

ORDINANCE NO. ID-2562

AN ORDINANCE ESTABLISHING REQUIREMENTS RELATING TO THE ILLICIT DISCHARGES TO STORM SEWERS AND SURFACE WATERS FOR THE CITY OF OVERLAND PARK, KANSAS; BY ADDING AS NEW CHAPTER 7.58 ENTITLED "ILLICIT DISCHARGES TO STORM SEWERS AND SURFACE WATERS" CONSISTING OF NEW SECTIONS 7.58.010, 7.58.020, 7.58.030, 7.58.040, 7.58.050, 7.58.060, 7.58.070, 7.58.080 AND 7.58.090.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. A new Chapter 7.58 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 7.58
ILLICIT DISCHARGES TO
STORM SEWERS AND SURFACE WATERS

7.58.010 Title.

The title of Overland Park Municipal Code Sections 7.58.010 through 7.58.090, inclusive, shall be known as the Illicit Discharges to Storm Sewers and Surface Waters Act (IDSSSW Act).

7.58.020 Purpose and Findings.

- A. The purpose of this Act shall be to prevent the discharge of pollutants from land and activities within the City into the municipal separate storm sewer system (MS4) and/or into surface waters.
- B. The Governing Body of the City hereby finds that pollutants are discharged into surface waters, both through inappropriate non-stormwater discharges into the MS4 or the surface waters directly, and through the wash off and transport of pollutants found on the land and built surfaces by stormwater during rainfall events.
- C. Further, the Governing Body of the City hereby finds that such discharge of pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of such water for human uses, such as drinking, irrigation, recreation, and industry; and may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of native plants and animals.
- D. Further, the Governing Body of the City hereby finds that such discharges are inconsistent with the provisions and goals of the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation.

- E. Further, the Governing Body of the City hereby finds that a reasonable establishment of restrictions and regulations on activities within the City is necessary to eliminate or minimize such discharges of pollutants, to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City and within downstream communities, and to comply with the provisions of the City's responsibilities under the Clean Water Act and the NPDES program.

7.58.030 Definitions.

For the purposes of this Act, the following definitions shall apply:

- A. "Best management practices (BMPs)" means physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters or the City's MS4.
- B. "Car" means any vehicle meeting the definition for passenger car, passenger van, pickup truck, motorcycle, recreational vehicle, or motor home given in Chapter 7.22 of the Code.
- C. "City" means the City of Overland Park, Kansas.
- D. "Code" means the Overland Park Municipal Code.
- E. "Director" means the Director of Planning and Development Services Department or the Director's authorized representative.
- F. "Discharge" means the addition or introduction of any pollutant, stormwater, or any other substance into the MS4 or surface waters.
- G. "Domestic sewage" means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from industrial waste.
- H. "Extremely hazardous substance" means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.
- I. "Fertilizer" means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.
- J. "Hazardous household waste (HHW)" means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

- K. "Hazardous substance" means any substance listed in Table 302.4 of 40 CFR Part 302.
- L. "Hazardous waste" means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
- M. "Industrial waste" means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.
- N. "Municipal separate storm sewer system (MS4)" means the system of conveyances, (including 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 stormwater, and which is not used for collecting or conveying sewage.
- O. "NPDES permit" means for the purpose of this chapter, a permit issued by United States Environmental Protection Agency (EPA) or the state of Kansas that authorizes the discharge of stormwater pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- P. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.
- Q. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.
- R. "Pollutant" means a substance or material which contaminates or impedes the flow of water, such as, but not limited to, dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, used motor oil, anti-freeze, litter, and industrial, municipal, and agricultural waste discharged into water.
- S. "Property Owner" shall mean the named property owner as indicated by the records of the Register of Deeds of Johnson County, Kansas;
- T. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or surface waters.
- U. "Sanitary sewer" means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a

sewage treatment plant and to which stormwater, surface water, and groundwater are not intentionally admitted.

- V. "Septic tank waste" means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- W. "Sewage" means the domestic sewage and/or industrial waste that is discharged into the sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant for treatment.
- X. "State" means the state of Kansas.
- Y. "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.
- Z. "Surface waters" means any body of water designated as "surface waters" by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these surface waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water designated by the federal government as a "water of the United States".
- AA. "Water quality standard" means the designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses.

