

AN ORDINANCE OF THE CITY COUNCIL AMENDING TITLE VII (“UTILITIES”) OF THE MUNICIPAL CODE OF THE CITY OF REPUBLIC, MISSOURI, BY ADDING NEW CHAPTER 720 (“ILLICIT DISCHARGE INTO MUNICIPAL SEPARATE STORM SEWER SYSTEM”)

WHEREAS, the City of Republic, Missouri, (“City” or “Republic”) is a municipal corporation and Charter City located in Greene County, Missouri, being duly created, organized, and existing under the laws of the State of Missouri; and

WHEREAS, the City routinely reviews its Municipal Code to ensure conformity with governing state and federal law, enhance clarity, and eliminate ambiguity, as well as to the further promote the City’s mission, vision and values in the best interests of the City and its citizenship body as a whole; and

WHEREAS, in reviewing the Municipal Code consistent with the priorities listed herein above, City staff identified the need to add a chapter to address illicit discharges into the City’s storm sewer system.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF REPUBLIC, MISSOURI, AS FOLLOWS:

Section 1: Title VII (“Utilities”) of the Municipal Code of the City of Republic, Missouri is hereby amended to add new Chapter 720 (“Illicit Discharge Into Municipal Separate Storm Sewer System”) therein, which shall read as follows:

Title VII Utilities

Chapter 720 Illicit Discharge Into Municipal Separate Storm Sewer System

Article 720-I General Provisions – Stormwater

720.010 Purpose

- A. The purpose of Articles I through III is to provide for the health, safety and general welfare of the citizens of the City of Republic through the regulation of non-stormwater discharges to the Storm Sewer System to the maximum extent practicable as required by Federal and State law. This Chapter establishes methods for controlling the introduction of pollutants into the Storm Sewer System in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) and Municipal Separate Storm Sewer System (MS4) permit process. The objectives of this Chapter are:**
- 1. To regulate the contribution of pollutants to the Storm Sewer System by stormwater discharges by any User;**
 - 2. To prohibit illicit connections and discharges to the Storm Sewer System;**

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

720.020 Scope

The provisions of this Chapter shall apply to all substances entering the Storm Sewer System generated on any developed and undeveloped lands unless explicitly exempted by the City.

720.030 Definitions

For the purposes of this Chapter, the following words or phrases shall mean:

AUTHORIZED ENFORCEMENT AGENCY Employees or designees of the City.

BEST MANAGEMENT PRACTICES (BMPS) Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or Storm Sewer System. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

CLEAN WATER ACT The Federal Water Pollution Control Act of 1972 (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY Activities subject to the rules and restrictions contained in construction permits issued by the National Pollutant Discharge Elimination System (NPDES) that are performed in connection with construction projects resulting in total land disturbance of one (1) acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

DISCHARGE Any direct or indirect stormwater discharge to the Storm Sewer System.

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-stormwater discharge to the Storm Sewer System, except as exempted in this Chapter.

ILLICIT CONNECTIONS 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 Sewer System including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater and wash water to enter the Storm Sewer System 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 Any drain or conveyance connected from a commercial or industrial land use to the Storm Sewer System which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b) (14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) See “Storm Sewer System”.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT A permit issued pursuant to Section 402 of the Act.

NON-STORMWATER DISCHARGE Any discharge to the Storm Sewer System that is not composed entirely of stormwater.

PERSON Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

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; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances 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 SEWER SYSTEM The system of conveyances (including, but not limited to, any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs and other drainage structures) owned and operated by the City of Republic or located within City limits that is designed or used for collecting or conveying stormwater as authorized by the Missouri Department of Natural Resources, and that is not used for collecting or conveying sewage.

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

STORMWATER POLLUTION PREVENTION PLAN A document which 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 stormwater, Storm Sewer System and/or receiving waters to the maximum extent practicable.

USER Any person who discharges or illegally discharges into the Storm Sewer System.

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

720.040 Responsibility for Administration

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

720.050 Severability

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Chapter, or the application thereof, to any person, establishment or circumstance shall be held

unconstitutional, unenforceable or otherwise invalid, such holding shall not affect the other provisions or application of this Chapter, which shall remain intact and enforceable.

720.060 Ultimate Responsibility

The standards set forth in this Chapter are intended to serve as the minimum standard for compliance. This Chapter is not intended to suggest or imply that compliance with the standards herein by any single person or group of persons will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. The User is ultimately responsible for compliance with this Chapter and other applicable regulations.

