

ARTICLE II

Nonstormwater Discharges to Stormwater System

§ 453-10. Legislative purpose.

The purpose of this article is to provide for the health, safety and general welfare of the citizens of the City of Watertown through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable, as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this article 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.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

§ 453-11. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

ADMINISTERING AUTHORITY — The ~~Street Superintendent~~Director of Public Works/City Engineer and their designees is designated by the City of Watertown to administer this article.[Amended by Ord. No. 10-01]

BEST MANAGEMENT PRACTICES (BMPs) — Structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

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

CONSTRUCTION ACTIVITY — Activities subject to City of Watertown or WPDES construction permits. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

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 nonstormwater discharge to the storm drain system, except as exempted in § 453-15 of this article.

ILLCIT CONNECTION — Either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to any conveyances which allow any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the administering authority, or any drain or conveyance connected from a 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 administering authority.

INDUSTRIAL ACTIVITY — Activities subject to WPDES industrial permits as defined in 40 CFR 122.26(b)(14).

NONSTORMWATER DISCHARGE — Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT — Has the meaning given in § 283.01(13), Wis. Stats.

PREMISES — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM — Publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures for which a municipal separate stormwater permit (also known as a "MS4 Permit") has been issued by the WDNR to the City of Watertown under Ch. NR 216, Wis. Adm. Code.

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, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

[VIOLATION](#) — [Any act performed by a person that falls under the categories outlined in § 453-15 or as determined by the administering authority. See § 453-22.](#)

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

WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES)

STORMWATER DISCHARGE PERMIT — A permit issued by WDNR that authorizes the

discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

§ 453-12. Applicability.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted by the administering authority.

§ 453-13. Responsibility for administration. [Amended by Ord. No. 10-011]

The ~~Street Superintendent, the Water Systems Manager~~ Director of Public Works/City Engineer, and their designees, shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the administering authority may be delegated in writing by the City of Watertown to persons or entities acting in the beneficial interest of or in the employ of the City of Watertown.

§ 453-14. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 453-15. Discharge prohibitions.

- A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, other than stormwater. Examples of illegal discharges include but are not limited to: vehicle fluids, lawn fertilizers, grass clippings, concrete washouts, sanitary sewage and hazardous wastes. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article: waterline flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, individual residential washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than 1 ppm chlorine), firefighting activities, and any other water source not containing pollutants.

a. Permit required. No mini-storm sewer system or sump discharge shall be connected to the municipal storm sewer system without a permit issued by the Engineering Division.

-b. If a storm sewer system is not available for connection in proximity to the source of the sump discharge, a seasonal (Nov. 1 – March 31) permit may be issued by the

Water/Wastewater Division to connect to the sanitary sewer system to minimize the amount of potential icing on surfaces in cold weather per Ch. 508-8, Municipal Code.

- (2) Discharges specified in writing by the administering authority as being necessary to protect public health and safety.
 - (3) Dye testing is an allowable discharge, but requires a verbal notification to the administering authority prior to the time of the test.
 - (4) The prohibition shall not apply to any nonstormwater discharge permitted under an WPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources, provided that the discharger 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 drain system.
- B. Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (1) 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.
 - (2) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

§ 453-16. Suspension of MS4 access.

The administering authority may suspend, prohibit and disconnect a person from access to the storm drain system under the following conditions:

- A. Suspension due to illicit discharges in emergency situations. The administering authority 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 United States. If the violator fails to comply with a suspension order issued in an emergency, the administering authority may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have its MS4 access terminated if such termination would abate or reduce an illicit discharge. The administering authority will notify a violator of the proposed termination of its MS4 access. The violator may petition the administering authority for a reconsideration and hearing.
- C. Suspension due to unauthorized connection to MS4. A person commits a violation of this article if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the administering authority.

§ 453-17. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity WPDES stormwater 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 administering authority prior to the allowing of discharges to the MS4.

§ 453-18. Monitoring of discharges.

