

CHAPTER 7

REGULATIONS FOR DISCHARGES INTO STORM WATER DRAINAGE SYSTEM

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8-7-1: PURPOSE AND OBJECTIVE:

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

- A. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user;

- B. To prohibit illicit connections and discharges to the MS4; and
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter. (Ord. 05-1957-21, eff. 3/14/05)

8-7-2: DEFINITIONS:

As used in this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in Section 502 of the Clean Water Act, 40 CFR 122, and 35 Ill. Adm. Code 309, unless the context clearly requires otherwise. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the event of a conflict, the definition found in the statute or regulation takes precedence.

AUTHORIZED ENFORCEMENT	The Village of Lincolnshire, or upon its inability or AGENCY failure to act, the Lake County Stormwater Management Commission.
AUTHORIZED ENFORCEMENT OFFICER	Any officer or employee of an Authorized Enforcement Agency who administers or enforces any provision of this Chapter or Clean Water Act pursuant to this Chapter. The term "Authorized Enforcement Officer" shall include: the Village Manager; the Development Manager; the Planning Manager; the Code Enforcement Officer; the Director of Public Works; the Village Engineer, the Fire Chief, Village Attorney, or their designate. It is expressly intended that those officials shall be, and are empowered to enforce the provisions of this Code including the initiating and signing of formal complaints alleging violations of such provisions.
BEST MANAGEMENT PRACTICES (BMPs)	Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water 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.

CLEAN WATER ACT	Formerly referred to as the Federal Water Pollution Control Act, means Pub. L 92-500 (33 USC 1251 et seq.), and any subsequent amendments thereto.
CONSTRUCTION ACTIVITY	Activities subject to NPDES construction or Lake County Watershed Development permits. These include construction projects resulting in land disturbance of 5,000 square feet or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.
HAZARDOUS MATERIALS	Any material, including any substance, waste, or combination thereof, that 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-storm water discharge to the storm drainage system, except as allowed under an NPDES permit or as exempted in section 8-7-7 of this Chapter.
ILLCIT CONNECTIONS	An "illicit connection" is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system including, without limitation, any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drainage system; and any connections to the storm 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 any drain or conveyance connected from a commercial or industrial land use to the storm drainage system that has not been documented in plans, maps, or equivalent records and approved by an Authorized Enforcement Agency.
INDUSTRIAL ACTIVITY	Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26(b)(14).
ISOLATED WATERS OF LAKE COUNTY	Those waters as defined in the Lake County Watershed Ordinance.

MUNICIPAL SEPARATE STORM SEWER SYSTEM	The system of conveyances (including sidewalks, paths, (MS4) roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Village and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT	A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC 1342(b) authorizes the discharge of pollutants to waters of the United States or Isolated Waters of Lake County, whether the permit is applicable on an individual, group, or general area wide basis.
NON-STORM WATER DISCHARGE	Any discharge to the storm drainage system that is not composed entirely of storm water.
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 that causes or contributes to a change in the turbidity, Ph, color, or temperature of the receiving water. Pollutants may include, without limitation: 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, ordinances, 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.
PREMISES	Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM	Publicly owned facilities by which storm water is collected and/or conveyed, including, without limitation, 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.
STORM WATER	Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
STORM WATER POLLUTION PREVENTION PLAN	A document that 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 storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.
WASTEWATER	Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
WATERCOURSE	Any river, stream, creek, brook, natural or artificial depression, ponded area, lakes, flowage, slough, ditch, conduit, culvert, gully, ravine, swale, wash, or natural or human-made drainage way, in or into which surface or groundwater flows, either perennially or intermittently. (Ord. 05-1957-21)

8-7-3: APPLICABILITY:

This article shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an Authorized Enforcement Agency. (Ord. 05-1957-21, eff. 3/14/05)

8-7-4: ADMINISTRATION:

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the director of the Authorized Enforcement Agency to persons or entities acting in the beneficial interest of or in the employ of the agency. (Ord. 05-1957-21, eff. 3/14/05)

8-7-5: SEVERABILITY:

If any provision of this Chapter, or the application of any provision of this Chapter, is held unconstitutional or otherwise invalid, such occurrence shall not affect, impair, or invalidate other provisions of this Chapter, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Chapter. (Ord. 05-1957-21, eff. 3/14/05).

8-7-6: MINIMUM STANDARDS:

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. (Ord. 05-1957-21, eff. 3/14/05)

8-7-7: PROHIBITIONS ON DISCHARGES:

A. Prohibition Of Illegal Discharges: No person shall discharge or cause to be discharged into the municipal storm drainage system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct, or continuance of any illegal discharge to the storm drainage system is prohibited except as follows:

1. Water line and fire hydrant flushing or other potable water sources, storm sewer cleaning water, residual street wash water, landscape irrigation or lawn watering (except of wastewater irrigation), diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than 1 PPM chlorine), firefighting activities, and any other water source not containing pollutants.
2. Discharges specified in writing by the Authorized Enforcement Agency as being necessary to protect public health and safety.

3. Dye testing, but only with prior oral notification to the Authorized Enforcement Agency prior to the time of the test.
4. Non-storm water 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 or the Illinois Environmental Protection Agency, 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 for any discharge to the storm drainage system.

