

ORDINANCE NO. F-2034

AN ORDINANCE AMENDING CHAPTER 34 OF THE WHEATON CITY CODE “STORMWATER MANAGEMENT REGULATION”

BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois as follows:

SECTION 1: Chapter 34 of the Wheaton City Code, 2017, as amended, is hereby amended by repealing and rescinding Chapter 34, in its entirety and replacing it to read as follows:

“STORMWATER MANAGEMENT REGULATIONS

ARTICLE I. IN GENERAL

Sec. 34-1. Purpose.

The basic purpose of this chapter is to provide design standards and regulations governing land development so as to reduce or prevent flooding and in so doing to minimize damage to real property and to protect the public health and welfare. The City has adopted the current version of the DuPage County Countywide Stormwater and Floodplain Ordinance. Whenever the provisions of the DuPage County Countywide Stormwater and Floodplain Ordinance and this chapter of the City Code are in conflict, the more restrictive code shall apply.

Sec. 34-2. - Stormwater drainage, Generally.

- (a) No person shall construct any building, structure or portion thereof on any lot or parcel of land without first making adequate provisions for stormwater drainage.
- (b) It shall be unlawful for any person to dispose of roof or ground drainage in such a manner that it directly discharges onto the property owned by another, or onto any city street, alley, sidewalk or right-of-way.
- (c) It shall be unlawful for any person to alter or change the existing elevations of their property, or to obstruct or interfere with any natural or existing drainage system, without first making adequate provisions for alternate stormwater drainage, as approved by the city director of engineering.
- (d) It shall be unlawful for any person to obstruct any drainage ditch, stream or other watercourse by throwing or introducing into such ditch, stream or watercourse any debris or material which may interfere with the flow of water therein, or cause a blockage of the ditch, stream or watercourse by accumulation of such debris at any point along the watercourse.

Further, the storage of any debris or material along the banks or within an area measured 25 feet perpendicular to the banks of any drainage ditch, stream or watercourse is prohibited.

(e) It shall be unlawful for any person to permit or allow any stagnant pool of water resulting from roof water, groundwater, or stormwater to remain or exist on any property under the person's control, or on any adjacent right-of-way property which the person has the responsibility to maintain, for an unreasonable period of time as determined by the director of engineering.

(f) It shall be unlawful for any person to dispose of or discharge roof or ground drainage in such a manner that it overflows onto any right-of-way where such drainage overflow may cause eventual damage to or undermine the existing street improvements (street, walk, parkways, etc.).

Sec. 34-3. Definitions.

All definitions set forth in the DuPage County Countywide Stormwater Ordinance, and as may be amended from time to time, are hereby adopted as fully set forth in this Ordinance unless the context clearly requires otherwise.

Secs. 34-4--34-25. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 34-26. Enforcement authority.

It shall be the duty of the city director of engineering to enforce the provisions of this chapter.

Sec. 34-27. Violation of chapter declared misdemeanor.

It shall be a Code violation for any person to perform any act forbidden by, or omit performance of any act required, by this chapter.

Sec. 34-28. Penalty for violation of chapter.

Upon conviction, any person who violates any section of this chapter shall be subject to penalty as provided in section 1-8 of this Code.

Sec. 34-29. Construction of chapter.

This chapter shall not be construed as authorizing any person to maintain a private or public nuisance upon their property, and compliance with the provisions of this chapter shall not be a defense in any private or public action to abate such nuisance.

Sec. 34-30. Review of proposed developments.

All subdivisions and other proposed developments shall be reviewed by the city director of engineering to ensure compliance with the regulations of this chapter so that:

- (1) Such development proposals are consistent with the goal to minimize flood damage.
- (2) Public utilities and facilities, including but not limited to sewer, gas, electric, telephone, and water systems are located, elevated and constructed to minimize or eliminate flood damage.
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards, both on the subject parcel under development and for all subservient lands located downstream.
- (4) Provision is made for soil erosion control.
- (5) Notification shall be given to adjacent communities, the state division of water resources and the Federal Insurance Administration prior to any alteration or relocation of a watercourse within the city's jurisdiction by any person or agencies. The flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

Sec. 34-31. Minimum informational requirements.

