

ORDINANCE NO. 509

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON ESTABLISHING WOODINVILLE MUNICIPAL CODE SECTION 13.04 CONCERNING THE DETECTION AND ELIMINATION OF NON-STORMWATER, ILLICIT DISCHARGES, AND/OR DUMPING INTO THE WOODINVILLE MUNICIPAL STORM SEWER SYSTEM BY PROVIDING A STATEMENT OF PURPOSE, DEFINITION OF TERMS, IDENTIFICATION OF PROHIBITED/ILLICIT DISCHARGES, IDENTIFICATION OF ALLOWABLE DISCHARGES, IDENTIFICATION OF CONDITIONAL DISCHARGES, PROHIBITING ILLICIT CONNECTIONS, PROVIDING A PROCEDURE FOR INSPECTIONS AND SEARCH WARRANTS, PROVIDING FOR THE ENFORCEMENT OF VIOLATIONS AND FOR REMEDIES AVAILABLE TO THE CITY WHEN VIOLATIONS OCCUR; PROVIDING FOR AN EFFECTIVE DATE, SUMMARY PUBLICATION BY ORDINANCE TITLE AND FOR SEVERABILITY.

WHEREAS, urban areas that collect stormwater runoff in municipal storm drainage systems and discharge it to surface waters are required to have a National Pollution Discharge Elimination System permit (NPDES permit) under the Federal Clean Water Act; and

WHEREAS, the Washington State Department of Ecology (DOE) develops and administers National Pollution Discharge Elimination System (NPDES) municipal stormwater permits in Washington State pursuant to delegated authority from the Environmental Protection Agency; and

WHEREAS, DOE issued a Phase II NPDES municipal stormwater permit to the City of Woodinville on in January 17, 2007, specifying new requirements for owners of storm sewer systems to meet to continue to discharge stormwater to state and federal waters, and such permits govern at least 80 cities, including the City of Woodinville; and

WHEREAS, under Special Condition 5, the Phase II NPDES permit requires the City of Woodinville to adopt Illicit Discharge Detection and Elimination regulations that: prohibit non-stormwater, illicit discharges and/or dumping into the City's stormwater system; identify allowable discharges; identify the discharges allowed under certain conditions; prohibit illicit connections to the City's stormwater system; define terms used in the code to be consistent with those in the permit; provide administrative procedures within the limits of state and federal law to investigate the source of illicit discharges into the City's stormwater system, including procedures for inspections to identify sources of illicit discharges; and include escalating enforcement and legal actions to ensure removal of the source or illicit connection if it is not eliminated by the responsible party; and

WHEREAS, the health, safety and welfare of the citizens of the City of Woodinville are best served by measures that ensure water quality standards and help protect receiving waters and their beneficial uses;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE DO ORDAIN AS FOLLOWS:

Section 1. Chapter 13.04, WMC, Illicit Discharge Detection and Elimination established is added to Title 13 Woodinville Municipal Code to read as follows:

Chapter 13.04
EILLCIT DISCHARGE AND/OR DUMPING DETECTION AND ELIMINATION

13.04.010 Purpose.

The purpose of this chapter is to regulate the city's municipal separate storm sewer system (MS4 or stormwater drainage system) regarding the introduction of pollutants that would adversely impact surface and groundwater quality of the state of Washington in order to comply with the requirements of the City's National Pollutant Discharge Elimination System (NPDES) permit. The intent of this chapter is to:

- (1) Control the introduction of pollutants to the stormwater drainage system by any person and/ or entity.
- (2) Prohibit illicit connections and discharges to the stormwater drainage system and receiving waters.
- (3) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

13.04.020 Definitions.

For the purposes of this chapter, the following shall mean:

(1) AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.

(2) "Best management practices (BMPs)" mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial 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.

(3) "Clean Water Act" means the federal Water Pollution Control Act (33 USC Section 1251 et seq.), and any subsequent amendments thereto.

