

**CHAPTER 7.****PUBLIC AND PRIVATE UTILITIES****747. STORM WATER ILLICIT DISCHARGE AND ILLICIT CONNECTIONS TO THE STORM SEWER SYSTEM****Section 747.01 Storm Water Illicit Discharge and Illicit Connections to the Storm Sewer System**

**Subd. 1. Intent.** To promote the health, safety and general welfare of the citizens of Medina by requiring illicit discharge management practices for all discharge activities.

**Subd. 2. Statutory Authorization.** This ordinance is adopted pursuant to Minnesota Statutes Section 462.351.

**Subd. 3. Findings.** The city council hereby finds that non-storm water discharges to the city's municipal separated storm sewer system are subject to higher levels of pollutants. These pollutants can enter into receiving water bodies which adversely affect 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 treatment, flood control and other community services.

**Subd. 4. Purpose.** The purpose of this section is to promote, preserve and enhance the natural resources within the city by protecting these resources from adverse effects occasioned by non-storm water discharges by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land.

**Subd. 5. Definitions.** The following terms shall have the meanings given to them unless another meaning is clear from the context:

- (a) "Best management practices" or "BMPs" means sediment and erosion control and stormwater management practices used to mitigate adverse effects of land use activities, runoff, sedimentation and non-point source pollution on stream bank erosion, stream hydrology and surface and groundwater replenishment.
- (b) "Discharge" means adding, introducing, releasing, leaking, spilling, casting, throwing or emitting any pollutant or placing any pollutant in a location where it is likely to pollute any waters of the state located in the city.
- (c) "Erosion" means the process by which ground surface is worn away by action of wind, water, ice or gravity.

- (d) “Groundwater” means water contained below the surface of the earth in the saturated zone, including, but not limited to, all waters whether under-confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith or in rock formations deeper underground.
- (e) “Illicit connection” is defined as either of the following:
  - (i) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm sewer system including any non-storm water discharge including sewage, process wastewater or wash water and any connections to the storm sewer system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
  - (ii) Any drain or conveyance connected from a residential, commercial or industrial land use to the storm sewer system which has not been documented in plans, maps, or equivalent records or approved by an authorized enforcement agency.
- (f) “Illicit discharge” means any direct or indirect non-storm water discharge to the storm sewer system, except as exempted in subdivision 8 of this section.
- (g) “MPCA” means the Minnesota Pollution Control Agency.
- (h) “NPDES” means the National Pollutant Discharge Elimination System, the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits pursuant to Sections 301, 318, 402 and 405 of the Clean Water Act (33 C.F.R. §§ 1317, 1328, 1342, and 1345), authorizing the discharge of pollutants to waters of the United States.
- (i) “Person” means any individual, firm, corporation, partnership, franchise, association or governmental entity.
- (j) “Pollutant” means any substance which, when discharged has the potential to or does interfere with state designated water uses; obstructs or causes damage to waters of the state; 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; adds an unnatural surface film to the water; adversely changes other chemical, biological, thermal, or physical conditions in any surface water or stream channel; degrades the quality of groundwater; or harms human life, aquatic life, terrestrial plant or wildlife. Pollutants include, but are not limited to, dredged soil, solid waste, incinerator residue, garbage, wastewater, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substances, pesticides, herbicides, trace metals,

automotive fluids, petroleum-based substances and oxygen-demanding materials.

- (k) “Pollute” means to discharge pollutants into the waters of the state.
- (l) “Pollution” means the direct or indirect distribution of pollutants into the waters of the state.
- (m) “State designated water uses” means uses specified in the State of Minnesota water quality standards.
- (n) “Storm sewer system” means 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 storm water.
- (o) “Storm water” means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage or as otherwise defined by Minnesota Rule 7077.0105, subpart 41(b).
- (p) “Surface water” means all waters of the state other than groundwater, which includes, but is not limited to, ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches and public drainage systems except those designated and used to collect, convey or dispose of sanitary sewage.
- (q) “Waters of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof or as otherwise defined in by Minnesota Statutes Section 115.01, subdivision 22.

**Subd. 6. Administration.** The city engineer and his or her authorized representatives are authorized to administer, implement and enforce the provisions of this section.

**Subd. 7. Illegal Disposal and Dumping of Substances and Materials.**

- (a) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place or upon any public or private plot of land, so that the same might be or become a pollutant, except if secured within a container or bag or contained within a lawfully established waste disposal facility.
- (b) No person shall intentionally dispose of grass, leaves, dirt or landscape material into a water resource, buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

**Subd. 8. Illicit Discharges and Connections to the Storm Sewer System.**

- (a) No person shall cause any illicit discharge to enter the storm sewer system or any surface water unless such discharge:
  - (i) Consists of non-storm water that is authorized by an NPDES point source permit obtained from the MPCA;
  - (ii) Is associated with fire fighting activities or other activities necessary to protect public health and safety; or
  - (iii) Is one of the following exempt discharges: water line flushing or other potable water sources; landscape irrigation or lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to a storm drain; uncontaminated pumped groundwater; foundation or footing drains (not including active groundwater dewatering systems); crawl space pumping; air conditioning condensation; springs; non-commercial washing of vehicles; natural riparian habitat or wetland flow; emptying of dechlorinated swimming pools; and any other water discharge that does not contain a pollutant.
- (b) Dye testing is an allowable discharge. Verbal notification to the city at least 48 hours prior to the time of the test is required.
- (c) No person shall use any illicit connection to intentionally convey non-storm water to the storm sewer system.
- (d) No person shall connect or convey water from floor drains to the storm sewer system.
- (e) The construction, use, maintenance or continued existence of illicit connections to the storm sewer system is prohibited. This prohibition expressly includes, but is not limited to, illicit connections made in the past, regardless of whether the connection had been previously allowed, permitted, or approved by an authorized enforcement agency.
- (f) No person shall connect a line conveying sewage to the storm sewer system, or allow such a connection to continue.