Where the proposed work is a part of the improvements of a new subdivision or planned unit development:

- (1) A preliminary site development engineering report by a registered professional engineer shall be submitted to the city director of engineering no less than 25 days prior to the public consideration of a preliminary plat of subdivision or a rezoning of a planned unit development by the planning and zoning board of the city.
- (2) The preliminary report required by subsection (1) of this section shall include the following items of information:
 - a. A vicinity sketch showing acreage of site, boundary line survey, zoning, type of proposed sewer and water facilities, location of existing utilities, including septic systems and wells, buildings and drains on and within 100 feet of the site, together with a legend and scale. There shall be included on or with such a vicinity sketch:
 1. Topographic features and contours at two-foot intervals. Contour elevation shall be USGS elevations or City of Wheaton datum. Benchmarks utilized shall be clearly indicated.
 2. A soil map of the subject property showing the predominant soil types on the site.
 3. Adequate information, as determined by the director of engineering on those areas abutting or adjacent to the site to show existing drainage patterns and the drainage course that may affect, or be affected by the development of, the site.

4. Limits of natural floodplains, if any.
 5. Areas to be sodded, seeded, mulched or paved.
 6. Acreage of area to be vegetatively stabilized, if any.
 7. Areas to be left undisturbed.
 8. One hundred-year flood elevation and limits including floodway data for that portion of a subdivision or development which is in the base flood area.
- b. Storm drainage by means of a plan based upon a competent storm drainage study, including a drainage area map and computations, and indicating what conditions now prevail at proposed and natural outlets, such as:
1. The elevation of normal (low) water level in all proposed and natural outlets, flood reservoirs, and stormwater retention facilities.
 2. A profile above and below outlet for a sufficient distance to indicate the natural gradient of the accepting natural outlet and/or stream channel.
 3. A cross section and profile of existing stream channels.
 4. The elevation of high water level in all proposed or existing flood reservoirs and site runoff storage facilities.

Sec. 34-32. Monitoring of compliance upon preliminary approval.

Upon preliminary approval of the subdivision or planned unit development, compliance with the regulations of this chapter will be monitored by the issuance of a site development permit for the intended development site.

Sec. 34-33. Site development permit.

No person shall perform, cause to be performed, or permit to be performed any grading work on a parcel or parcels of property within the city without first having obtained a site development permit embodying the proposed work from the city director of engineering.

Sec. 34-34. Permit fees.

Fees for permits and work required under this chapter shall be in accordance with appendix B of this Code.

Secs. 34-35--34-70. Reserved.

ARTICLE III. FLOODPLAINS AND FLOOD PRONE AREAS

Sec. 34-71. Purpose.

The purpose of this article is to control any development upon, within or adjacent to a designated floodplain or flood prone areas.

Sec. 34-72. Flood Protection Elevation.

The Base Flood Elevation (BFE) for a floodplain shall be determined by FEMA or the County of DuPage, and the BFE for flood prone areas shall be determined by the city. The Flood Protection Elevation (FPE) is the BFE plus two feet of freeboard.

Sec. 34-73. Permits.

(a) Permits are required for all proposed construction, substantial improvements or other developments including the placement of mobile homes within the regulatory floodplain. Such permits shall assure that all other necessary permits have been received from those governmental agencies from which approval is required by federal or state law. The permit applications will be reviewed to assure that any proposed construction is:

- (1) Designed and anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Constructed with materials and utility equipment resistant to flood damage.
- (3) Carried out by methods and practices that minimize flood damage.

(b) At the time of issuing a permit, the following information will be noted and recorded:

- (1) Elevation of the lowest floor, including basement.
- (2) Where the elevation of the lowest floor is below grade on one or more sides, the elevation of the floor immediately above.
- (3) Where a structure has been floodproofed, the elevation to which the structure was floodproofed.

(c) The application for a permit shall be accompanied by a drawing of the site drawn to scale showing property line dimensions; existing grade elevations; and all changes in grade resulting from excavation or filling and the locations and dimensions of all buildings and additions to buildings.

Sec. 34-74. Substantial Improvement / Substantial Damage Records

The city shall maintain records of Substantial Improvement and/or Substantial Damage costs on structures within the floodplain based on building permit applications submitted to the city or individual assessments of structures. Substantial Improvement and Substantial Damage records shall be cumulative and maintained in perpetuity by the city.

