

ORDINANCE NO. 17-05

**AN ORDINANCE CREATING CHAPTER 48
STORM SEWER ILLICIT DISCHARGE AND CONNECTION**

The Common Council of the City of Platteville, Wisconsin do ordain as follows:

Section 1. Chapter 48 Storm Sewer Illicit Discharge and Connection is hereby created as follows:

CHAPTER 48

STORM SEWER ILLICIT DISCHARGE AND CONNECTION

48.01 PURPOSE

(1) **AUTHORITY**

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

1. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
2. To prohibit illicit connections and discharges to the MS4.
3. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this chapter.

(b) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the City.

(c) In instances where the provisions of this ordinance conflict with provisions of other City ordinances, zoning regulation, or the provisions of state agencies, including, but not limited to, the WPDES Storm Water Discharge Permits issued by the WDNR under Wis. Stats. Section 281.31, the more stringent provision shall apply.

(d) The City designates the Director of Public Works as the person responsible to administer and enforce the provisions of this chapter.

(2) **Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(3) **Findings of Fact.** The City is growing at a rapid rate. The Rountree Branch River and its tributaries are valuable trout waters of regional significance, representing a major natural amenity of the community. Illicit discharges have the potential to severely impact the fish and wildlife habitat of the river.

48.02 APPLICABILITY

This chapter shall apply to all water and discharges entering the MS4 or waters of the state generated on any lands unless explicitly exempted by the Director of Public Works.

48.03 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply:

"Best management practices" or "BMPs" means practices, techniques or measures that are effective in reducing flooding, removing pollutants, providing thermal mitigation, enhancing infiltration and/or providing other benefits related to storm water management set forth in the WDNR Construction Site Erosion and Sediment Control Technical Standards and the Post Construction Storm Water Management Technical Standards developed under Subchapter V of Wis. Adm. Code Ch. NR 151, available on their website at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>.

"City" means the City of Platteville.

"Director of Public Works" means the governmental employee designated by the council to administer this chapter and includes any other governmental employees designated by the Director of Public Works or the City Council in the absence of the Director of Public Works.

"Dechlorinated swimming pool discharge" means pool water that has been allowed to sit for one week or more with no treatment or pool water that can otherwise be tested to show that residual chlorine or bromine levels are nondetectable.

"Discharge" means as defined in Ch. 283, Wis. Stats., and any amendments thereto, when used without the qualification includes a discharge of any pollutant to the waters of this state from any point source.

"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 connections" are defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows an 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 MS4 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 an authorized enforcement agency, 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 an authorized enforcement agency.

"Illicit discharge" means any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit limited to landscape irrigation, individual residential car washing draining onto a grassed area, firefighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.

"Industrial activity" means any activities subject to WPDES industrial permits pursuant to Wis. Adm. Code Ch. NR 216, and Ch. 283, Wis. Stats., and any amendments thereto.

"Municipal separate storm sewer system" or "MS4" as defined in the Wis. Adm. Code Ch. NR 216, and any amendments thereto, means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basin, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

1. owned or operated by a municipality;
2. designed or used for collecting or conveying storm water;
3. that which is not a combined sewer conveying both sanitary and storm water; and
4. that which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

"Non-storm water discharge" means any discharge to the MS4 that is not composed entirely of storm water.

"Outfall" means the point at which storm water is discharged to waters of the state or leaves one MS4 and enters another.

"Owner" means any person holding fee title, an easement, or other interest in property.

"Person" means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

"Pollutant" as defined in Ch. 283, Wis. Stats., and any amendments thereto, means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

"Pollution prevention" means taking measures to eliminate or reduce pollution.

"Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Storm sewer" means a closed conduit for conducting collected storm water.

"Storm water" means runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

"Storm water management plan/storm water pollution prevention plan" means a document that describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable. Identifies what actions will be taken to reduce storm water quantity, volume, pollutant loads, thermal increases to the receiving stream and/or erosion resulting from land development activity to levels meeting the purpose and intent of this chapter and the water management plan.

"Structure" means anything that is constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

"Wastewater" means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

"Watercourse" means a natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Grant and Lafayette County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

"Waters of the state" means lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or its jurisdiction, except those waters which are entirely confined and retained completely upon the premises of a person.

