

The purpose of this ordinance is to regulate non-stormwater discharges to the stormdrain system.

Ordinance Number _____

ORDINANCE AMENDING SECTION 365 OF
THE 2007 CODE OF ORDINANCES
ENTITLED “ILLICIT DISCHARGE DETECTION AND ELIMINATION”

THE COUNCIL OF THE CITY OF ST. CLOUD HEREBY ORDAINS:

SECTION 1. That Section 365 of the 2007 Code of Ordinances entitled “Illicit Discharge Detection and Elimination” is hereby amended as follows:

Section 365 - Illicit Discharge Detection and Elimination

Section 365:00. Purpose and Policy. This ordinance establishes standards and requirements for the regulation of non-stormwater discharges to the City of St. Cloud municipal separate storm sewer system (MS4) as required by State (Minnesota Pollution Control Agency, MPCA) and Federal (United States Environmental Protection Agency, USEPA) law.

The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the City of St. Cloud’s MS4.
- (2) To prohibit illicit connections and discharges to the City of St. Cloud’s MS4.
- (3) To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to comply with this ordinance.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless exempted by the City of St. Cloud.

Section 365:05. Definitions. Unless the context specifically indicates otherwise, the following terms as used in this ordinance, shall have the meanings designated.

Subd. 1. “Best Management Practices (BMPs)” Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of waters of the state, including avoidance of impacts, prohibitions of practices, general house keeping practices, pollution prevention and educational practices, operating and maintenance procedures, and other applicable management practices.

Subd. 2. “City” The City of St. Cloud, the St. Cloud City Council, the Public Utilities Department.

Subd. 3. “Director” The City of St. Cloud Public Utilities Director or authorized designee.

Subd. 4. “Hazardous Materials” Any material, 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, or otherwise managed.

Subd. 5. “Illegal Discharge” Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in this ordinance.

Subd. 6. “Illicit Connections” Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances that allow non-stormwater 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 they had been previously allowed, permitted or approved by the County or City; or any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps or equivalent records and approved by the City.

Subd. 7. “Industrial Activity” Activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).

Subd. 8. “Land Disturbing Activity” Any removal of vegetation, excavating, grading, clearing, filling, stockpiling, hauling, or other earth change related to or associated with construction or reconstruction, which may result in movement of soil particles of earth.

Subd. 9. “Municipal Separate Storm Sewer System (MS4)” The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to waters of the United States.

Subd. 10. “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” A permit issued by the USEPA (or by a State

under authority delegated by the USEPA) that authorizes discharge to waters of the United States.

Subd. 11. “Non-Stormwater Discharge” Any discharge to the storm drain system that is not composed entirely of stormwater.

Subd. 12. “Pollutant” Anything which causes or contributes to pollution, including but 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, that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; wastewater, coliform bacteria 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.

Subd. 13. “Premises” Any building, lot, parcel or portion of land whether undeveloped or developed, adjacent sidewalks and parking strips.

Subd. 14. “Stormwater” Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation.

Subd. 15. “Stormwater Management Plan” A document that describes the Best Management Practices (BMPs) and activities to be implemented to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Subd. 16. “Wastewater” Liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions which is discharged into or permitted to enter the City's wastewater treatment system.

Section 365:10. Discharge Exemptions. The following are exempted from this ordinance.

Subd. 1. Discharges from landscape irrigation, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space sump pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, water main flushing and street wash water.

Subd. 2. Discharges or flow from firefighting and other discharges specified by the City as necessary to protect public health and safety.

Subd. 3. Discharges associated with dye testing; verbal approval prior to testing is required.

Subd. 4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES Permit, waiver or waste discharge order issued to the discharger and administered under the authority of the USEPA, 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.

Section 365:15. Prohibited Discharge. No person shall throw, drain or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the City's MS4, any pollutants or waters containing any pollutants, other than stormwater.

Section 365:20. Illicit Connections. The following are prohibited under this ordinance.

Subd. 1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

Subd. 2. This prohibition includes, without limitation, previous illicit connections regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Subd. 3. It is a violation of this ordinance to connect a line conveying non-stormwater to the City's MS4 or allow these connections to continue.

Subd. 4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or upon approval, to the City's wastewater treatment system.

Subd. 5. Any drain or conveyance that has not been documented in record drawings, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property within twenty-one (21) days upon receipt of written notice from the City requiring that the location be disclosed. Documentation shall be provided to the City including location of drain or conveyance, drain or conveyance identification as storm sewer, sanitary sewer or other, and the outfall location or point of entry into the City storm sewer, sanitary sewer or other point of discharge.

Section 365:25. Accidental Discharges.