**Subd. 9. Discharge Prevention Requirements.** Any owner or occupant of property within the city shall comply with the following requirements to prevent discharges:

- (a) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to a street or the storm sewer system may occur. This prohibition shall apply to both actual and potential discharges.

- (b) Individual sewage treatment systems must be maintained in order to prevent failure, which has the potential to pollute surface water. No part of any individual sewage treatment system requiring on-land or in-ground disposal of waste shall be located in an area where effluent could immediately or gradually reach a body of water due to the existing physical characteristics of the site or the system.
- (c) Recreational vehicle sewage shall be disposed of at a proper sanitary waste facility. Waste must not be discharged in an area where drainage to streets or storm sewer system may occur.
- (d) Water in swimming pools must sit for seven days without the addition of any chlorine to allow for evaporation of the chlorine before it is discharged.
- (e) Runoff of water from residential properties shall be minimized to the maximum extent practicable. Runoff of water from the washing down of paved areas on commercial or industrial properties is prohibited unless necessary for health or safety purposes and is not in violation of any other applicable regulations.
- (f) Mobile washing companies, such as carpet cleaning and mobile vehicle washing services, shall dispose of any wastewater to the sanitary sewer system. Wastewater shall not be discharged to the streets or storm sewer system.
- (g) Objects such as motor vehicle parts that contain grease, oil or other hazardous substances and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff. 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 any leaks, spills, or discharges.
- (h) Debris and residue shall be removed, as required below:
  - (i) All motor vehicle parking lots and private streets shall be swept, at a minimum of once a year in the spring to remove debris. Such debris shall be collected and be disposed of properly.
  - (ii) 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 must be disposed of through the county collection program or at any other authorized disposal site. Household hazardous waste shall not be placed in a trash container.

**Subd. 10. Industrial Activity Discharges to the Storm Sewer System.**

- (a) Any person subject to an industrial activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said

permit may be required in a form acceptable to the city prior to the allowing of discharge to the storm sewer system.

- (b) All facilities that have storm water discharges associated with industrial activity must adhere to the following requirements: Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm sewer system. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

**Subd. 11. 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 waters of the state, said 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, said person 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 city no later than the next business day.

**Subd. 12. Access to Buildings for Inspection, Sampling, Dye Testing and Examination Related to Storm Water Discharge.**

- (a) The city must be permitted to enter and inspect all buildings under this section as often as may be necessary to determine compliance with this section and for the purposes of sampling, dye testing and examinations that relate to the discharge of storm water. If a person does not wish to allow the city to enter a building to conduct the required activity, he or she may retain a private inspector to conduct the activity. The private inspector must have credentials that are acceptable to the city. The private inspector shall provide the city with the relevant samples, test results, reports or any other information that is being requested.
- (b) Upon the request of the city, the discharger must provide the city with copies of records that relate to the discharge of storm water.
- (d) The city may require the discharger to install monitoring equipment or other such devices as necessary to conduct monitoring, sampling or dye testing of the facility's storm water discharge.
- (e) If the city has been refused access to any part of the premises from which storm water is being 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, test, examine or sample as part of a routine program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public

health, safety, and welfare of the community, then the city may seek issuance of an administrative search warrant from any court of competent jurisdiction.

**Subd. 13. Suspension of Storm Sewer System Access.**

- (a) The city may, without prior notice, suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent and substantial danger to the environment; to the public health or welfare; to the storm sewer system; or to the waters of the state. 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 storm sewer system or waters of the state, or to minimize danger to the public.
- (b) Any person discharging to the storm sewer system in violation of this section may have his or her storm sewer system access terminated if such termination will abate or reduce an illicit discharge. No person shall reinstate the storm sewer system access to premises terminated pursuant to this section without the prior approval of the city.

**Subd. 14. Enforcement.**

- (a) Notice of Violation. Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the city may order compliance by sending written notice of the violation to the responsible person. Such notice may require without limitation:
  - (i) The performance of monitoring, analyses and reporting;
  - (ii) The elimination of illicit connections or discharges;
  - (iii) Discharges, practices, or operations in violation of this section to cease and desist;
  - (iv) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
  - (v) The implementation of source control or treatment BMPs.
- (b) The offending party may appeal the city's notice to the city council. An appeal must be brought in writing no later than 10 days from the date of the notice.
- (c) If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the offending party fail to remediate or restore within the established deadline, the work will be done by a

designated governmental agency or a contractor and the expense thereof will be charged to the offending party.

- (d) In the event that the abatement or restoration work is performed by the city, the city may charge the violator for its costs and expenses associated with the work. If the bill received for abatement or restoration is not paid within 30 days, the city may draw the amount of the bill from any financial guarantees that the city may be holding or may certify the amount to the county for collection with the property taxes.

**Subd. 15. Penalty.** Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes Section 609.03. Each additional day that the property remains in violation of this section shall constitute a separate violation of this section and may be prosecuted accordingly. Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of this section, including, but not limited to, seeking a civil injunction or a restraining order.

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#### **Amendment History of this Section**

*Adopted June 17, 2008 (Ord. 445). A storm water illicit discharge and illicit connections to the storm sewer system ordinance was established under Section 747.01.*