Secs. 34-75--34-95. Reserved.

**ARTICLE IV.
STORMWATER RUNOFF CONTROL**

Sec. 34-96. Purpose.

The purpose of this article is to manage stormwater runoff from development sites to increase the flood protection of the City by decreasing peak flows and increasing stormwater storage through the implementation of stormwater runoff control in the form of site runoff storage facilities.

As it is not the intent of the city to restrict the use of land for the sole purpose of storing excess stormwater, or to increase development costs, the drainage scheme presented by those who wish to develop property in the city and its area of planning jurisdiction should be planned to accomplish all of the stormwater controls set out in this article without major loss of land use.

Sec. 34-97. Compliance.

Site runoff storage facilities, consisting of site runoff storage and a control structure with an emergency overflow and bypass channel, shall be required for all development of the following.

- a) Commercial, multifamily residential, industrial, and planned unit developments (Non-Single Family Residential Development), including reconstruction, greater than 1,800 square feet of development area,
- b) Single Family residential developments in excess of 2.5 acres in area.

The above shall be considered for all such developments within the planning jurisdiction of the city.

Sec. 34-98. Site Runoff Storage and Release rate.

(a) The site runoff storage volume and release rate shall be determined as follows:

- (1) Less than 1,800 square feet of development.

No Site Runoff Storage required.

- (2) Greater than 1,800 and less than 25,000 square feet of Non-Single Family Residential Development.

Runoff Storage Volume shall be calculated by the following formula:

$$(\text{Impervious area in Acres}) \times (10,200) = (\text{Required Storage in Cubic Feet})$$

Restrictor Size shall be 1 inch x 1 inch square orifice, or equivalent size.

- (3) Greater than 25,000 and less than 43,560 square feet of Non-Single Family Residential Development.

Runoff Storage Volume shall be calculated by the following formula:

$$(\text{Impervious area in Acres}) \times (10,200) = (\text{Required Storage in Cubic Feet})$$

Restrictor Size shall be 1 inch x 2 inch vertical orifice, or equivalent size.

- (4) Non-Single Family Residential Development greater than 1 Acre and all Single Family Residential Development greater than 2.5 acres.

Site Runoff Storage volume shall be calculated as the volume required to store a 24-hour duration ISWS Bulletin 71 rainfall depth, 100-year rainfall event using a Huff Rainfall Distribution and assuming a control structure that limits the peak runoff from the development site to 0.15 cubic feet per second (cfs) per acre restrictor for the development area.

Restrictor Size shall be calculated as $(0.15 \text{ cfs}) \times (\text{Acres of Development})$

(b) The following types of development are not required to provide Site Runoff Storage as required in Sec. 34-98(a).

- (1) Bridge and culvert modification, repair and replacement; or
- (2) Natural area restoration; or
- (3) Wetland mitigation sites; or
- (4) Trails, bikeways and pedestrian walkways not exceeding sixteen (16) feet in width, including shoulders, and are being constructed for general public use; or
- (5) Underground utility construction.
- (6) Maintenance of existing impervious areas.

(7) Reconstruction of existing impervious areas for which Site Runoff Storage has been previously provided and is in compliance with this Code.

Sec. 34-99. Bypass channel.

(a) A natural or surface channel system shall be designed with adequate capacity to convey through the development the stormwater runoff from all tributary areas whether on-site or off-site. This bypass channel shall be designed to carry the peak rate of runoff from a 100-year storm from all tributary lands, assuming all storm sewers are blocked. No habitable structures shall be constructed within this channel; however, streets and parking or playground areas and utility easements shall be considered compatible uses. Any habitable structure on any parcel adjacent to this channel shall have the lowest opening of its foundation at least two feet above the water surface (hydraulic gradient) of the design flow.

(b) Should the development contain an existing natural waterway, this land configuration shall be preserved as part of the bypass channel system with the construction of a low flow system of storm sewers to carry the minor storm runoff and reshaping of the channel with a maximum of six horizontal to one vertical side slopes, and bottom of a width adequate to facilitate maintenance and carry the stormwater runoff. Design of this bypass channel system shall also consider control of stormwater velocity to prevent erosion or other damage to the facility which will restrict its primary use. Depths of flow shall be kept to a minimum. Minimum grades for turf drainageways shall be two percent or they shall be provided with an underdrain system to prevent the ponding of stagnant water or the saturation of lawns.

