Section 725 - Illicit Discharge and Connections

725.1 Purpose/Intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Hopkins 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 storm drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System permit process. The objectives of this ordinance are:

(1) To regulate the contribution of pollutants to the storm drainage system by storm water discharges by any user.

(2) To prohibit illicit connections and discharges to the storm drainage system.

(3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

(4) 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.

725.2 Definitions.

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

City. The City of Hopkins and its employees, agents or designees.

Best Management Practices or 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. Best Management Practices or 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. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre 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, 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.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drainage system, except as exempted in 725.8.1 of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

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 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, 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 Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System or MS4. means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, underground storm drainage facilities, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying wastewater.

National Pollutant Discharge Elimination System Storm Water Discharge Permit or NPDES Permit. 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.

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 which 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 materials 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, including the MS4, 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.

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 Management 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.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from any premises.

725.3 Applicability.

This ordinance shall apply to all water entering the storm drainage system generated on any premises unless explicitly exempted by the City.

725.4 Responsibility for Administration.

The City shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the City Manager or Director of Public Works of the City to persons or entities acting in the beneficial interest of or in the employ of the City.

725.5 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.

725.6 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, premises, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

725.7 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

725.8 Discharge Prohibitions.

Subdivision 1 Prohibition of Illegal Discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants or any non-storm water discharge.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except for the following:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, unpolluted ground water infiltration, unpolluted pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, looting drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

(2) Discharges or flow from firefighting, and other discharges specified in writing by the City as being necessary to protect public health and safety.

(3) Discharges associated with dye testing, however this activity requires a verbal notification to the City 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 United States Environmental Protection Agency (EPA), 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.

Subd. 2. Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. 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.

(2) A person is in violation of this ordinance if the person makes an illicit connection conveying sewage to the MS4, or allows such a connection to continue.

(3) Illicit 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 approved by the City.

(4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm drainage system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City 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 stone 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 accurate drawings prepared by a qualified contractor or surveyor provided to the City.

725.9 Watercourse Protection.

Every person owning premises 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.

725.10 Industrial or Construction Activity Discharges.

Subdivision 1 Submission of NGI to the City of Hopkins.

(1) 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 City prior to the allowing of discharges to the MS4.

(2) 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 to the City at the same time the operator submits the original Notice of Intent to the EPA as applicable.

(3) The copy of the Notice of Intent may be delivered to the City either in person or by mailing it to:

Notice of Intent to Discharge Storm Water

City of Hopkins
Attention: City Engineer
1010 First Street South
Hopkins, MN 55343

(4) 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 City.

725.11 Notification of Spill.

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 storm water, the storm drain system, or waters 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 non-hazardous materials, said person shall notify the City of Hopkins 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 City 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. Failure to provide notification of a release as provided above is a violation of this ordinance.

725.12 Right of Entry.

The City shall be permitted to enter and inspect premises subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

725.13 Requirement To Prevent, Control, And Reduce Storm Water Pollutants By The Use Of Best Management Practices**.**

The City will adopt requirements identifying Best Management Practices for any activity, operation, or facility which 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 such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for a property or premises that is, or may he, 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 MS4. 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 management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

725.14 Violations, Enforcement, and Penalties.

Any person violating any provision of this ordinance is guilty of a misdemeanor.

(1) Warning Notice: When the City of Hopkins finds that any person has violated, or continues to violate, any provision of this ordinance or any order issued hereunder, the City may serve upon that person or business a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the city staff to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(2) Notice of Violation: Whenever the City of Hopkins finds a person 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.
The Notice of Violation shall contain:

1. The name and address of the alleged violator;

2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

3. A statement specifying the nature of the violation;

4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;

5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

6. A statement that the determination of violation may be appealed to the City of Hopkins by filing a written notice of appeal within 30 days of service of notice of violation; and

7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:
1. Monitoring, analyses, and reporting;
2. Elimination of illicit connections or discharges;
3. Abatement of pollution and hazards;
4. Restoration of affected property;
5. Payment of fine to cover administrative and remediation costs;
6. Implementation of source control or treatment BMPs; and
7. Other actions as deemed necessary by the City.

(3) 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.

(4) Emergency cease and desist orders. When the City finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened illicit discharge to the MS4 or waters of the state, which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City may issue an order to the violator directing it to immediately cease and desist all such violations.

(5) 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. Such suspension may also be imposed if it is necessary to stop an actual or threatened illicit discharge which presents or may present imminent and substantial danger.

(6) Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided in this ordinance, any condition caused or permitted to exist in violation of any of the provision of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a public 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 by the City.

(7) Assessments. All costs, expenses and attorneys' fees incurred by the City in abating any public nuisance under this Ordinance may be assessed against the premises at which the violation exists as a special assessment under Minnesota Statutes Chapter 429.

725.15 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 City to seek cumulative remedies.

The City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

(Added by Ord. 2011-1038) (Amended by Ord. 2015-1093)