7.58.040 General Prohibition.

- A. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4), or into any surface water within the City, any discharge that is not composed entirely of stormwater, except as allowed in subsection B.
- B. The following non-stormwater discharges are deemed acceptable and not a violation of this section:
 - 1. Discharges authorized by, and in full compliance with, an NPDES permit.
 - 2. Discharges or flows resulting from fire fighting activities;
 - 3. Water line flushing;
 - 4. Lawn watering, landscape irrigation, or other irrigation water;
 - 5. Diverted stream flow;
 - 6. Uncontaminated pumped groundwater or rising groundwater;
 - 7. Uncontaminated groundwater infiltration;

8. Uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
 9. A discharge or flow from a potable water source;
 10. Air conditioning condensate;
 11. Individual residential car washing;
 12. A discharge or flow from a riparian habitat, wetland or natural spring;
 13. Street wash waters (excluding street sweepings which have been removed from the street);
 14. Dechlorinated swimming pool discharges excluding filter backwash;
 15. Heat pump discharge waters (residential only).
- C. Notwithstanding the provisions of subsection B of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the Director to be a source of a pollutants to the MS4 or to surface waters, written notice of such determination has been provided to the property owner or person responsible for such discharges, and the discharge has occurred more than ten days beyond such notice.

7.58.050 Specific Prohibitions and Duties.

The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in Section 7.58.040, but are provided to address specific discharges that are frequently found or are known to occur:

- A. No person shall release or allow to be released any of the following substances into the MS4:
1. Any used motor oil, antifreeze or any other petroleum product or waste;
 2. Any industrial waste;
 3. Any hazardous waste, including household hazardous waste;
 4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 5. Any garbage or rubbish;
 6. Any yard wastes which have been moved or gathered by a person.

7. Any wastewater that contains soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment.
8. Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
9. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent, or any surfactant based cleaner;
10. Any wastewater from commercial floor, rug, or carpet cleaning;
11. Any wastewater from the washdown or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant, or other cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all such materials have been previously removed;
12. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blowdown from a boiler;
13. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
14. Any runoff, washdown water or waste from any animal pen, kennel, fowl or livestock containment area or any pet wastes generally;
15. Any filter backwash from a swimming pool or fountain;
16. Any swimming pool water containing a harmful level of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
17. Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine at the point of entry into the MS4 or surface waters;
18. Any contaminated runoff from a vehicle wrecking yard;
19. Any substance or material that will damage, block, or clog the MS4;

- 20. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state.
 - 21. Any other discharge that causes or contributes to causing the City to violate a state water quality standard, the City's NPDES stormwater permit, or any state-issued discharge permit for discharges from its MS4.
- B. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures, except as allowed for in conformance with Section 16.200 of the Code.
 - C. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4. No property owner shall allow such a connection to continue in use on their property.
 - D. No person shall use pesticides, herbicides and fertilizers except in accordance with manufacturer recommendations. Pesticides, herbicides and fertilizers shall be stored in a manner to prevent release to the MS4.
 - E. No person shall tamper with, destroy, vandalize, tamper with, or render inoperable any BMPs which have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any BMPs which have been required by the City or by other local, state, or federal jurisdictions.

7.58.060 Inspection and Detection Program

The Director is authorized to develop and implement a plan to actively detect and eliminate prohibited discharges and connections to the MS4 or surface waters within the City. Such plan may include, but is not limited to, periodic and random inspections of facilities and businesses, particularly those most associated with potentially prohibited discharges; visual surveys of exterior practices; inspection, sampling and analyses of discharges from outfalls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace discharges through the system to point of origin; education on pollution prevention; and receipt of complaints and information from the public regarding known or suspected discharges.

7.58.070 Release Reporting and Cleanup.

- A. Any person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or surface waters shall take all necessary steps to ensure the containment and cleanup of such release.
- B. 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.

- C. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within three business days of the phone notice.

7.58.080 Enforcement; Designation of Officer; Abatement; Right of Entry; Penalty.

The Director or his or her appointed representative shall be designated as the public officer charged with the administration and enforcement of this Act. The public officer shall authorize the investigation of violations of the Act. If it is determined that a violation of this Act exists, then the officer shall declare such condition a nuisance and is authorized to pursue abatement and enforcement procedures as specified in Section 7.04 of the Code.

7.58.090 Severability.

If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

SECTION 2. This ordinance shall take effect and be in force from and after its publication in *The Overland Park Sun*, an official city newspaper.

PASSED by the City Council this ____ day of _____, 2005.

APPROVED by the Mayor this ____ day of _____, 2005.

Ed Eilert, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Senior Assistant City Attorney