Subd. 1. Prevention of Accidental Discharges. All users shall provide adequate protective procedures to prevent the accidental discharge of any non-stormwater discharge to the City's MS4.

Subd. 2. Accidental Discharge. Accidental discharges of prohibited waste shall be reported to the Director by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the discharge. Such notification will not relieve users of liability for expense, loss or damage to the storm drain system, or any fines imposed on the City under any State or Federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge. The responsible person shall send detailed written notification describing the prohibited discharge to the Director within seven (7) days of knowledge of the discharge. The letter shall include the following information:

- (1) The time and location of the spill;
- (2) Description of the accidentally discharged waste, including estimate of pollutant concentrations;
- (3) Time period and volume of discharged;
- (4) Actions taken to correct or control the spill; and
- (5) A schedule of corrective measures to prevent further spill occurrences.

Section 365:30. Industrial or Land Disturbing Activity Discharges. Any person subject to an industrial or construction activity NPDES Stormwater Permit shall comply with all provisions of such permit. Written proof of compliance may be required prior to discharge to the City's MS4.

Section 365:35. Inspection. The City may conduct tests as necessary to enforce this ordinance, and authorized City employees may enter any property for the purpose of inspection, observation, measurement, sampling, obtaining information or conducting surveys or investigations to enforce this ordinance. Entry shall be made during operating hours unless circumstances require otherwise.

Section 365:40. Sampling. The City may require installation of monitoring equipment. All sampling and monitoring equipment shall be maintained and in proper operating condition by the discharger, at their expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.

Section 365:45. Requirement of Best Management Practices. Compliance with all terms and conditions of a valid NPDES Permit or Land Disturbance Permit shall be deemed compliance with the provisions of this section. The City will adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. The owner or operator of such activity, operation or facility shall provide, at the owner's expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drain system or watercourses through the use of the BMPs. Any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at their expense, additional BMPs to prevent the further discharge of pollutants to the City's MS4.

Section 365:50. Violations.

Subd. 1. Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this ordinance or may be restrained by injunction or otherwise abated in a manner provided by law.

Subd. 2. Danger to Public Health. In the event the violation constitutes an immediate danger to public health or public safety, the City is authorized to enter the property, without prior notice, to take any and all measures necessary to abate the violation and/or restore the property, at the owner's expense. The City will pursue measures to recover all costs associated with the restoration.

Subd. 3. Notification of Violation. Whenever the Director finds that any person has violated or is violating this ordinance, the Director may serve a written notice stating the nature of the violation. A written plan for the satisfactory correction shall be submitted to the Director not to exceed ten (10) days of the date of the notice.

Section 365:55. Enforcement.

Subd. 1. Remedies Available. The Director may suspend MS4 service when necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to public health or safety, the environment, or the storm drain system, or would cause the City to violate any condition of its NPDES Stormwater Permit. Any user notified of a suspension of the storm drain system service shall immediately stop the discharge. In the event the user fails to comply voluntarily with the suspension order, the Director shall take steps as deemed necessary, including immediate severance of the storm drain connection, to prevent or minimize damage to the system, public health or public safety. The Director shall reinstate the storm drain system service upon proof of elimination of the non-complying discharge.

Subd. 2. Show Cause Hearing.

- (1) Notice of Hearing. If the violation is not corrected by timely compliance, the Director may order any user which causes or allows an unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reason the action will be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) Hearing Officials. The City Council may conduct the hearing and take the evidence or may designate any of its members, administrative law judge, or any officer or employee of the (assigned department) to:
 - (a) Issue in the name of the City, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (b) Receive evidence; and
 - (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.
- (3) Transcripts. At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
- (4) Issuance of Orders. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the storm drain service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

Section 365:60. Penalties.

Subd. 1. Administrative Fines. Notwithstanding any other section of this ordinance, any user who is found to have violated any provision of this ordinance, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Unpaid charges, fines and penalties shall constitute a lien against the individual user's property. Users desiring to dispute such fines must file a request for the City Finance Director to reconsider the fine within 10 days of being notified of the fine. Where the City Finance Director believes a request has merit, the Finance Director shall convene a hearing on the matter within 30 days of receiving the request from the user.

Subd. 2. Criminal Penalties. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be furnished by a fine of not more than \$800, or by imprisonment not to exceed 90 days, or both.

Subd. 3. Costs. In addition to the penalties provided herein, the City may recover court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this ordinance or the orders, rules, regulations and permits issued hereunder.

Subd. 4. Costs of Damage. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage. The Director may add to the user's charges and fees, the costs assessed for any work caused by the violation or discharge including cleaning, sampling, staff time, repair or replacement work. Any refusal to pay the assessed costs shall constitute a violation of this ordinance.

Subd. 5. Falsifying Information. Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or both.