Article 720-II Discharge Prohibitions

720.070 Discharges – Prohibited -- Exceptions

- A. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Storm Sewer System any pollutants or waters containing any pollutants, including floatable materials or substances, other than stormwater. This includes portable restroom facilities, which must be located a minimum of fifty (50) feet from stormwater inlets.
- B. The commencement, conduct or continuance of any illegal discharge to the Storm Sewer System is prohibited except as described as follows:
- C. The following discharges are exempt from discharge prohibitions established by this Chapter:
 1. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, 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 and street wash water.
 2. Discharges or flow from firefighting, and other discharges specified in writing by the City as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge but requires a verbal notification to the City prior to the time of the test.
4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the User and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the User 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 Sewer System.

720.080 Industrial or Construction Activity Discharges – Prohibited -- Exceptions

- A. Any person subject to the provisions of an NPDES stormwater discharge permit shall comply with all provisions of such permit and this Section herein.
 1. Proof of compliance with said permit may be required in a form acceptable to the City prior to allowing any discharges to the Storm Sewer System.
- B. Provide methods, means, and facilities required to prevent contamination of soil, water, or atmosphere by the discharge of hazardous or toxic substances from construction operations.
- C. Concrete washout water is prohibited from entering the Storm Sewer System, any body of water, or leaching into the ground or underlying soils.
 1. Washout containers must be watertight.
 2. Washouts on or in the ground must be lined with a suitable impervious liner.
 3. Rinsing operations and concrete washout water containers shall not be located less than 30 feet from any sewer, drain, catch basin, or body of water without the written approval of the City.
 4. Collected concrete washout water shall be transported offsite for treatment and disposal or contained onsite until completely evaporated. Any hardened concrete remaining after evaporation shall be disposed of, reused or recycled.

- D. The commencement, conduct or continuance of any illegal discharge to the Storm Sewer System is prohibited except in the case of written confirmation from the City that an exception to the provisions of this Section applies, stating the reason(s) for such exception.

720.090 Illicit Connections -- Prohibited

The construction, use, maintenance or continued existence of illicit connections to the Storm Sewer System is prohibited. 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 shall be considered to be in violation of this Section whether such person directly makes the illicit connection conveying sewage to the Storm Sewer System or indirectly allows such illicit connection to persist despite having actual knowledge of such connection, or, despite other circumstances demonstrating that such person should have reasonably known of such illicit connection.

720.100 Suspension of Storm Sewer System Access

- A. The City may, without prior notice, immediately suspend Storm Sewer System discharge access to any person when the City deems such suspension necessary in order to stop an actual or threatened discharge that presents imminent, substantial danger to the environment, or to the health or welfare of persons, or to the Storm Sewer System, or to the waters of the United States. If the person(s) whose Storm Sewer System discharge access has been suspended 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 United States or to minimize danger to persons.
- B. Upon providing written notice and compliance with the terms of this section, the City may suspend Storm Sewer System discharge access to any person if the City determines that such termination is necessary to abate or reduce an illicit discharge. In the event of such determination, the City shall provide written notice to the person(s) whose access is to be suspended no less than twenty (20) days prior to implementation of such suspension. In said notice, the City shall advise the person(s) of his or her right to petition the City for reconsideration and of his/her right to request a hearing be conducted on the matter. Upon receipt of such request, the City shall evaluate the same, and upon completion of its

evaluation, provide the requesting person(s) with its decision, in writing, within no more than thirty (30) days after receipt of the request. If a person directly or indirectly reinstates or causes the reinstatement of Storm Sewer System discharge access after the City has suspended or terminated such access, the person shall be in violation of this Chapter and subject to the penalties provided for herein.

720.110 Access To Facilities

- A. The City shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter.
1. If a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 2. 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 NPDES permit to discharge stormwater and the performance of any additional duties as defined by State and Federal law.
- B. The City shall have the right to set up on any permitted facility such devices as are deemed by the City to be necessary for monitoring and/or sampling of the facility's stormwater discharge.
1. The City has the right to require the User to install monitoring equipment as necessary.
 2. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense.
 3. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- C. 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.

1. The costs of clearing such access shall be borne by the operator.
- D. Unreasonable delays in allowing the City access to a permitted facility shall constitute a violation of the applicable stormwater discharge permit and of this Chapter.
- E. In the event a person, who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity, denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter, such person shall be in violation of this Chapter and subject to the penalties provided for herein.
- F. If the City has been refused access to any premises, or portion thereof, from which stormwater is discharged into the Storm Sewer System and the City has reason to believe a violation of this Chapter is occurring thereon, or has reason to believe an inspection and/or sampling is necessary to verify compliance with this Chapter or to protect the overall public health, safety and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

720.120 Requirement to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices

- A. No person shall conduct or allow any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the Storm Sewer System or waters of the U.S without implementing the Best Management Practices adopted by the City.
- B. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Sewer System or watercourses through the use of these structural and non-structural BMPs.
- C. Any person who owns or legally possesses property that may be the source of an illicit discharge may be required to implement additional structural and non-structural BMPs to prevent discharge of pollutants to the Storm Sewer System, at said person's sole expense.
- D. The following discharges are exempt from discharge prohibitions established by this Chapter:

- E. Compliance with all terms and conditions of a valid NPDES permit issued to the User and other applicable laws and regulations, and provided that written approval has been granted authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

720.130 Watercourse Protection

- A. 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, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse.
- B. 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.