Sec. 34-101. Site Runoff Storage facilities.

Outlet control structures shall be designed in accordance with the City Storm Sewer Restrictor Detail. Outlet control structures shall be maintenance free and shall be designed for a free discharge that will not cause surcharge of a storm sewer system immediately downstream of the discharge point. Each stormwater storage area shall be provided with a method of emergency overflow in the event that a storm in excess of the 100-year frequency storm occurs. This emergency overflow facility shall be designed to function without attention and shall become part of the natural or surface channel system described in section 34-99.

The maximum depth of Site Runoff Storage facilities shall not exceed four feet unless the existing natural ground contours and other conditions lend to a greater storage depth being approved by the director of engineering.

The minimum grades for turf areas shall be two percent. Side slopes shall be kept as close to the natural land contours as practical and a 25 percent slope or less shall be used wherever possible. If slopes greater than 25 percent are necessary to meet storage requirements or area restrictions, approval shall be obtained from the director of engineering.

Paved surfaces that serve as Site Runoff Storage facilities shall have minimum grades of one percent, unless permeable pavement is used and shall be restricted to storage depths of one foot maximum.

Maximum grades for paved surfaces shall not exceed five percent.

Available site runoff storage volume shall be computed as the void or free and unobstructed space between the paved surface final grade and a horizontal plane at the elevation of the surface water runoff overflow plus the volume of any underground storage controlled by the restricting orifice. The available site runoff storage volume shall equal or exceed the required retention volume. The required retention for the parking lot may be combined with other retention facilities required for the development.

Secs. 34-102--34-150. Reserved.

ARTICLE V. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sec. 34-151. Purpose.

(a) The purpose of this article is to ensure the health, safety, and general welfare of the citizens of the City of Wheaton, and protect and enhance water quality in a manner pursuant to and consistent with the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) through the regulation of non-stormwater discharges to the storm drainage system. This article establishes methods for controlling the introduction of discharges other than those occurring as a direct result of precipitation and, or, snow melt into the municipal separate storm sewer system (MS4) and the storm drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II permit process. Other purposes of this article include:

(1) To regulate the contribution of pollutants to the MS4 and the storm drainage system by non-stormwater discharges; and

(2) To prohibit illicit connections and discharges to the MS4 and the storm drainage system.

(b) The purposes of this article are consistent with the plan and advance the following objectives of the plan:

(1) Protect and enhance the quality, quantity, and availability of surface and groundwater resources.

(2) Preserve and enhance existing aquatic and riparian environments and encourage restoration of degraded areas.

(3) Promote legal measures for stormwater management.

(c) The purposes of this article shall be implemented by its provisions.

Sec. 34-152. Definitions.

For the purposes of this article, the following words and terms shall have the meanings set forth except where otherwise specifically indicated. Words and terms not defined shall have the meanings indicated by common dictionary definition.

Building means a structure that is constructed or erected partially or wholly above ground and is enclosed by walls and a roof. The term "building" includes manufactured homes and includes both the above-ground and the below-ground portions of the structure.

Clean Water Act (CWA) means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

City means the City of Wheaton, Illinois.

Department means the City of Wheaton Department of Engineering or successor agency.

Director means the City of Wheaton Director of Engineering or successor position or his or her designee.

Drain means piping and appurtenances for conveying a fluid.

Facility means something that is built, installed, or established to serve a particular purpose.

Hazardous materials means any material which may cause, or significantly contribute to, a substantial hazard to human health, safety, property, or the environment.

Illicit connection means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the storm drainage system, including, but not limited to, any conveyances that allow any non-stormwater 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 the community, or

(2) 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 the community.

Illicit discharge means any direct or indirect non-stormwater discharge to the storm drainage system, except as exempted in subsection 34-155(c) of this article.

Industrial activity means activities subject to an industrial NPDES stormwater permit, as defined in 40 CFR, Section 122.26 (b)(14).

Line means a hollow conduit through which fluids are transported between two or more points.

Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances (including, but not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm sewers) owned or operated by a governmental entity and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued by Illinois Environmental Protection Agency (IEPA) 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-stormwater discharge means any discharge to the storm drainage system that is not the direct result of precipitation and, or, snow melt in the tributary drainage basin.

Notice of intent (NOI) means Illinois Environmental Protection Agency Notice of Intent to participate in coverage under the general permit to discharge stormwater associated with industrial activity.

Parcel means contiguous land under single ownership or control.

Person means any individual, association, partnership, public or private corporation, municipality, political subdivision, government agency, or any other legal entity, including heirs, successors, agents, officers, and assigns of such entity.

pH neutral means pH value between 6.5 and 9.0 standard units.

Plan means the DuPage County Stormwater Management Plan, adopted by the DuPage County Board in September 1989, as amended from time to time.

Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: 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, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, wastewater, 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 means any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

Runoff means the waters derived from precipitation and, or, melting snow within a tributary drainage basin that exceeds the infiltration capacity of that basin.

Sewage means polluted stormwater, wastewater, or other refuse liquids usually conveyed by sewers.

Sewer means an artificial conduit to carry off sewage and, or, surface water (as from rainfall), including sanitation, stormwater, and, or, combined sewers.

Sewerage means a system of sewers and appurtenances for the collection, transportation, pumping, and treatment of sewage.

Storm drainage system means a facility by which stormwater 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.

Stormwater means any surface flow, runoff, and drainage from any form of natural precipitation, and resulting from such precipitation.

Structure means anything that is erected or constructed. The term "structure" includes, without limitation: buildings, manufactured homes, tanks, dams, sewers, constructed channels, outfalls, parking lots, driveways, roads, sidewalks, and concrete patios.

Wastewater means water that has been used and is not for reuse unless treated by a wastewater treatment facility.

Waters of the United States as defined in the CWA, "Waters of the United States" applies only to surface waters, rivers, lakes, estuaries, coastal waters, and wetlands. Not all surface waters are legally "Waters of the United States." Generally, Waters of the United States include the following:

- All interstate waters;
- Intrastate waters used in interstate and, or, foreign commerce;
- Tributaries of the above;
- Territorial seas at the cyclical high tide mark; and
- Wetlands adjacent to all the above.

Sec. 34-153. Applicability.

This article shall apply to all water entering the storm drainage system from any developed or undeveloped lands within the jurisdiction of the city, unless explicitly exempted by section 34-155(c) of this article, including any amendments or revisions thereto.

Sec. 34-154. Interpretation.

(a) The provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, prosperity, and general welfare and the environment of the residents of the city, and to effectuate the purposes of this article and enabling legislation.

(b) Where the conditions imposed by any provision of this article are either more restrictive or less restrictive than comparable conditions imposed by any other applicable statute, law, ordinance, regulation, or rule, the provision that is most restrictive or imposes the higher standards or requirements shall apply.

(c) The provisions of this article shall be interpreted to be cumulative of, and to impose limitations in addition to, all other ordinances, laws, codes, and regulations, in existence or which may be passed governing any subject matter of this chapter. To the greatest extent possible, the provisions of this article shall be construed to be consistent with, and not in conflict with, the provisions of such other ordinances, laws, codes, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

Sec. 34-155. Prohibition of illicit discharges.

(a) No person shall place, drain, or otherwise discharge, cause, or allow others under their control to place, drain, or otherwise discharge into the storm drainage system or MS4 any pollutants or waters containing any pollutants, other than normal stormwater unless specifically exempted in subsection 34-155(c) of this article.

(b) The following discharges into the MS4 or the storm drainage system shall be prohibited:

(1) Discharges that are not a direct result of precipitation and, or, snow melt within the drainage area of the MS4.

(2) Discharges from an illicit connection.

(c) The following discharges are exempt from discharge prohibitions established herein provided they do not cause an adverse effect on water quality as determined by the director:

(1) Discharges caused by governmental public works and stormwater management units as part of their standard operations in compliance with all applicable regulations.

(2) Discharges required by law or authorized by permit, including any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the USEPA and, or, IEPA.

(3) Water line and fire hydrant flushing.

(4) Landscape irrigation water.