"WDNR" means the Wisconsin Department of Natural Resources

"WPDES Storm water Discharge Permit" means a permit issued by the WDNR under Section 283.31 Wis. Stats. which authorizes the discharge of storm water from construction sites, industrial facilities, and selected municipalities to waters of the state.

48.04 DISCHARGE PROHIBITIONS

- (1) Prohibition of Illicit Discharges. No person shall throw, dump, drain, spill or otherwise discharge, or cause, or allow any other person to throw, dump, drain, spill or otherwise discharge into waters of the state or the storm sewer of the MS4 any pollutants or water containing any pollutants, other than storm water.
- (2) Allowed Discharges.
 - (a) Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
 - (b) Discharges or flow from firefighting, and other discharges specified in writing by the Director of Public Works as being necessary to protect public health and safety.
 - (c) Discharges associated with dye testing; however this activity requires a verbal notification to the Director of Public Works and the WDNR a minimum of one business day prior to the time of the test.
 - (d) Any non-storm water discharge permitted under a Construction Activities Permit, Industrial Activity Permit, or WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the WDNR. Any person subject to such a WPDES storm water discharge permit shall comply with all provisions of such a permit.
- (3) Prohibition of Illicit Connections.
 - (a) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.
 - (b) 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.

- (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.
- (d) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system of the sanitary sewer system upon approval of the Director of Public Works.
- (e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that premises upon receipt of written notice of violation from the City requiring that such location be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director of Public Works.

48.05 WATERCOURSE PROTECTION

Every person who owns, leases, otherwise controls or occupies premises through which a watercourse passes shall keep and maintain that portion of the watercourse in question free of trash, debris, excessive vegetation and other obstruction which has the tendency to pollute, contaminate or significantly retard or block the flow of water through the watercourse. This duty shall include the responsibility of maintaining structures within or adjacent to the watercourse in such location and in such a manner of repair so as not to constitute an impediment to the use, function or physical integrity of the watercourse.

48.06 COMPLIANCE MONITORING

- (1) Right of Entry: Inspecting and Sampling. The City reserves the right to enter and inspect all premises in the City which contain watercourses, points of discharge, connections with storm sewers and outfalls for the purpose of ascertaining compliance with this chapter.
 - (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 Director of Public Works.
 - (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.
 - (c) The Director of Public Works shall have the right to set up on any premises such devices as are necessary in the opinion of the Director of Public Works to conduct monitoring and/or sampling of the facility's storm water discharge.
 - (c) The Director of Public Works has the right to require the discharger to install monitoring equipment as necessary. The premises' 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.
 - (d) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Director of Public Works and shall not be replaces. The costs of clearing such access shall be borne by the operator.
 - (f) Unreasonable delays in allowing the Director of Public Works access to a premises is a violation. A person who is the operator of a facility commits an offense if the person

denies the Director of Public Works reasonable access to the premises for the purpose of conducting any activity authorized or required by this chapter.

- (2) Special Inspection Warrant. If the Director of Public Works has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause under Section 66.0119, Wis. Stats to believe that there may be a violation of this chapter, 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director of Public Works may seek issuance of a special inspection warrant per Section 66.0119, Wis. Stats.

48.07 PREVENT, CONTROL AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BMPS

- (1) The owner or operator of any activity, operation, or facility and the owner, lessee or occupant of any premises which causes or contributes to pollution or contaminates storm water, the MS4 or watercourses, at his or her sole expense, shall provide reasonable protection against the accidental discharge of prohibited or nonpermitted materials or other waste into the MS4 or other watercourses and may be required to implement additional structural or nonstructural BMPs to prevent further or continuing discharge of pollutants to the MS4 and watercourses. Further, 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 nonstructural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a storm water management plan (SWMP)/storm water pollution prevention plan (SWPPP) as necessary for compliance.

48.08 NOTIFICATION OF SPILLS

- (1) Notwithstanding other requirements of law, as soon as any person who owns or occupies any premises subject to this chapter or who operates a facility or operation has any information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- (2) 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 nonhazardous materials, said person shall notify the Director of Public Works in person or by telephone or electronic means no later than the next business day. Notification in person or by telephone shall be confirmed by written notice addressed and mailed to the Director of Public Works within three business days of the phone notice. 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 seven years. Failure to provide notification of a release as provided above is a violation of this chapter.