- A. Applicability. This section applies to all facilities or structures that have stormwater discharges ~~associated with industrial activity~~, including construction activity.
- B. Access to facilities or structures.
 - (1) The administering authority shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. 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 administering authority.
 - (2) Facility operators shall allow the administering authority 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 a WPDES permit to discharge stormwater and the performance of any additional duties as defined by state and federal law.
 - (3) The administering authority shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the administering authority to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The administering authority 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 stormwater flow and quality shall be calibrated to ensure their accuracy.
 - (5) 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 ~~Street Superintendent~~ Director of Public Works/City Engineer or their designees and shall not be replaced. The costs of clearing such access shall be borne by the operator. **[Amended by Ord. No. 10-01]**
 - (6) Unreasonable delays in allowing the administering authority access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a WPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the administering authority reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.
 - (7) If the administering authority has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable

cause to believe that there may be a violation of this article, 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 administering authority may seek issuance of a special inspection warrant or a search warrant from any court of competent jurisdiction.

§ 453-19. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

The administering authority may provide requirements identifying best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises 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 municipal separate storm sewer system or watercourses. Compliance with all terms and conditions of a valid WPDES permit 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 WPDES permit.

§ 453-20. 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, excessive vegetation, 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.

§ 453-21. Notification of spills.

Notwithstanding other requirements of law, as soon as the property owner, agent, lessee, person in possession of any premises or 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 stormwater, the storm drain system, or water of the United States, 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 nonhazardous materials, said person shall notify the administering authority in person or by phone or ~~faesimile~~ electronic mail within 24 hours of becoming aware of the

release. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the administering authority 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 three years.

§ 453-22. Violations and Enforcement.

A. Violation of this article. It shall be unlawful to discharge any substance in violation of any of the provisions of this article, or otherwise neglect, refuse or fail to comply with this article's requirements. Any person who violates or fails to comply with any of the provisions of this article shall be subject to the penalties set forth in Subsections B through D and, in addition, shall pay all costs and expenses, including actual reasonable attorneys' and other fees involved in the case.

B. Penalties. Any person, firm or corporation who or which fails to comply with the provisions of this article or any order of the Director of Public Works/City Engineer or their designees shall forfeit not more than \$500 and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense. Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

A.C. Notice of violation. Whenever the administering authority finds that a person has violated a prohibition or failed to meet a requirement of this article, the administering authority may order compliance by written notice of violation to the responsible person. 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 stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; ~~and~~
- (6) The implementation of source control or treatment BMPs; and-
- (6)(7) Forfeiture of not more than \$500; not less than \$100 nor more than \$1,000 and the costs of prosecution

D. Citable offenses. Any action performed which results in a prohibited substance entering the storm drainage system (including but not limited to discharges such as waste oil, grass clippings and pet waste) shall be considered citable offenses and a violation of this article, subject to the penalties of Subsections B and C.

E. Notice of abatement. If abatement of a violation and/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 violator 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 shall be charged to the violator.

§ 453-23. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the administering authority. The notice of appeal must be received within five days from the date of the notice of violation. Hearing on the appeal before the City of Watertown Public Works Commission, which is designated as the appropriate authority to hear and determine such appeal, shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the City of Watertown Public Works Commission shall be final, subject to appeal to a court of competent jurisdiction under law.

§ 453-24. Enforcement measures after appeal.

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 10 days of the decision of the City of Watertown Public Works Commission upholding the decision of the administering authority, then representatives of the administering authority shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, lessee 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.

§ 453-25. Cost of abatement of the violation.

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within 60 days after receipt of the final bill, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the administering authority by reason of such violation. Interest may be assessed on the balance beginning on the 31st day following notice to the property owner of the cost of the abatement.

§ 453-26. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the administering authority 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.

§ 453-27. Compensatory action.

In lieu of enforcement proceedings, penalties and remedies authorized by this article, the administering authority may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

§ 453-28. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article 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.

§ 453-29. Criminal prosecution.

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a criminal penalty adopted by the Wisconsin Legislature and imposed by the Wisconsin Department of Natural Resources at its discretion. This criminal penalty shall be on file in the offices of the Police Chief and the City Clerk/Treasurer.

§ 453-30. Recovery of costs of abatement and enforcement.

The administering authority may recover any and all attorney's fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

§ 453-31. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the administering authority to seek cumulative remedies.