- (5) Rising groundwaters.
- (6) Groundwater infiltration.
- (7) Pumped groundwater.
- (8) Discharges from potable water sources.
- (9) Foundation drains.
- (10) Air conditioning condensate.
- (11) Irrigation water (except for wastewater irrigation).
- (12) Springs.
- (13) Water from crawl space pumps.
- (14) Footing drains.
- (15) Storm sewer cleaning water.
- (16) Water from any outdoor residential, charitable, or automobile dealership premise car wash.
- (17) Routine external building washdown which does not use detergents.
- (18) Flows from riparian habitats and wetlands.
- (19) Dechlorinated pH neutral swimming pool discharges.
- (20) Residual street wash water.
- (21) Discharges or flows from fire fighting activities.
- (22) Dechlorinated water reservoir discharges.
- (23) Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed).
- (24) Discharges associated with dye testing of water line, sanitary sewers, storm sewers, private drains or septic systems; however, this activity shall not take place until the discharger, or tester, has provided notification to the Department at least two full business days prior to the test date, unless an emergency situation does not allow time for such notification.
- (25) Other discharges approved by the department as being substantially like any of the discharge types enumerated in subsection 34-155(c) of this article.

Sec. 34-156. Prohibition of illicit connections.

- (a) The construction, use, maintenance, or continued existence of illicit connections to the storm drainage system or MS4 is prohibited.
- (b) 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.
- (c) A person is considered to be in violation of this article if the person connects a line conveying sewage to the storm drainage system or MS4, or allows such a connection to continue.
- (d) Connections in violation of this article must be disconnected and redirected, if necessary, to an approved wastewater management system or the sanitary sewer system upon approval of the city and the appropriate sanitary treatment facility.
- (e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system or MS4, 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 shall 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, MS4, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the city.

Sec. 34-157. Submission of notice of intent (NOI) to the city.

- (a) Any person operating a facility subject to the IEPA's general permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the city at the same time the operator submits the original notice of intent to the IEPA as applicable.
- (b) 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 Stormwater City of Wheaton Department of Engineering 303 W. Wesley Street Wheaton, IL 60187

- (c) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the notice of intent to do so to the city.

Sec. 34-158. Notification of spills.

- (a) Notwithstanding other requirements of law, as soon as any person owning, leasing or exercising control over a property, or responsible for emergency response for a property, has information of any known or suspected spill of materials which are resulting or may result in

illicit discharges or pollutants discharging into the MS4 or the storm drainage system, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such spill.

(1) In the event of such a spill, said person shall immediately notify local emergency dispatch services and act in accordance with Illinois Emergency Management Agency (IEMA) and IEPA regulations.

(2) Said person shall notify the city of the spill in person or by phone, facsimile, or email 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 business days of the phone notice.

(3) If the spill emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the spill and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.

(b) Proper notice, including containment and cleanup as outlined in subsection 34-158(a), shall exempt the notifying parties from applicable fines set forth in section 34-164.

(c) Failure to provide notification of a release as provided above is a violation of this article.

(d) Notwithstanding the language of paragraph (b) of this provision, a party causing a spill that contaminates or harms a storm sewer system shall not be relieved of liability for damages resulting from such act.

Sec. 34-159. Enforcement; violations.

(a) The Director shall have primary responsibility for the enforcement of the provisions of this Article. The city may enter into agreements with other governmental units for the purpose of implementing this article.

(b) A person violates this article when that person:

(1) Performs any act expressly prohibited by any provision of this article; or

(2) Disobeys, neglects, or fails to carry out or comply with any provision of this article or of any order or notice issued by the director; or

(3) Allows any condition or act that violates any provision of this article to continue unabated on property owned, leased, managed, or under the control of such person; or

(4) Directs, orders, permits, or allows a second person to do any act expressly prohibited by any provision of this article, or to maintain or continue unabated any condition or act that violates any provision of this article on property owned, leased, managed or under the control of the first person.

Sec. 34-160. Notice to correct violations: city may take action.

(a) The city may issue a notice of violation ordering a person to take action to achieve compliance with the provisions of this article and, or, to cease and desist from any action conducted in violation of this article. Failure to comply with the terms and conditions of a notice of violation and, or, order to cease and desist shall constitute a violation of this article.

