

**CITY OF BETTENDORF  
STORM WATER ORDINANCE**

**AN ORDINANCE PROHIBITING POLLUTION, DISCHARGE INTO THE STORM  
WATER COLLECTION FACILITIES WITHIN THE CITY, AND  
PROVIDING PENALTIES FOR THE VIOLATION WHEREOF**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETTENDORF, IOWA:

Section 1: Chapter 26  $\frac{3}{4}$  of the Municipal Code entitled, Storm Water Regulations is hereby enacted as follows:

Storm Water Regulations

**SECTION 26  $\frac{3}{4}$ -1 PURPOSE/INTENT.**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Bettendorf, Iowa 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 ordinance 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) Phase II permit process. The objectives of this ordinance are:

- (A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user
- (B) To prohibit illicit connections and discharges to the municipal separate storm sewer system
- (C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

**SECTION 26  $\frac{3}{4}$ -2 DEFINITIONS.**

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

- A. Authorized Enforcement Agency: employees or designees of the City of Bettendorf Public Works Department.
- B. Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping 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.
- C. Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- D. Construction Activities. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading,

excavating, and demolition.

E. 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.

F. Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in this ordinance.

G. Illicit Connections. 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 storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain 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 storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

I. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. This means 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.

J. Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

K. Person : means 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.

L. Pollutant. Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous 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.

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

N. Storm Drainage System. Publicly or privately -owned facilities by which storm water is collected and/or conveyed, including but not limited to 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.

O. Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

P. Storm Water 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 Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Q. Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 26 ¾-3 APPLICABILITY.**

This ordinance shall apply to all water entering the storm drain system generated on any public or private developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **SECTION 26 ¾-4 RESPONSIBILITY FOR ADMINISTRATION.**

The Bettendorf Public Works Department, or its designated agent, 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 City of Bettendorf Director of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.

### **SECTION 26 ¾-5 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 26 ¾-6 ULTIMATE RESPONSIBILITY.**

The standards set forth herein 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, pollution, nor unauthorized discharge of pollutants.

### **SECTION 26 ¾-7 DISCHARGE PROHIBITIONS.**

#### **A. Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the municipal storm drain 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 drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater de-watering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if de-chlorinated - typically less than one PPM chlorine), fire fighting 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 is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (4) The prohibition shall not apply to any 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 Iowa Department of Natural Resources, 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 drain system.

**B. Prohibition of Illicit Connections.**

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain 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 ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

**SECTION 26 <sup>3</sup>/<sub>4</sub>-8 SUSPENSION OF MS4 ACCESS.**

**A. Suspension due to Illicit Discharges in Emergency Situations**

The Bettendorf Public Works Department or its designated agent, 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, 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 persons.

**B. 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 of the proposed termination of its MS4 access. The violator may petition the Bettendorf City Council 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.

**SECTION 26 <sup>3</sup>/<sub>4</sub>-9 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

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 Bettendorf Public Works Department or its designated agent prior to the allowing of discharges to the MS4.

**SECTION 26 <sup>3</sup>/<sub>4</sub>-10 MONITORING OF DISCHARGES**

**A. Applicability.**

This section applies to all facilities that have storm water discharges associated with industrial activity, and construction activity.

B. Access to Facilities.

The Bettendorf Public Works Department, or its designated agent, shall be permitted to enter and inspect facilities 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.

Facility operators shall allow the Bettendorf Public Works Department, or its designated agent, 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.

The Bettendorf Public Works Department, or its designated agent, 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.

The Bettendorf Public Works Department, or its designated agent, shall have 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.

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 Bettendorf Public Works Department, or its designated agent, and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Unreasonable delays in allowing the Bettendorf Public Works Department, or its designated agent, access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with 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 ordinance.

If the Bettendorf Public Works Department, or its designated agent, has been refused access to any part of the premises from which storm water is discharged, and he/she 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 26 <sup>3</sup>/<sub>4</sub>-11 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The Bettendorf Public Works Department will adopt requirements identifying Best Management Practices (BMP's) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. 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 storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, 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 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 (SWPPP) as necessary for compliance with requirements of the NPDES permit.

#### **SECTION 26 ¾-12 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, and other deleterious materials that would pollute, contaminate, or significantly degrade 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 26 ¾-13. NOTIFICATION OF SPILLS OR RELEASES**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency responses 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 storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of 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 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 Bettendorf Public Works Department within five business days of the phone notice.

#### **SECTION 26 ¾-14 ENFORCEMENT.**

Notice of Violation.

Whenever the Bettendorf Public Works Department, or its designated agent, finds that an organization 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 storm water pollution or contamination hazards and the restoration of any affected property; and
- (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

will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### **SECTION 26 ¾-15 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 5 days from the date of the Notice of Violation. Hearing on the appeal before the Bettendorf City Council shall take place within 15 days from the date of receipt of the notice of appeal or the next regularly scheduled City Council meeting, whichever comes first. The decision of the City Council shall be final.

#### **SECTION 26 ¾-16 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 10 days of the decision of the City Council upholding the decision of the authorized enforcement agency, then representatives of the Bettendorf Public Works Department may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation. 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 agent to enter upon the premises for the purposes set forth above.

#### **SECTION 26 ¾-17 COST OF ABATEMENT OF THE VIOLATION**

Violations of this ordinance are subject to civil fines and penalties as prescribed by the provision of the Iowa Code section 364.3 and 364.12, as modified by current Bettendorf City Code.

#### **SECTION 26 ¾-18 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 26 ¾-19 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.

Section Two. Full Force and Effect. This ordinance shall be in full force and effect the date of passage and publication as required by law.

Section Three. Severability of Provisions. If any section, subsection, sentence, clause, phrase or portion of this ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

Section Four. Repealer. This ordinance shall be construed to repeal any prior ordinance inconsistent herewith.

Section Five. Municipal Infraction. Any person, firm, or corporation who violates this ordinance shall be guilty of a municipal infraction and shall be penalized as set forth in Section 1-9 of the Municipal Code of the City of Bettendorf, Iowa.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2003.

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Ann Hutchinson, Mayor

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Decker P. Ploehn, City Clerk