48.09 COMPLIANCE ENFORCEMENT

- (1) Violations. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
- (2) In the event the violation constitutes an immediate danger to public health or public safety, the Director of Public Works is authorized to enter upon the subject private property, without giving

prior notice, to take any and all measures necessary to abate the violation. The Director of Public Works is authorized to seek costs of the abatement as outlined in subsection E below.

- (3) **Warning Notice.** When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the Director of Public Works may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the Director of Public Works to take action, including emergency action or any other enforcement action without first issuing a warning notice.
- (4) **Notice of Violation.** Whenever the Director of Public Works finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Director of Public Works may order compliance by written notice of violation to the responsible person. The notice of violation shall contain:
 - (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (f) A statement that the determination of violation may be appealed to the City Board of Appeals per Chapter 22 of the municipal code by filing a written notice of appeal within ten (10) business days of service of notice of violation; and
 - (g) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit connections or discharges;
 3. That violating discharges, practices, or operations shall cease and desist;
 4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected premises;
 5. Payment of a fine to cover administrative and remediation costs; and
 6. Preparing plans for and implementing BMPs.
- (5) **Suspension of MS4 Access.**

- (a) **Emergency Cease and Desist Orders.** When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to reoccur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the State which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director of Public Works may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to: reoccur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director of Public Works may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
1. Immediately comply with all ordinance requirements; and
 2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director of Public Works may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director of Public Works may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director of Public Works that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director of Public Works within five business days of receipt of the emergency order as a prerequisite for taking any other action against the violator.

- (b) **Suspension Due to Illicit Discharges in Emergency Situations.** The Director of Public Works 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 state. 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 state, or to minimize danger to persons.
- (c) **Suspension Due to the Detection of Illicit Discharge.** Any person discharging to the MS4 in violation of this chapter may have their 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 violator may petition the Director of Public Works for a reconsideration and hearing.

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.

- (d) Prosecution and Penalties. Any person that has violated or continues to violate this chapter shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by the Director of Public Works, after he/she has taken one or more of the actions described above, such person shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 in addition to the costs of prosecution and any penalty assessment imposed by Wisconsin Statutes. Each day a violation exists shall constitute a separate offense. The Director of Public Works may also impose upon a violator alternative compensatory actions, such as storm drain stenciling/markings, attendance at compliance workshops, pond or drainage way cleanup, etc.
- (6) Cost of Abatement of the Violation. Within thirty (30) days after abatement of the violation, the owner of the premises will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the City, the charges shall become a special charge against the property, and shall constitute a lien on the property, per Section 66.0628, Wis. Stats. The City may recover all attorneys' fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

48.10 APPEAL OF NOTICE OF VIOLATION

- (1) Appeals. Any person receiving a notice of violation may appeal the determination of the Director of Public Works. The notice of appeal must be received by the City within ten (10) business days from the date of the notice of violation. Hearing on the appeal before the Board of Appeals shall take place within sixty (60) calendar days from the date of receipt of the notice of appeal.
- (2) Enforcement Measures After an Appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event the appeal to the Board of Appeals upheld the decision of the Director of Public Works, then representatives of the Director of Public Works are authorized to enter upon the subject private property and authorized to take any and all measures necessary to abate the violation. It is unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

48.11 VIOLATIONS DEEMED A PUBLIC NUISANCE

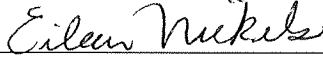
Any condition in violation of any of the provisions of this chapter and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

48.12 SEVERABILITY

The provisions of this chapter are declared to be severable. If a court of competent jurisdiction judges any section, clause, provision or portion of this chapter unconstitutional or invalid, the remainder of this chapter shall remain in force and not be affected by such judgment.

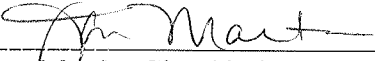
Section 2. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Approved and adopted by the Common Council of the City of Platteville on a vote of 7 to 0 this 14th day of February, 2017.



Eileen Nickels, Council President

Attest:



Jan Martin, City Clerk

Published: February 22, 2017