B. Prohibition Of Illicit Connections:

1. The construction, use, maintenance, or continued existence of illicit connections to the 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 article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. 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.
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer 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 storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Authorized Enforcement Agency.
6. The use of any illicit drain or connection previously allowed, permitted or

approved by an Authorized Enforcement Agency shall be discontinued and suspended no later than December 31, 2006. (Ord. 05-1957-21, eff. 3/14/05)

8-7-8: SUSPENSION OF MS4 ACCESS:

- A. Suspension Due To Illicit Discharges In Emergency Situations: The Authorized Enforcement Agency may suspend, without prior notice, MS4 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 MS4 or 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, or to minimize danger to the public.
- B. Suspension Due To The Detection Of Illicit Discharge: Any person discharging to the MS4 in violation of this Chapter may have MS4 access terminated if such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Authorized Enforcement Agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the Authorized Enforcement Agency. (Ord. 05-1957-21, eff. 3/14/05)

8-7-9: INDUSTRIAL OR CONSTRUCTION DISCHARGES:

- A. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Authorized Enforcement Agency prior to the allowing of discharges to the MS4. (Ord. 05-1957-21, eff. 3/14/05)
- B. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Village at the same time the operator submits the original Notice of Intent to the EPA as applicable.
- C. The copy of the Notice of Intent may be delivered to the Village either in

person or by mailing it to:

Notice of Intent to Discharge Storm Water
Village Manager
Village of Lincolnshire
One Olde Half Day Road
Lincolnshire, IL 60069

- D. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Village.

8-7-10: MONITORING OF DISCHARGES:

- A. Applicability: This section applies to all facilities that have storm water discharges to the storm drainage system or associated with construction or industrial activity.
- B. Access To Facilities:
1. The Authorized Enforcement Agency shall be permitted during the discharger's regular operating hours to enter and inspect premises subject to regulation under this Chapter and to inspect and copy any relevant records, at its own expense, as often as may be necessary to determine compliance with this article. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, then the discharger shall make the necessary and reasonable arrangements to allow access to representatives of the Authorized Enforcement Agency, except in case of emergency. Access to the premises shall not be unduly withheld.
 2. Facility operators shall allow the Authorized Enforcement Agency ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
 3. The Authorized Enforcement Agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Authorized Enforcement Agency to conduct monitoring and/or sampling of the facility's storm water discharge.
 4. 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 storm water flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility 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.
6. Unreasonable delay in allowing the Authorized Enforcement Agency access to a permitted facility is a violation of a storm water discharge permit and of this article. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with construction or industrial activity commits an offense 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 article.
7. If the Authorized Enforcement Agency has been refused access to any part of the premises from which storm water is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling programs 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 Authorized Enforcement Agency may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. 05-1957-21, eff. 3/14/05)

8-7-11: BEST MANAGEMENT PRACTICES REQUIRED:

The Authorized Enforcement Agency will adopt requirements identifying best management practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drainage system, or waters of the United States. The owner or operator of a commercial or industrial establishment will provide, at its own expense, reasonable protection from accidental discharge of pollutants or other wastes into the municipal storm drainage system or watercourses through the use of these structural or nonstructural 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 nonstructural 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 storm water 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 Storm Water Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit. (Ord. 05-1957-21, eff. 3/14/05)

8-7-12: 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. (Ord. 05-1957-21, eff. 3/14/05)

8-7-13: 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 that are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drainage system, or water 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 nonhazardous materials, said person shall notify the Authorized Enforcement Agency 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 Authorized Enforcement Agency within three (3) business days of the phone 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 (3) years. (Ord. 05-1957-21, eff. 3/14/05)

8-7-14: ENFORCEMENT:

Whenever the Authorized Enforcement Agency finds that a person has violated a prohibition or failed to meet a requirement of this article, 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 storm water pollution or contamination hazards and the restoration of any affected property; and
- E. Payment of restitution to cover administrative and remediation costs;
- 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 will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within fifteen (15) days, or such greater period as the Authorized Enforcement Agency shall deem appropriate, after the Authorized Enforcement Agency has taken one or more of the actions described above, the Authorized Enforcement Agency may impose a penalty subject to the fine set forth in the Comprehensive Fine Schedule of the Code described in 17-1 for each day the violation remains unremedied after receipt of the notice of violation. (Ord. 05-1957-21, eff. 3/14/05) (Amd. Ord. 10-3131-08, eff. 3/22/10)

8-7-15: APPEAL OF NOTICE OF VIOLATION:

Any person receiving a notice of violation may appeal the determination of the Authorized Enforcement Officer. The notice of appeal must be received within fifteen (15) days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final. (Ord. 05-1957-21, eff.

3/14/05)

8-7-16: ENFORCEMENT MEASURES AFTER APPEAL:

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 fifteen (15) days of the decision of the municipal authority upholding the decision of the Authorized Enforcement Agency, then representatives of the Authorized Enforcement Agency shall enter upon the subject private property and are authorized 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 government agency or designated contractor to enter upon the premises for the purposes set forth above. (Ord. 05-1957-21, eff. 3/14/05)

8-7-17: COST OF ABATEMENT:

Within fifteen (15) days after abatement of the violation, 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. Interest at the rate of one percent (1%) per annum shall be assessed on the balance beginning on the first day following the discovery of the violation (Ord. 05-1957-21, eff. 3/14/05)

8-7-18: INJUNCTIVE RELIEF:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the Authorized Enforcement Agency may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation. (Ord. 05-1957-21, eff. 3/14/05)

8-7-19: COMPENSATORY ACTION:

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc. (Ord. 05-1957-21, eff. 3/14/05)

8-7-20: VIOLATIONS DEEMED 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 article 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. (Ord. 05-1957-21, eff. 3/14/05)

8-7-21: REMEDIES NOT EXCLUSIVE:

The remedies listed in this article 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. (Ord. 2005-1957-21, eff. 03/14/05)