

**City of South St. Paul
Dakota County, Minnesota**

ORDINANCE NO. ~~12922015-~~

**AN ORDINANCE
AMENDING SOUTH ST. PAUL CITY CODE CHAPTER 110, ARTICLE VI
REGARDING STORMWATER ILLICIT DISCHARGE AND ILLICIT CONNECTION**

The City Council of South St. Paul does ordain:

SECTION 1. AMENDMENT. South St. Paul City Code Chapter 110, Article VI is hereby amended as follows:

ARTICLE VI. STORMWATER ILLICIT DISCHARGE AND ILLICIT CONNECTION

Sec. 110-120. Findings.

The city council hereby finds that nonstormwater discharges to the city's municipal separated storm sewer system are subject to higher levels of pollutants that enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control and other community services.

Sec. 110-121. Purpose.

The purpose of the ordinance is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by nonstormwater discharges by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land. In addition to requirements relative to the city's sanitary sewer system, this article 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 process and for controlling the introduction. The objectives of this ordinance are:

(a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater 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, enforcement, and monitoring procedures necessary to ensure compliance with this ordinance.

(d) This Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462; Minnesota Rules, Parts 6120.2500-6120.3900, Minnesota Rules Chapters 8410, 8420 and 70510.0210.

Sec. 110-122. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Best management practice or BMP. Defined under section 110-72.

Discharge. Adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant in a location where it is likely to pollute public waters.

Erosion. The process by which ground surface is worn away by action of wind, water, ice, or gravity.

Groundwater. Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or in rock formations deeper underground.

Illicit connection. Either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system (including any nonstormwater discharge) including sewage, process wastewater, and wash water 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 an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge. Any direct or indirect nonstormwater discharge to the storm sewer system, except as exempted in subsection ~~110-125(b)~~ 110-126(b) of this article.

Industrial Activity means an activity subject to NPDES General Stormwater Permit for Industrial Activity as defined in Title 40 of the Code of Federal Regulations, Section 122.26 (b)(14).

MPCA. The Minnesota Pollution Control Agency.

Municipal separate storm sewer system or MS4. The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch_basins, curbs, gutters, ditches,

manmade 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.

NPDES. The National Pollutant Discharge Elimination System, which is the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Section 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Section 1317, 1328, 1342, and 1345 authorizing the discharge of pollutants to water of the United States.

NPDES Stormwater Discharge Permit. A permit issued by the MPCA that authorizes the discharge of pollutants to public waters, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Person. Defined under section 110-72.

Pollutant. Any substance which, when discharged has potential to or does any of the following:

- (1) Interferes with state designated water uses;
- (2) Obstructs or causes damage to public waters;
- (3) Changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater;
- (4) Adds an unnatural surface film on the water;
- (5) Adversely changes other chemical, biological, thermal, or physical condition, in any surface water or stream channel;
- (6) Degrades the quality of ground water; or
- (7) Harms human life, aquatic life, or terrestrial plant and wildlife.

Pollutant includes but is not limited to dredged soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.

Pollute. To discharge pollutants into public waters.

Pollution. The direct or indirect distribution of pollutants into public waters.

Public waters. Defined under section 110-72.

State designated water uses. Uses specified in state water quality standards.

Storm sewer system. A conveyance or system of conveyances that is owned and operated by the city or other entity and designed or used for collecting or conveying stormwater.

Stormwater. Defined under Minnesota Rule 7077.0105, subpart 41(b), and means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage.

Surface waters. All public waters other than ground waters, which include ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems except those designed and used to collect, convey, or dispose of sanitary sewage.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a premise.

Sec. 110-123. Administration.

The city and its authorized representatives are authorized to administer, implement, and enforce the provisions of this article.

Sec. 110-124. 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.

Sec. 110-~~124~~125. Illegal disposal and dumping.

(a) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catchbasin conduit or drainage structure, business, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.

(b) No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catchbasin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

Sec. 110-~~125~~126: Illicit discharges.

(a) *[Provisions.]* No person shall cause any illicit discharge to enter the storm sewer system or any surface water.

(b) *Exemptions.* The following discharges are exempt from this section:

- (1) Nonstormwater that is authorized by an NPDES point source permit obtain from the MPCA;
- (2) Firefighting activities or other activities necessary to protect public health and safety;
- (3) Dye testing for which the city has provided a verbal notification prior to the time of the test;
- (4) Water line flushing or other potable water sources;
- (5) Landscape irrigation or lawn watering;
- (6) Diverted stream flows;
- (7) Rising ground water;
- (8) Gound water infiltration to storm drains;
- (9) Uncontaminated pumped ground water;
- (10) Foundation or footing drains (not including active groundwater dewatering systems);
- (11) Crawl space pumps;
- (12) Air conditioning condensation;
- (13) Springs;
- (14) Noncommercial washing of vehicles;
- (15) Natural riparian habitat or wetland flows;
- (16) Dechlorinated swimming pools (for pools to be considered "dechlorinated," water must be allowed to sit seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharging in an area where drainage to streets or storm sewer systems may occur); or
- (17) Any other water source not containing a pollutant.