(4) "Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

(5) "Hazardous materials" means 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.

(6) "Hyperchlorinated" means water that contains more than 10mg/Liter chlorine.

(7) "Illicit discharge" means any direct or indirect non-stormwater discharge to the city's storm drain system, except as expressly allowed by this chapter.

(8) "Illicit connection" means any man-made connection to the City's storm drain system without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate stormwater system.

(9) "Municipal separate stormwater system" (MS4) means a conveyance or system of conveyances (including roads with ditches, man-made channels, or storm drains) that is owned or operated by the City of Woodinville; designed or used for collecting or conveying stormwater; which is not part of a Publicly Owned Treatment Works (POTW).

(10) "Publicly Owned Treatment Works (POTW)" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned; and which is not a combined sewer.

(11) "Combined sewer" means a system that collects sanitary sewage and stormwater in a single sewer system.

(12) "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 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.

(13) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(14) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law.

(15) "Pollutant" means 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 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.

(16) "Premises" means any building, or portion of building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(17) "Storm drainage system" means facilities, including the City's municipal separate stormwater system, 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.

(18) "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

(19) "Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

13.04.030 Prohibited discharges.

(1) Illicit discharges are prohibited. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the City's storm drainage system and/or surface and ground waters any materials, including hazardous materials and pollutants, other than stormwater.

(2) Examples of prohibited contaminants include but are not limited to the following:

- (a) Trash or debris;
- (b) Construction materials;
- (c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil;
- (d) Antifreeze and other automotive products;
- (e) Metals in either particulate or dissolved form;
- (f) Flammable or explosive materials;
- (g) Radioactive material;
- (h) Batteries;
- (i) Acids, alkalis, or bases;
- (j) Paints, stains, resins, lacquers, or varnishes;

- (k) Degreasers and/or solvents;
- (l) Drain cleaners;
- (m) Pesticides, herbicides, or fertilizers;
- (n) Steam cleaning wastes;
- (o) Soaps, detergents, or ammonia;
- (p) Swimming pool or spa filter backwash;
- (q) Chlorine, bromine, or other disinfectants;
- (r) Heated water;
- (s) Domestic animal wastes;
- (t) Sewage;
- (u) Recreational vehicle waste;
- (v) Animal carcasses;
- (w) Food wastes and food processing waste;
- (x) Bark and other fibrous materials;
- (y) Lawn clippings, leaves, or branches;
- (z) Silt, sediment, concrete, cement or gravel;
- (aa) Dyes;
- (bb) Chemicals not normally found in uncontaminated water;
- (cc) Prescription and non-prescription pharmaceuticals;
- (dd) Any other process-associated discharge except as otherwise allowed in this section;
and/ or
- (ee) Any other hazardous material or waste not listed above.

13.04.040 Allowable discharges.

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the City determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- (1) Diverted stream flows;
- (2) Rising ground waters;
- (3) Uncontaminated ground water infiltration—as defined in 40 CFR 35.2005(20);
- (4) Uncontaminated pumped ground water;
- (5) Water from foundation drains;
- (6) Air conditioning condensation;
- (7) Irrigation water from agricultural sources that is commingled with urban stormwater;
- (8) Springs;
- (9) Water from crawl space pumps;
- (10) Water from footing drains;
- (11) Flows from riparian habitats and wetlands; and
- (12) Discharge from emergency fire fighting activities.

13.04.050 Conditional discharges.

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the City determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- (1) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system; provided that written approval has been granted by the Public Works Director;

(2) Lawn watering and other irrigation runoff are permitted but shall be minimized;

(3) De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system; provided that written approval has been granted by the Public Works Director;

(4) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;

(5) Non-stormwater discharges covered by another NPDES permit, 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 by the Public Works Director for any discharge to the storm drain system; and

(6) Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water provided that written approval has been granted by the Public Works Director.

