

CITY OF ZION
LAKE COUNTY, ILLINOIS

ORDINANCE NO.

07-0-22

ILLCIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

CITY OF ZION

ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF ZION

Published in pamphlet form by authority of the City Council of the
City of Zion, Lake County, Illinois, this 15th day of May, 2007

CITY OF ZION, ILLINOIS
ILLCIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

SECTION 1. PURPOSE/INTENT.

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Zion through the regulation of non-stormwater discharges to the stormwater 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 City's municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit program. The objectives of this Ordinance are:

- ~~(1) To regulate the discharge of pollutants to the municipal separate storm sewer system~~
- (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

SECTION 2. DEFINITIONS.

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

Authorized Enforcement Agency. Employees or designees of the municipal agency designated to enforce this Ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, stormwater 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, and stormwater drainage systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage, leaks, sludge and wastewater disposal, and drainage from raw materials storage areas.

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 an NPDES Construction Site Activities Permit. Currently, these activities include construction projects resulting in a land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing, 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 non-stormwater discharge to the stormwater drainage system, except as exempted in Section 7 of this Ordinance.

Illicit Connection. An illicit connection is defined as either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the stormwater drainage system, including, but not limited to, any conveyances which allow any non-stormwater discharges such as sewage, process wastewater, and wash water, to enter the stormwater drainage system and any connections to the stormwater drainage 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,
- (2) Any drain or conveyance connected from a commercial or industrial land use to the stormwater drainage system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to an NPDES Industrial Activities Permit as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4). The system of stormwater drainage facilities, including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and storm drains, owned and operated by the City of Zion and used for collecting and/or conveying stormwater. The municipal separate storm sewer system is not used for collecting and/or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Stormwater 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-Stormwater Discharge. Any discharge to the stormwater drainage 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. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances, accumulations that may cause or contribute to pollution, floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from construction activity, and noxious or offensive matter of any kind.

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

Stormwater Drainage System. The facilities by which stormwater is collected and/or conveyed, including, but not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water resulting from any form of natural 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, receiving waters, and stormwater drainage systems to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from any premises.

SECTION 3. RESPONSIBILITY FOR ADMINISTRATION.

The City of Zion shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the City of Zion.

SECTION 4. APPLICABILITY.

This Ordinance shall apply to all water entering the stormwater drainage system and generated on any developed and undeveloped lands unless explicitly exempted by the authorized enforcement agency.

SECTION 5. COMPATIBILITY WITH OTHER REGULATIONS.

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.

SECTION 6. 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.

SECTION 7. ULTIMATE RESPONSIBILITY.

The standards set forth in this Ordinance and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend, nor imply, that compliance by any person will ensure that there will be no contamination or pollution of stormwater or unauthorized discharge of pollutants to the stormwater drainage system or to waters of the United States.

SECTION 8. DISCHARGE PROHIBITIONS.Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the stormwater drainage system or waters of the United States any materials, pollutants, or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards.

The commencement, conduct, or continuance of any illegal discharge to the stormwater drainage system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing, fire hydrant flushing, discharges from potable water sources, landscape irrigation, lawn watering, rising groundwater, groundwater infiltration, uncontaminated pumped groundwater, diverted stream flows, natural riparian habitat and wetland flows, springs, storm sewer cleaning water, street wash water from streets where spills or leaks of pollutants or toxic or hazardous materials has not occurred (unless the pollutants or toxic or hazardous materials have been removed), foundation drains, footing drains, crawl space pumps, air conditioning condensation, non-commercial vehicle washing, routine external building washing that does not use detergents, dechlorinated swimming pool discharges (discharges must contain less than one part per million chlorine), fire fighting activities, and any other water source not containing pollutants or toxic or hazardous materials.
- (b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and all other applicable laws and regulations, and provided that written approval has been granted by the authorized enforcement agency for the discharge to the stormwater drainage system.

Prohibition of Illicit Connections.

The construction, use, maintenance, or continued existence of illicit connections to the stormwater drainage system is prohibited. 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. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage or any other non-stormwater discharge to the MS4, or allows such a connection to continue. 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 authorized enforcement agency. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the stormwater drainage system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the authorized enforcement

agency 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 stormwater drainage system, sanitary sewer system or other discharge point be identified. Results of those investigations are to be documented and provided to the authorized enforcement agency.

SECTION 9. SUSPENSION OF MS4 ACCESS.

Emergency Cease and Desist Orders

When the City of Zion 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 United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City of Zion may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Suspension Due to Illicit Discharges in Emergency Situations

The City of Zion 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, to the health or welfare of persons, to the MS4, or to waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States and to minimize danger to persons.

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 authorized enforcement agency will notify a violator, in writing, of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person violates this Ordinance if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior written approval of the authorized enforcement agency.

SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an NPDES Construction Site Activities Permit or NPDES Industrial Activities Permit shall comply with all provisions of such permit. Said person shall submit to the City of Zion a copy of the Notice of Intent (NOI) that was provided to the Illinois Environmental Protection Agency (IEPA). Additional proof of compliance with an NPDES Construction Site Activities Permit or NPDES Industrial Activities Permit may be required, in a form acceptable to the City of Zion, prior to the allowing of discharges to the MS4.

SECTION 11. MONITORING OF DISCHARGES.

- (a) The authorized enforcement agency shall be permitted to enter and inspect premises subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. 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 authorized enforcement agency.
- (b) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination, copying of records that must be kept under the conditions of an NPDES permit, and the performance of any additional duties as required by state and federal law.
- (c) The authorized enforcement agency shall have the right to set up on any premises such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the premises' stormwater discharge.
- (d) The authorized enforcement agency 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.
- (e) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the authorized enforcement agency access to a premises is a violation of this Ordinance. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits a violation of this Ordinance if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.
- (g) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and it 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 authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The authorized enforcement agency will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of

stormwater, the stormwater drainage system, or waters of the United States. The owner, or operator of a commercial or industrial establishment, shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal stormwater drainage system or waters of the United States through the use of these structural and non-structural 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 non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES 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 NPDES permit.

SECTION 13. 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.

SECTION 14. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or any person responsible for emergency response for a facility or operation, has information regarding any known or suspected release of materials which are resulting or may result in illegal discharges or in pollutants entering stormwater, the stormwater drainage 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 authorized enforcement agency in person, by phone, or by 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 of Zion within three business days of the phone call or personal 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. Failure to provide notification of a release as provided above is a violation of this Ordinance.

SECTION 15. NOTICE OF VIOLATION.

Whenever the City of Zion finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written Notice of Violation to the responsible person. Such notice may require, without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;

- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) 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 may be performed by the authorized enforcement agency and the expense thereof shall be charged to the violator.

In the event the violation constitutes an immediate danger to public health or public safety, the authorized enforcement agency is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The authorized enforcement agency is authorized to seek the costs of the abatement as outlined in Section 18.

SECTION 16. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 15 days from the date of the Notice of Violation. Hearing on the appeal before a hearing officer of the City of Zion, or other designated administrative body, shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the designated hearing officer shall be final.

SECTION 17. ENFORCEMENT.

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 30 days of the decision of the designated hearing officer, then the authorized enforcement agency reserves the right to enter upon the subject private property and 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 authorized enforcement agency or designee to enter upon the premises for the purposes set forth above.

The authorized enforcement agency may extend the period for corrective action upon a showing of good cause for extension of the corrective action period.

SECTION 18. COST OF ABATEMENT OF THE VIOLATION.

Within 30 days after abatement of the violation by the authorized enforcement agency, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the designated management agency or by the expiration of the time in which to file an appeal, 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 Section shall become liable to the City of Zion by reason of such violation. The liability shall be paid in not more than 12 equal monthly payments.

Interest at the rate of prime plus 2 percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

SECTION 19. 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 authorized enforcement agency 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.

SECTION 20. COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions including, but not limited to, storm drain stenciling, attendance at compliance workshops and cleanup activities.

SECTION 21. 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.

SECTION 22. CRIMINAL PROSECUTION.

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of not less than \$50.00 and not more than \$500.00 per violation per day.

Each violation and each day upon which an individual violation occurs shall constitute a separate offense.

SECTION 23. REMEDIES NOT EXCLUSIVE.

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

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

07-O-22

SECTION 24. SEVERABILITY. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain to be valid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in full force and effect.

SECTION 25. REPEAL AND SAVINGS CLAUSE All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or causes of action which shall have accrued to the City of Zion prior to the effective date of this ordinance.

SECTION 26. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner provided by law.

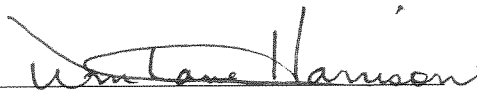
SECTION 27. ORDINANCE NUMBER. This ordinance shall be known as Ordinance Number 07-O-22.

Adopted by roll call vote as follows:

AYES: Comms. Taylor, Flammini, Bennett, DeTienne, Mayor Harrison

NAYS: None

ABSENT AND NOT VOTING: None



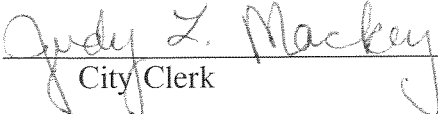
Mayor

PASSED: May 15, 2007

APPROVED: May 15, 2007

PUBLISHED: May 16, 2007

ATTEST:



City Clerk