Sec. 110-~~126~~127: Illicit connections.

No person shall construct, use, or maintain any illicit connection to intentionally convey nonstormwater to the city's storm sewer system. 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 article if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

Sec. 110-~~127~~128. General provisions.

All owners or occupants of property shall comply with the following general requirements:

(a) *Septic systems.* No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm sewer system may occur. This section shall apply to both actual and potential discharges.

- (1) Individual septic systems must be maintained to prevent failure, which has the potential to pollute surface water.
- (2) No part of any individual septic system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the ordinary high water level in the case of DNR protected waters, or the wetland boundary in the case of all other water bodies, unless it is proven by the applicant that no effluent will immediately or gradually reach the water bodies because of existing physical characteristics of the site or the system.

(3) Recreational vehicle sewage shall be disposed to a proper sanitary waste facility. Waste shall not be discharged in an area where drainage to streets or storm sewer systems may occur.

(b) *Water runoff.* Runoff of water from residential property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of paved areas in commercial or industrial property is prohibited unless necessary for health or safety purposes and not in violation of any other provisions of the city code.

(c) *Mobile washing businesses.* Business that use significant amounts of water at various locations in the city, such as, but not limited to mobile vehicle washing and carpet cleaning, shall dispose of wastewater into the sanitary sewer at a location permitted by the city. Wastewater must not be discharged where drainage to streets or storm sewer system may occur.

(d) *Motor vehicle repair and maintenance.* Storage of materials, machinery and equipment for motor vehicle repair and maintenance must comply with the following requirements:

- (1) Motor vehicle parts containing grease, oil or other hazardous substances and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff.

- (2) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.

(e) Parking lots and private streets. Debris from parking lots and private streets should be swept at least once a year in the spring to remove debris. Such debris shall be collected and properly disposed.

(f) 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, 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.

(e)(g) Other. Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste may be disposed of through the county collection program or at any other appropriate disposal site and shall not be placed in a trash container.

Sec. 110-~~128~~129. Industrial activity discharges.

Any person subject to an industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the city prior to the allowing of discharges to the storm sewer system. Any person responsible for a facility that has stormwater discharges associated with industrial activity, who 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 storm sewer system. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

Sec. 110-~~129~~130. Notification of spills.

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 the storm sewer system, or public water the 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, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the city no later than the next business day.

Sec. 110-~~130~~131. Access to Building for Inspection, Monitoring, and/or dye testing.

(a) The city shall be permitted to enter and inspect all buildings under this ordinance as often as may be necessary to determine compliance with this ordinance provided the city gives 24-hours advanced notice. However, in cases of emergency, the city shall be given immediate access.

(b) Facility operators shall allow the city ready access to all part of the premises for the purposes of inspection, sampling, dye testing, examination and copying of records that relate to the discharge of storm water. Any temporary or permanent obstruction to safe and easy access to the area to be inspected or sampled shall be promptly removed by the discharger at the request of the Public Works Department and shall not be replaced.

(c) The city shall have the right to establish, at any building, such devices as are necessary to conduct monitoring, sampling and/or dye testing of the facility's storm water discharge.

(d) The city has the right to require the discharger to install monitoring equipment as necessary. The monitoring equipment must be maintained by the discharger in a safe and proper operating condition at all times. All devices used to measure stormwater flow and quality must be calibrated in order to ensure their accuracy.

(e) Unreasonable delays in allowing the city access to a facility is a violation of this ordinance.

(f) If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section 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 article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek an administrative search warrant from any court of competent jurisdiction.

Sec. 110-~~131~~132. Suspension of storm sewer system access.

(a) *Suspension due to illicit discharges in emergency situation.* The city may, without prior notice, suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer or public waters. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or public waters, or to minimize danger to persons.

(b) *Suspension due to the detection of illicit discharge.* All persons discharging to the storm sewer system in violation of this article may have their storm sewer system access terminated if such termination serves to abate or reduce an illicit discharge. It is a violation of this section to reinstate storm sewer system access to premises that have been terminated pursuant to this section without the prior approval of the city.

Sec. 110-~~132~~133. Notice of Violation.

A violation of this article is a public nuisance. When the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the person is deemed to have created a public nuisance subject to abatement and assessment, as provided in sections 34-19 through 34-26. The city may also issue an administrative citation pursuant to chapter 38. In addition to any order issued pursuant to section 34-21, the city may require the following:

- (1) The performance of monitoring, analysis, and reporting;
- (2) The implementation of source control or treatment BMPs;
- (3) Any other requirement deemed necessary.

SECTION 3. SUMMARY PUBLICATION. Pursuant to Minn. Stat. § 412.191, in the case of a lengthy Ordinance, a summary may be published. While a copy of the entire Ordinance is available without cost at the office of the Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire Ordinance:

This Ordinance will help the City regulate the discharge of pollutants into the City's separate storm water system by prohibiting certain illicit discharges and connections. The Ordinance also establishes the City's authority to enter and inspect any building or business operation to ensure compliance with this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this _____ day of _____, 2015.

Ayes:

Nays:

Attest:

Mayor
Beth Baumann

City Clerk
Christy Wilcox