

CHAPTER 43A.

ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM.

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Sec. 43A-1. Purpose.

This Chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system. (Created by Ord. No. 10401, 8-31-2015, § 1.)

Sec. 43A-2. Definitions.

For the purposes of this Chapter, the terms used in this Chapter have the meanings defined as follows:

- (a) City. The city of Duluth and its officials, employees, and duly authorized agents;
- (b) Clean water act. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and subsequent amendments thereto;
- (c) Director. The director of public works and utilities department or his designated employee or agent for purposes of administration of this Chapter;
- (d) Groundwater. Water contained below the surface of the earth;
- (e) MPCA. The Minnesota pollution control agency;
- (f) MS4 (municipal separate storm sewer system). The system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, that is: owned and operated by the city, designed or used for collecting or conveying stormwater, and not used for collecting or conveying sewage;
- (g) National pollutant discharge elimination system (NPDES) stormwater discharge permit. A permit issued under the Clean water act and United States Code of Federal Regulations Title 33, Section 1342, and subsequent amendments thereto, authorizing the discharge of pollutants into waters of the United States;
- (h) Non-stormwater discharge. Any substance not composed entirely of stormwater;
- (i) Prohibited discharge. Any introduction of non-stormwater discharge to the MS4 or to surface waters within the city, unless specifically exempted under Section 43A-3(b) of this Chapter;
- (j) Person. Any individual, association, organization, partnership, firm, corporation, limited liability company or other entity recognized by law;
- (k) Pollutant. Any substance which, when introduced as non-stormwater, has potential to or does any of the following:
 - (1) Interferes with state designated water uses;
 - (2) Obstructs or causes damage to waters of the state;
 - (3) Changes water color, odor, or usability;
 - (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; or
 - (6) Harms human life, aquatic life, or terrestrial life.

(l) Stormwater. Precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff or drainage;

(m) Surface water. Ponds, lakes, rivers, streams, and wetlands. (Created by Ord. No. 10401, 8-31-2015, § 1.)

Sec. 43A-3. Non-stormwater discharges.

(a) No person shall cause any non-stormwater discharges to enter the MS4, or to any surface waters within the city, unless specifically exempted under paragraph (b) of this Section;

(b) Discharges from the following sources are exempted from this Section:

(1) Non-stormwater that is authorized by an NPDES point source permit obtained from the MPCA;

(2) Firefighting activities and fire suppression systems;

(3) Dye testing for which the city has received written 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 groundwater;

(8) Groundwater infiltration to storm drains;

(9) Uncontaminated pumped groundwater;

(10) Foundation or footing drains;

(11) Air conditioning condensation;

(12) Springs;

(13) Natural riparian habitat and wetland flows;

(14) Street wash water discharges;

(15) Activities undertaken by the city, or by written authority of the city, deemed necessary to protect public health, welfare or safety; and

(16) Any other water source not containing a pollutant;

(c) No person shall intentionally dispose of any non-storm water discharges (including, without limitation, grass, leaves, dirt, or other landscape material) into the MS4 or to any surface waters within the city. (Created by Ord. No. 10401, 8-31-2015, § 1.)

Sec. 43A-4. Prohibited MS4 connections.

No person shall construct, use, maintain or permit to exist any pipe or other structure that conveys non-stormwater to the MS4. (Created by Ord. No. 10401, 8-31-2015, § 1.)

Sec. 43A-5. Suspension of storm sewer system access, emergencies.

The city may, without prior notice, suspend the right to discharge any substance into the MS4 or surface waters of the city upon the determination by the director that suspension is necessary to stop an actual or threatened discharge of a pollutant to the MS4 or public waters. If the person discharging such pollutant fails to suspend such discharge, the city may take any step deemed necessary to prevent or minimize damage to the MS4 or public waters or to protect the health, safety, and welfare of its residents. (Created by Ord. No. 10401, 8-31-2015, § 1.)

Sec. 43A-6. Entry for inspections.

No person shall fail or refuse to allow the director to inspect any building or property to determine compliance with the requirements of this Chapter after having been given reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building or property shall deny or refuse to allow the director to inspect any such building or property after such notice has been given, the director may use such other means as are authorized by law, including but not limited to securing a search warrant for such building or property or a

court order requiring that access be granted in order to gain access to conduct such inspection. (Created by Ord. No. 10401, 8-31-2015, § 1.)

Sec. 43A-7. Enforcement.

(a) Any person violating any section of this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of this Code. All city approvals and permits shall be suspended until the violation(s) of this chapter are corrected. Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter in a court of competent jurisdiction by civil action to enjoin any continuing violation(s) in accordance with subsection (b) below;

(b) A violation of this Chapter is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and permits shall be suspended until abatement of the nuisance condition(s). Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter by criminal prosecution or administrative fine. (Created by Ord. No. 10401, 8-31-2015, § 1.)