13.04.060 Prohibition of illicit connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the City's storm drainage 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.

13.04.070 Inspections and warrants.

A. Authority. Whenever implementing the provisions of this Chapter or whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City's inspector is authorized to inspect during regular working hours and at other reasonable times all new development, redevelopment, and construction sites within Woodinville to determine compliance with the provisions of this Chapter.

B. Inspection Procedures.

(1) Prior to making any inspections on private property, the inspector shall present identification credentials, state the reason for the inspection and request entry. Any private landowner engaging in new development, redevelopment, or construction activities requiring on site storm water collection or detention connected to the City's storm drain system must, as a condition of the building permit required for such development/construction, consent to the creation of an easement for purposes of ingress and egress from time to time by the City for inspection of the on site stormwater collection or detention facilities. The landowner shall cause the easement to be recorded.

(2) If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.

(3) If after reasonable effort the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater system creates an imminent hazard to persons or property, the inspector may enter.

(4) Unless entry is consented to by the owner or person(s) in control of the property or portion of the property or unless conditions are reasonably believed to exist which create imminent hazard, the inspector shall obtain a search warrant, prior to entry, as authorized by the laws of the State of Washington.

(5) The inspector may inspect the stormwater system without obtaining a search warrant provided for in subsection 1 above, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

C. Inspection Requirements. The Director is authorized to develop inspection procedures and requirements, including checklists, for all stormwater facilities in the City of Woodinville.

D. Inspection Fees. Inspection fees shall be established by resolution.

13.04.080 Violations and remedies.

(1) The violation of or failure to comply with any of the provisions of this chapter is unlawful and constitutes a nuisance. The remedies and penalties provided in this section, whether civil or criminal, shall be cumulative and shall be in addition to any other remedy provided by law.

(2) If the City observes any violation of the provisions of this chapter, the City may notify the person of the violation in writing, and require the person to cure or correct the violation within a period of time as specified by the City. However, if a violation presents an imminent and material risk of danger to persons, property or the public health, safety or welfare, the City may take any action as may be necessary to protect the persons, property or public. The City may assess any cost incurred by the City against the person that is responsible for the violation.

(3) The City may pursue any civil remedy at law or in equity, pursuant to Chapter 1.06 WMC and/or nuisance abatement as provided by law.

(4) Criminal Violation. A violation of this chapter is a gross misdemeanor. Any person convicted of violating the provisions of this chapter shall be subject to a fine of up to \$5,000 or jail time not exceeding one year or both for each and every violation. Each day that the violation continues shall be a separate offense.

Section 2.

A. Chapter 1.07.030(7) WMC concerning unlawful discharges to the storm sewer system is hereby deleted in its entirety.

B. Current Chapter 1.07.030(8) WMC is hereby renumbered as Chapter 1.07.030(7) WMC.

Section 3. Effective Date. This ordinance or a summary thereof shall be published in the City's official newspaper, and shall take effect five (5) days after passage and the publication of the ordinance or a summary thereof consisting of the title.

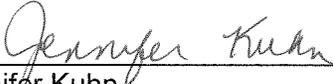
Section 4. Severability. If any sentence, clause, phrase or provision of this ordinance is ultimately invalidated by a court of competent jurisdiction, such invalidation shall not effect any other sentence, clause, phrase or provision hereof.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS
PASSAGE THIS 19th DAY OF OCTOBER 2010.**



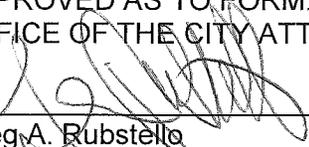
Charles E. Price, Mayor

ATTEST/AUTHENTICATED:



Jennifer Kuhn
City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Greg A. Rubstello
City Attorney

PASSED BY THE CITY COUNCIL: 10-19-2010
PUBLISHED: 10-25-2010
EFFECTIVE DATE: 11-01-2010
ORDINANCE NO. 509