

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE 2012-59

**AN ORDINANCE ADOPTING REGULATIONS TO GOVERN ILLICIT DISCHARGE
AND CONNECTION IN THE CITY OF LAKE ELMO**

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to *add* the following definitions:

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 storm water, receiving waters, or storm water 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.

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

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.

ILLICIT DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system.

ILLICIT CONNECTIONS. An illicit connection is defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that 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 an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. Means 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.

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.

STORM WATER MANAGEMENT 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 Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

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

Section 2. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby changed to *amend or eliminate* the following definitions as shown:

~~N.P.D.E.S. PERMIT (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT). The system for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act of 1972, §§ 402 and 405, as they may be amended from time to time.~~

~~WASTE WATER (SEWER SYSTEMS). The spent water of a community, from the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any ground water, surface water, and storm water that may be present.~~

Section 3. The City Council of the City of Lake Elmo hereby ordains that Sections 150.300 thru 150.314 of the Lake Elmo City Code are to read as follows:

Sections:

- 150.300 Purpose
- 150.301 Applicability
- 150.302 Definitions
- 150.303 Responsibility for Administration
- 150.304 Compatibility with Other Regulations
- 150.305 Ultimate Responsibility
- 150.306 Discharge Prohibitions
- 150.307 Watercourse Protection
- 150.308 Industrial or Construction Activity Discharges
- 150.309 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices
- 150.310 Notification of Spills
- 150.311 Right of Entry
- 150.312 Enforcement
- 150.313 Severability
- 150.314 Authority

ILLICIT DISCHARGE AND CONNECTION

150.300 PURPOSE

(A) The general purpose of this ordinance is to provide for the health, safety, and general welfare of the public 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 MS4 permit issued to the City of Lake Elmo by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES) permit process. The objections of this ordinance 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 ordinance.

150.301 APPLICABILITY

- (A) This ordinance shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by Section 150.306 (A) (1) a – d) of this Ordinance.

150.302 DEFINITIONS

- (A) For the purposes of this ordinance, all terms, phrases, words, and their derivatives shall have the meanings as stated in Chapter 11 of the City Code.

150.303 RESPONSIBILITY FOR ADMINISTRATION

- (A) The City of Lake Elmo shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City of Lake Elmo may be delegated in writing by the City Administrator to persons or entities acting in the beneficial interest of or in the employ of the City.

150.304 COMPATIBILITY WITH OTHER REGULATIONS

- (A) This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance 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.

150.305 ULTIMATE RESPONSIBILITY

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

150.306 DISCHARGE PROHIBITIONS

- (A) Prohibition of Illegal Discharges.
 - (1) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, 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:
 - a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, 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, street wash water, dechlorinated swimming pool water, and any other water source not containing a pollutant.
 - (i) For swimming pool discharges, water shall sit seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharge.

- (ii) Discharge of swimming pools, crawl spaces, sump pumps, footing drains and other sources that may be determined to contain sediment or other forms or pollutants may NOT be discharged directly to a gutter or storm sewer. This discharge must be allowed to flow over a vegetated area to allow filtering of pollutants, evaporation of chemicals and infiltration of water consistent with the storm water requirements of the City of Lake Elmo.
 - b) Discharges or flow from firefighting, and other discharges specified in writing by the City of Lake Elmo as being necessary to protect public health and safety.
 - c) Discharges associated with dye testing, however this activity requires a written notification to the City of Lake Elmo prior to the time of the test.
 - d) 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 MPCA, 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.
- (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.
 - (4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Lake Elmo.
 - (5) 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 property upon receipt of written notice of violation from the City of Lake Elmo requiring that such locating 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 City of Lake Elmo.
- (C) Additional Discharge Prohibitions: Any owner or occupant of property within the City of Lake Elmo shall comply with the following requirements:
- (1) Subsurface sewage treatment systems shall be maintained to prevent failure.

- (2) Recreational vehicle sewage shall be disposed of to a proper sanitary waste facility.
- (3) Mobile washing companies (carpet cleaning, mobile vehicle washing, etc.) shall dispose of wastewater to the sanitary sewer.
- (4) All motor vehicle parking lots and private streets shall be swept, at a minimum, once a year in the spring to remove debris. Such debris shall be collected and properly disposed.
- (5) Fuel, chemical residue, household hazardous waste or other types of potentially harmful material shall be disposed of properly.
- (6) Objects, such as motor vehicle parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff.
- (7) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills or discharges.

150.307 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, yard waste, 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.

150.308 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

- (A) Submission of Notice of Intent (NOI) to the City of Lake Elmo.
 - (1) Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit is required in a form acceptable to the City of Lake Elmo prior to the allowing of discharges to the MS4.
 - a) Industrial activity includes activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).
 - b) Construction activity includes activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
 - (2) The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the NOI to the City of Lake Elmo at the same time the operator submits the original NOI to the EPA as applicable.

- (3) The copy of the NOI must be delivered to the City of Lake Elmo either in person or by mailing it to:
Notice of Intent to Discharge Storm Water
City of Lake Elmo
3800 Laverne Avenue S
Lake Elmo, MN 55042
- (4) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the NOI to do so to the City of Lake Elmo.

150.309 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

- (A) The City of Lake Elmo will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their 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 non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this ordinance. These BMPs shall be part of a storm water management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

150.310 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 storm water, the storm drain system, or waters 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 non-hazardous materials, said person shall notify the City of Lake Elmo in person or by phone no later than the next business day. 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. Failure to provide notification of a release as provided above is a violation of this ordinance.

150.311 RIGHT OF ENTRY

- (A) The City of Lake Elmo 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, including the right to set up, or require facilities owner to set up devices necessary to conduct monitoring and/or sampling of the facilities storm water discharge.

150.312 ENFORCEMENT

- (A) Enforcement
 - (1) The City of Lake Elmo shall be responsible for enforcing this ordinance.
- (B) Penalties
 - (1) Any person, firm or corporation failing to comply with or violating any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this ordinance is committed, continued or permitted, shall constitute a separate offense. All land use and building permits shall be suspended until the applicant has corrected any and all violations.
- (C) Emergency Cease and Desist Orders
 - (1) When the City of Lake Elmo finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, 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 City of Lake Elmo may issue an order to the violator directing it immediately to cease and desist all such violations.
- (D) Suspension Due to the Detection of Illicit Discharge
 - (1) 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. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger.
- (E) Violations Deemed a Public Nuisance
 - (1) 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.

150.313 SEVERABILITY

- (A) The provisions of this ordinance are severable. If any provision of this ordinance or the application of any provision of this ordinance to any circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision or application.

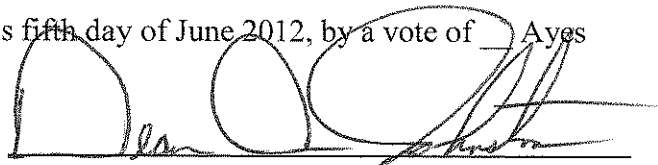
150.314 AUTHORITY

- (A) This article shall become effective upon its passage and publication in accordance with the law.

Section 4. Adoption Date

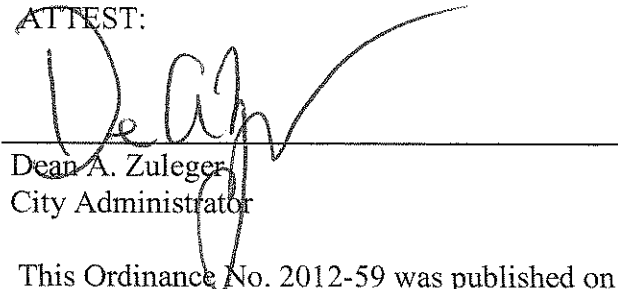
This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 2012-59 was adopted on this fifth day of June 2012, by a vote of ___ Ayes and ___ Nays.



Mayor Dean Johnston

ATTEST:



Dean A. Zuleger
City Administrator

This Ordinance No. 2012-59 was published on the 5th day of June, 2012.