in Minn. Stat. §103G.055(15).
- q) *Storm sewer system.* A conveyance or system of conveyances that is owned and operated by the City or other entity and designed or used for collecting or conveying stormwater.

- r) *Stormwater*. Defined under Minnesota Rule 7077.0105, subpart 41(b), and means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage.
- s) *Surface waters*. All public waters other than ground waters, which include ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems except those designed and used to collect, convey, or dispose of sanitary sewage.

Subd. 4. Compatibility with Other Regulations. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or

imposes higher protective standards for human health or the environment shall control.

Subd. 5. Illegal Disposal and Dumping.

- a) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catchbasin conduit or drainage structure, business, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.
- b) No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catchbasin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

Subd. 6. Illicit Discharges.

- a) *Provisions*. No person shall cause any illicit discharge to enter the storm sewer system or any surface water.
- b) *Exemptions*. The following discharges are exempt from this section:
- 1) Nonstormwater that is authorized by an NPDES point source permit obtained from the MPCA;
 - 2) Firefighting activities or other activities necessary to protect public health and safety;
 - 3) Dye testing for which the City has been provided a verbal notification prior to the time of the test;
 - 4) Water line flushing or other potable water sources;
 - 5) Landscape irrigation or lawn watering;
 - 6) Diverted stream flows;
 - 7) Rising ground water;
 - 8) Ground water infiltration to storm drains;
 - 9) Uncontaminated pumped ground water;
 - 10) Foundation or footing drains (not including active groundwater dewatering systems);
 - 11) Crawl space pumps;
 - 12) Air conditioning condensation;
 - 13) Natural springs;
 - 14) Noncommercial washing of vehicles;
 - 15) Natural riparian habitat or wetland flows;
 - 16) Dechlorinated swimming pools (for pools to be considered "dechlorinated," water must be allowed to sit seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharging. **It is recommended that the dechlorinated water be discharged to the ground surface to encourage infiltration, however, it may be discharged in an area where drainage to streets or storm sewer systems occurs**); or
 - 17) Any other water source not containing a pollutant.

Subd. 7. Illicit Connections. No person shall construct, use, or maintain any illicit connection to intentionally convey nonstormwater to the City's storm sewer system. 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 connection. A person is considered to be in violation of this article if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

Subd. 8. General Provisions. All owners or occupants of property shall comply with the following general requirements:

- a) *Septic systems*. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm sewer system may occur. This section shall apply to both actual and potential discharges.
 - 1) Individual septic systems must be maintained to prevent failure, which has the potential to pollute surface water.
 - 2) No part of any individual septic system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the ordinary high water level in the case of DNR protected waters, or the wetland boundary in the case of all other water bodies, unless it is proven by the applicant that no effluent will immediately or gradually reach the water bodies because of existing physical characteristics of the site or the system.
 - 3) Recreational vehicle sewage shall be disposed to a proper sanitary waste facility. Waste shall not be discharged in an area where drainage to streets or storm sewer systems may occur.
- b) *Water runoff*. Runoff of water from residential property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of equipment, vehicles, and paved areas in commercial or industrial property shall be conducted in a manner so as to not directly discharge wastewater where drainage to streets or storm sewer system may occur, unless necessary for health or safety purposes and not in violation of any other provisions of the City code.
- c) *Mobile washing businesses*. Business that use significant amounts of water at various locations in the city, such as, but not limited to mobile vehicle washing and carpet cleaning, shall dispose of wastewater into the sanitary sewer at a location permitted by the City. Wastewater must not be discharged where drainage to streets or storm sewer system may occur.
- d) *Motor vehicle repair and maintenance*. Storage of materials, machinery and equipment for motor vehicle repair and maintenance must comply with the following requirements:
 - 1) Motor vehicle parts containing grease, oil or other hazardous substances and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff.

- 2) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.
- e) *Parking lots and private streets.* Debris such as grass, leaves, dirt, and landscape material shall be removed from impervious surfaces such as parking lots and private streets to the maximum extent practicable and at least twice a year in the spring and fall. Such debris shall be collected and properly disposed.
- f) *Watercourse Protection.* Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse
- g) *Other.* Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste may be disposed of through the county collection program or at any other appropriate disposal site and shall not be placed in a trash container.

Subd. 9. Industrial Activity Discharges. Any person subject to an industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the City prior to the allowing of discharges to the storm sewer system. Any person responsible for a facility that has stormwater discharges associated with industrial activity, who is or may be the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm sewer system. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

Subd. 10. Notification of Spills. 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 the storm sewer system, or public water the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the City no later than the next business day.

Subd. 11. Inspection and Sampling. The City shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- a) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

- b) Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an MPCA NPDES Industrial General Permit, and the performance of any additional duties as defined by state and federal law.
- c) The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's storm water discharge.
- d) The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Subd. 12. Access. If the City has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek an administrative search warrant from any court of competent jurisdiction.

Subd. 13. Enforcement.

- a) When the City finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder and that the violation(s) has (have) caused or contributed to an actual or threatened discharge to the stormwater management system or waters of the state which reasonably appears to present an imminent and substantial endangerment to the environment, or to the health or welfare of persons, the City may issue and order to the violator to immediately cease and desist all violations.
- b) *Suspension due to the detection of illicit discharge*. All persons discharging to the storm sewer system in violation of this article may have their storm sewer system access terminated if such termination serves to abate or reduce an illicit discharge. It is a violation of this section to reinstate storm sewer system access to premises that have been terminated pursuant to this section without the prior approval of the City.
- c) If the violator fails to comply with a suspension order issued, the City may take such steps as deemed necessary to prevent or minimize damage to the stormwater management system or public waters, or to minimize danger to persons. If the violation is not immediately abated, action may be initiated by the City and all

reasonable costs of abatement shall be assessed against the property and collected along with ordinary taxes by the City.

Subd. 14. Notice of Violation.

- a) Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City may order compliance by written notice of violation to the responsible person. The Notice of Violation shall contain:
 - 1) The nature of the violation and associated fine;
 - 2) The performance of monitoring, analysis, and reporting;
 - 3) The implementation of source control or treatment BMPs;
 - 4) Any other requirement deemed necessary.
- b) In the event the violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 7 days, or such greater period as the City shall deem appropriate, after the City has taken one or more of the actions described above, the City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

Subd. 15. Remedies not exclusive. The remedies lists 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.

Subd. 16. Severability. The provisions of this ordinance are hereby declared to be severable. If any provision of this ordinance or application thereof to any person, establishment, or circumstance, is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance. (Ref. Ord. 15-05-2001, 5/12/15).