

Section 720 - Stormwater and Urban Runoff Pollution Control

720.01 Purpose/Intent. The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of Brainerd through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by Federal and State law. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- 1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- 2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
- 3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.

720.02 Definitions. For the purposes of this ordinance, the following shall mean:

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 stormwater conveyance systems. 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.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 720.06 of this Ordinance.

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 drain system including but not limited to any conveyances which allow any non-storm water 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 City. 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 an authorized enforcement agency.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) 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.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

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. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous 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.

Storm Drainage System. Publicly-owned facilities by which storm water 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.

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

720.03 Applicability. This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City.

720.04 Severability. The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

720.05 Illegal Disposal. No person shall throw, deposit, place, leave, maintain, or keep or permit to be thrown, placed, left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or 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 in community, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.

No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris 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.

720.06 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 storm water.

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 Ordinance: is associated with fire fighting activities, water line flushing, landscape and irrigation water, diverted stream flows, rising ground water, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable ground water sources, foundation and footing drains, air conditioning condensation, individual car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool discharges, street wash water, and any other water source not containing pollutants.
- 2) 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-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, 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.

720.07 Illicit Connections.

- 1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- 2) 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.
- 3) 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.

720.08 Suspension of MS4 Access.

- 1) Suspension due to Illicit Discharges in Emergency Situations. The City 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 City 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.
- 2) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing.

720.09 Monitoring of Discharges. Access to Facilities.

- 1) Duly authorized City employees bearing proper identification shall, at reasonable times, be permitted to enter upon properties served by storm sewer for the purpose of inspection, measurement, sampling and testing in connection with operation of the storm sewer system.
- 2) The City shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance.

- 3) If the City 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 Ordinance, 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 Ordinance 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 a search warrant from any court of competent jurisdiction.

720.10 Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. 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 in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City 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.

720.11 Notice of Violation. Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City may order compliance by written notice of violation to the responsible person. 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 property; and
- 5) Payment of a fine to cover administrative and remediation costs; and
- 6) The implementation of source control or treatment BMPs.

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.

720.12 Appeal of Notice of Violation. Any decision in the enforcement of this Section may be appealed to the City Council by filing a written petition with the City Administrator within 30 days of the ruling. The petition shall specify in detail the matter or matters involved and every ground or basis on which objections are made. The petition shall show the names, addresses and telephone numbers of all objectors and their attorney at law or spokesman. The filing of a petition shall stay all proceedings unless the engineer shall file within 72 hours after the filing of a petition a certificate stating that a stay would cause peril to life or property of specifying other good reason.

720.13 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 15 days of the decision of the municipal authority upholding the decision of the City, then representatives of the City 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 or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

720.14 Cost of Abatement of the Violation. Civil Damages. Any user violating any of the provisions of this section or who has a discharge which causes a deposit, obstruction, damage or other impairment to the City's stormwater system shall be liable to the City for any expense, loss, or damage caused by the violation or discharge. The City Engineer may add to the user's charges and fees the cost assessed for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs is a violation of this Section.

720.15 Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, 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.

720.16 Violations Deemed A 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 Ordinance 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.

720.17 Criminal Prosecution. Any person who is found to be in violation of any provision this Ordinance, shall be guilty of a misdemeanor and punished accordingly, including the payment of all appropriate costs as prescribed in this Ordinance.

(Added Ord. 1316 – 2007)