720.140 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 the Storm Sewer System, said person shall take all necessary steps to ensure the discovery, containment and clean-up of such release.
- B. In the event of a release as provided for above in subsection (A), said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, as defined by state law.
- C. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day.

- D. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within five (5) business days of the phone notice.
- E. 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 (3) years.
- F. Failure to provide notification of a release as provided above is a violation of this Chapter.

Article 720-III Enforcement 720.150 Enforcement

- A. Whenever the City finds that a person has violated a provision or failed to meet a requirement of this Chapter, the City may issue written notice of violation to the responsible person. Such notice may require, without limitation, any or all of the following:
 - 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 stormwater pollution or contamination hazards and the restoration of any affected property;
 - 5. Payment of a sum of money equivalent to the administrative and remediation costs;
 - 6. The implementation of source control or treatment BMPs.
- B. In the event the City issues a written notice of violation pursuant to this section, said notice shall include the following:
 - 1. A deadline set at the City's sole discretion within which such remediation or restoration must be completed.
 - 2. Advisement to the recipient that should the violator fail to remediate or restore within the established deadline, the violator may be prosecuted for a violation of this Chapter, the City may seek injunctive relief, or the City may elect to perform

the required remediation or restoration at the violator's sole expense.

- C. In lieu of enforcement proceedings, penalties and remedies authorized by this Chapter, the City may include at the sole discretion of the City alternative compensatory action such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.
- D. Any person identified on the written notice of violation provided by the City in Paragraph B of this Section may seek to file an appeal per Section 720.210.

720.160 Enforcement Measures

- A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal, within thirty (30) days of the decision of the municipal authority upholding the decision of the City, then representatives of the City shall have the right to enter upon the subject property and are authorized to take any and all measures reasonably necessary to abate the violation and/or restore the property
- B. It shall be unlawful for any person, owner, agent or person in possession of any premises subject to the written notice of violation to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

720.170 Cost of Abatement of the Violation

- A. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.
 - 1. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days.
 - 2. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

- B. Any person in violation of any of the provisions of this Chapter shall become liable to the City in an amount equal to the assessment, including the costs of abatement and any administrative costs incurred in connection with the abatement, by reason of such violation.

720.180 Injunctive Relief

It shall be unlawful for any person to violate or otherwise fail to comply with any of the requirements set forth in this Chapter. If a person has violated or continues to violate the provisions of this Chapter, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

720.190 Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

720.200 Criminal Prosecution

- A. Any person that has violated or continues to violate this Chapter shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a penalty of up to five hundred dollars (\$500.00) per violation and/or imprisonment for up to thirty (30) days per violation.

Each day on which a violation of this Chapter shall be committed or continued from the preceding day shall constitute a separate offense for which the penalties provided for herein may be imposed.

720.210 Appeal of Notice of Violation

Any person receiving a notice of violation may appeal the determination of the stormwater coordinator. The notice of appeal must be received within 10 calendar days from the date of the notice of violation. Hearing on the appeal

before the city administrator or their designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

720.220 Remedies Not Exclusive

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable Federal or State law and it is within the discretion of the City to seek cumulative remedies.

720.230 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 Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Chapter 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.

EXPLANATION(S) - Matter in **bold underlined** type in the above is added language. Matter in ~~strikethrough~~ in the above is deleted.

- Section 2:** All other Sections of the Municipal Code of the City of Republic, Missouri, not specifically referenced in this Ordinance shall remain unmodified and in full force and effect.
- Section 3:** The City Administrator or his/her designee, on behalf of the City, is authorized to take the necessary steps to execute this Ordinance.
- Section 4:** The WHEREAS clauses above are specifically incorporated herein by reference.
- Section 5:** The provisions of this Ordinance are severable, and if any provisions hereof are declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this Ordinance.
- Section 6:** This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Republic, Missouri, this ____ day of February, 2024.

Attest:

Eric Franklin, Mayor

Laura Burbridge, City Clerk

Approved as to Form:



Megan McCullough, City Attorney

Final Passage and Vote: