

CHAPTER 50: STORM WATER DISCHARGES

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§ 50.01 PURPOSE; INTENT.

The purpose of this Chapter is:

- (A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user;
 - (B) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
 - (C) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Chapter.
- (Ord. 4-5-G, passed 2-15-2006)

§ 50.02 DEFINITIONS.

For the purpose of this Chapter and Chapter 54 of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST MANAGEMENT PRACTICES (BMPs).

- (1) Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States.
- (2) ***BEST MANAGEMENT PRACTICES*** include, but are not limited to:

- (a) Treatment facilities to remove pollutants from storm water;
- (b) Operating and maintenance procedures;
- (c) Facility management practices to control runoff, spillage, or leaks of non-storm water, waste disposal, and drainage from materials storage;
- (d) Erosion and sediment control practices; and
- (e) The prohibition of specific activities, practices, and procedures and any other provisions as the Village determines appropriate for control of pollutants.

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

CONSTRUCTION ACTIVITY.

- (1) Activities subject to NPDES construction permits.
- (2) Currently, these include construction projects resulting in land disturbance of five acres or more.
- (3) Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of one acre or more.
- (4) The activities include, but are not limited to:
 - (a) Clearing and grubbing;
 - (b) Grading;
 - (c) Excavating; and
 - (d) Demolishing.

EMERGENCY RESPONSE AGENCIES. The applicable fire protection district and the applicable police departments having jurisdiction over a particular site or location.

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-storm water discharge to the storm drain system, except as exempted in § 50.06.

ILLICIT CONNECTIONS.

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows 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 the drain or connection had been previously allowed, permitted, or approved by the Village; or
- (2) 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 Village.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits, as defined in 40 C.F.R. § 122.26(b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by the Federal Environmental Protection Agency (EPA), or by a state under authority delegated pursuant to 33 U.S.C. § 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. Any "Extremely Hazardous Substance listed in Appendix A of 40 CFR Part 355; Any Hazardous Substance" listed in 40 CFR Section 302.4; any petroleum product including crude oil or any fraction thereof, herbicides, pesticides, floatables, and any noxious or offensive matter of any kind, and any of the following chemicals, metals and/or compounds, or any combination thereof, whether in solid, liquid, or gaseous form:

0-DICHLOROBENZENE	BARIUM
1,1,1-TRICHLOROETHANE	BENZENE
1,1,2-TRICHLOROETHANE	BENZO (A) PYRENE
1,1-DICHLOROETHYLENE	BERYLLIUM
1,2,4-TRICHLOROBENZENE	BHC-GAMMA (LINDANE)
1,2-DICHLOROETHANE	CADMIUM
1,2-DICHLOROPROPANE	CARBOFURAN
2,4,5-TP (SILVEX)	CARBON TETRACHLORIDE
2,4-D ALACHLOR (LASSO)	CHLORDANE
ALDICARB	CHROMIUM
ALDICARB SULFONE	CIS 1.2- DICHLOROETHYLENE
ALDICARB SULFOXIDE	CUTTING OILS
ALDRIN	CYANIDE
ANTI FREEZE	DALAPON
ANTIMONY	DI(2-ETHYLHEXYL) - ADIPATE
ARSENIC	DI(2-ETHYLHEXYL) - PHTHALATE
ATRAZINE	DIBROMOCHLOROPROPANE (DBCP)
	DICHLOROMETHANE
DIELDRINDINOSEB	HEPTACHLOR EPOXIDE
DIQUAT	HEXACHLOROBENZENE
ENDOTHALL	HEXACHLORO-CYCLOPENTADIENE
ENDRIN	LEACHATE
ETHYLBENZENE	MERCURY
ETHYLENE DIBROMIDE	METHOXYCHLOR
FLUORIDE	MINERAL OIL
HEPTACHLOR	MONOCHLOROBENZENE

OXAMYL (VYDATE)	STYRENE
P-DICHLOROBENZENE	TETRACHLOROETHYLENE
PENTACHLOROPHENOL	THALLIUM
PICLORAM	TOLUENE
POLYCHLORINATED BIPHENYLS (PCB)	TOXAPHENE
SELENIUM	TRANS-1,2-DICHLOROETHYLENE
SIMAZINE	TRICHLOROETHYLENEXYLENE

“Pollutant” also includes, but is not limited to, the following:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution;
- (e) Floatables;
- (f) Pesticides, herbicides, and fertilizers;
- (g) Hazardous substances and wastes;
- (h) Sewage, fecal coliform, and pathogens;
- (i) Dissolved and particulate metals;
- (j) Human and/or animal wastes;
- (k) Construction materials and/or waste;
- (l) Noxious or offensive matter of any kind; and
- (m) Waste oil, cooking oil, or any water or waste containing fats, wax, grease, or oils.

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 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 or 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 that precipitation.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes 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 system, and/or receiving waters to the maximum extent practicable.

VILLAGE. Employees or designees of the Village of Port Barrington, Illinois, designated to enforce this Chapter.

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

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.03 APPLICABILITY.

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

(Ord. 4-5-G, passed 2-15-2006)

§ 50.04 RESPONSIBILITY FOR ADMINISTRATION.

(A) The Village shall administer, implement, and enforce the provisions of this Chapter.

(B) Any powers granted or duties imposed upon the Village may be delegated, in writing, by the Village President to persons or entities acting on behalf of the Village.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.05 ULTIMATE RESPONSIBILITY.

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

(Ord. 4-5-G, passed 2-15-2006)

§ 50.06 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 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 Chapter unless the discharge contains a Pollutant:
 - (a) Water line flushing or other potable water sources;
 - (b) Landscape irrigation or lawn watering; diverted stream flows;
 - (c) Rising ground water;
 - (d) Ground water infiltration to storm drains;
 - (e) Uncontaminated pumped ground water;
 - (f) Foundation or footing drains (not including active groundwater dewatering systems);
 - (g) Crawl space pumps;
 - (h) Air conditioning condensation;
 - (i) Springs;
 - (j) Non-commercial washing of vehicles;
 - (k) Natural riparian habitat or wetland flows;
 - (l) Swimming pools (if dechlorinated, typically less than one PPM chlorine);
 - (m) Firefighting activities; and
 - (n) Any other water source not containing pollutants.

- (2) Discharges specified in writing by the Village as being necessary to protect public health and safety, including, but not limited to, treatment for mosquito abatement as applied by a licensed and trained agent of the Village using approved and appropriate methods;
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the Village prior to the time of the test; and
- (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 a requirement 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 Chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015) Penalty, see § 50.99

§ 50.07 SUSPENSION OF MS4 ACCESS.

(A) Suspension due to illicit discharges in emergency situations.

- (1) The Village may, without prior notice, suspend MS4 discharge access to a person when the 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.
- (2) If the violator fails to comply with a suspension order issued in an emergency, the Village may take any 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.

- (1) Any person discharging to the MS4 in violation of this Chapter may have his or her MS4 access terminated if the termination would abate or reduce an illicit discharge.
- (2) The Village will notify a violator of the proposed termination of its MS4 access.
- (3) The violator may petition the Village for a reconsideration and hearing.

- (4) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the Village.

(Ord. 4-5-G, passed 2-15-2006) Penalty, see § 50.99

§ 50.08 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

- (A) Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of the permit.
- (B) Proof of compliance with the permit may be required in a form acceptable to the Village prior to the allowing of discharges to the MS4.

(Ord. 4-5-G, passed 2-15-2006) Penalty, see § 50.99

§ 50.09 MONITORING OF DISCHARGES.

- (A) Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

- (B) Access to facilities.

- (1) (a) The Village 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.
(b) If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Village.
- (2) Facility operators shall allow the Village 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 storm water, and the performance of any additional duties as defined by state and federal law.
- (3) The Village shall have the right to set up on any permitted facility any devices as are necessary in the opinion of the Village to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) (a) The Village has the right to require the discharger to install monitoring equipment as necessary.
(b) 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.
(c) All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (5) (a) 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 Village and shall not be replaced.
(b) The costs of clearing the access shall be borne by the operator.

- (6) (a) Unreasonable delay in allowing the Village access to a permitted facility is a violation of a storm water discharge permit and of this Chapter.
 - (b) A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Village reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.
- (7) If the Village has been refused access to any part of the premises from which storm water is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample to verify compliance with this Chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Village may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015) Penalty, see § 50.99

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

- (A) The Village 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.
- (B) The person responsible for a property and/or premises shall provide, at his or her 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.
- (C) Further, any person responsible for a property and/or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.
- (D) 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 section.
- (E) These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.11 WATERCOURSE PROTECTION.

- (A) Every person owning property through which a watercourse passes, or that 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 the structures will not become a hazard to the use, function, or physical integrity of the watercourse.

- (C) No person shall be allowed to dump or discharge any toxic liquids, gasoline, oil products, paints, pesticides, weed killers, human waste, etc. or any man-made pollutants deemed harmful or dangerous by the Environmental Protection Agency or county health department, into the Village waterways. No person, firm, corporation, or land-owner shall be allowed to change the natural course of the waterways within the Village, or alter existing shoreline by dumping fill or excavation without the approval of the Corporate Authorities of the Village and environmental protection standards, protecting navigable waters by the State of Illinois.
- (D) Maintenance Required: It shall be unlawful for any property owner whose land is adjoining the Village waterways to allow sea walls, boat piers, docking stalls, or slips to deteriorate or fall into disrepair, or become floating obstacles, causing a safety hazard. Fallen trees, whether dead or alive, that have fallen into the waterways, or are hanging over the water shall be considered an obstruction and/or safety hazard.
- (E) All docks, piers, or boat landings belonging to residential zoned lots, shall be limited to one dock, pier, or boat landing extending a maximum of fifteen feet (15') from shoreline into the waterways or channels, and a maximum of thirty feet (30') in length, running parallel to the landowner's property. In any case, no dock, pier, or boat landing, etc. shall reduce navigable waters by more than one-third (1/3) at any given location.
- (Ord. 4-5-B, passed 4-17-1991; Amd. Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015) Penalty, see § 50.99

§ 50.12 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 water of the United States.
- (B) The person shall take all necessary steps to ensure the discovery, containment, and cleanup of the release.
- (C) In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- (D) In the event of a release of nonhazardous materials, the person shall notify the Village in person or by phone or facsimile within twenty-four (24) hours.
- (E) Notification in person or by phone shall be confirmed by written notice addressed and mailed to the Village within twenty-four (24) hours of the phone notice.
- (F) If the discharge of prohibited material 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.
- (G) All records required by this Section shall be retained for at least three years.
- (Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015) Penalty, see § 50.99

§ 50.13 ENFORCEMENT.

- (A) Whenever the Village finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the Village may order compliance by written notice of violation to the responsible person. The 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;
 - (5) Payment of all applicable fines and all invoices for administrative and remediation costs; and
 - (6) The implementation of source control and/or treatment and BMPs.
- (B) (1) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed.
- (2) The 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 contractor and the expense thereof shall be charged to the violator.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.14 ENFORCEMENT MEASURES.

- (A) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation within ten (10) days after the decision of the municipal authority upholding the decision of the Village, then representatives of the Village may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore all affected properties.
- (B) It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015) Penalty, see § 50.99

§ 50.15 COST OF ABATEMENT OF THE VIOLATION.

- (A) The owner(s) and occupant(s) of the property will be notified of the cost of abatement, including administrative and remediation costs.
- (B) If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- (C) Any person violating any of the provisions of this section shall become liable to the Village by reason of the violation.
- (D) All amounts incurred for abatement shall be paid within forty-five (45) days after notice of such costs has been mailed via regular U.S. Mail, postage prepaid, to the owner(s).

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.16 INJUNCTIVE RELIEF.

(A) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter.

(B) If a person has violated or continues to violate the provisions of this Chapter, the Village 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.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015) Penalty, see § 50.99

§ 50.17 COMPENSATORY ACTION.

In lieu of penalties or other remedies authorized by this Chapter, the Village or any Court of competent jurisdiction may agree to require a violator to take alternative compensatory action(s), but the Village shall have no obligation to enter into any such agreement.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.18 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 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 nuisance may be taken.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.19 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and at the discretion of the Village, the Village may seek and obtain cumulative remedies.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)

§ 50.99 PENALTY.

(A) Any person that has violated or continues to violate this Chapter shall be liable and shall be subject to fine(s) of not less than \$250.00 nor more than \$750.00 for each offense.

(B) Each day the violation exists or continues shall be considered a separate and distinct offense.

(C) The Village may recover all attorney's fees, court costs, and other expenses associated with the enforcement of and securing compliance with this Chapter, including sampling and monitoring expenses.

(D) Any and all fines for violations of this Chapter shall be in addition to any and all costs that are to be paid to the Village pursuant to Section 50.15.

(Ord. 4-5-G, passed 2-15-2006; Amd. Ord. 2015-07-01, passed 7-15-2015)