(1) The director shall set forth the form and content of any notices issued under this article.

(2) The director may issue a warning of violation ordering a person to take action to achieve compliance with the provisions of this article. If a person fails to comply with the terms and conditions of a warning, the director may, thereafter, issue a notice of violation.

(3) The director may issue a warning of violation and disburse educational materials outlining appropriate measures to minimize the discharge of pollutants.

(b) If a person fails to comply with an order issued under this section, the director may direct the appropriate legal counsel to commence any legal proceeding authorized by this article, under the law or equity, necessary to enforce any provision of this article and, or, to protect public health and safety. Any legal action brought under this article shall be in the name of the City of Wheaton.

Sec. 34-161. Emergency cease and desist orders.

(a) The Director may issue an emergency order in the event of the following:

(1) Any person has violated, or continues to violate, any provision of this article or any order issued hereunder, or that the person's past violations are likely to recur; and

(2) That the person's violation has caused or contributed to an actual or threatened discharge to the MS4 or storm drainage system and an imminent threat of violation is present.

(b) The city may issue the emergency order to the violator directing that the violator:

(1) Immediately cease and desist all such violations;

(2) Immediately comply with all article requirements; and

(3) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and, or, terminating the discharge.

(c) Any person notified of an emergency order under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city may take such steps as deemed necessary to prevent or minimize harm to the MS4, storm drainage system, or Waters of

the United States, and, or, endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The department may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the department that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the department within 15 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator. Any person found by a court of competent jurisdiction to have violated an emergency order shall, in addition to fines and costs, reimburse the city its reasonable attorney's fees.

Sec. 34-162. Violations deemed a public nuisance.

Any condition caused or permitted to exist in violation of any provision of this article shall constitute a threat to public health and safety and is declared and deemed a public nuisance.

Sec. 34-163. Nuisance abatement.

Whenever a nuisance shall be found to exist on any premise, the director may order such nuisance to be abated upon determination that the nuisance constitutes a threat to public health or safety.

(1) In the event of an emergency situation, as determined by the director, involving an immediate threat to public health and safety, the director may direct legal counsel to immediately commence any legal or equitable proceeding necessary to restrain, abate, and, or, remedy said situation. The director may take such action without having to first issue a notice of violation to the person(s) having control of, or acting as agent for, such premise where the nuisance is located, or, waiting for such person(s) to abate or remove such nuisance as previously ordered by the director.

(2) In all other cases, the director may notify, in writing, the person(s) having control of, or acting as agent for, such premise where the nuisance is located and directing such person(s) to abate or remove such nuisance within such time as is stated on the notice. Upon the failure or refusal of such person(s) to comply with the notice, the director may direct that appropriate proceeding commence to compel the abatement, or removal, of such a nuisance in any manner allowed by law, equity, or this article and, or, authorizing the city to act to abate, or remove, such nuisance. The person(s) having control of such premises, in addition to the other remedies provided by this article, shall be liable to the city for any costs incurred by the city to effect such abatement, or removal, including reasonable attorney's fees and other costs of enforcement, to be recovered by a court of competent jurisdiction.

Sec. 34-164. Fines.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this article shall be subject to punishment as provided in section 1-8 of this Code. Each day such a violation continues to exist after written notification shall constitute a separate offense and shall require the imposition of a separate punishment.

Sec. 34-165. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedy available under this Article or under any applicable federal, state, or local law and do not supersede or limit, any and all other penalties provided by law. The director may seek, at his discretion, cumulative remedies.

Sec. 34-166. Suspension of MS4 access due to detection of illicit discharges.

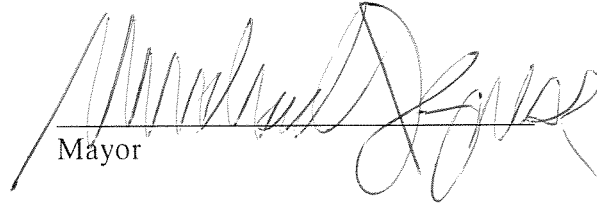
Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Department shall notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration 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 city.

In emergency situations, the department 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, storm drainage system, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Department may take such steps, including termination of discharge access, as deemed necessary to prevent or minimize damage to the MS4, storm drainage system, or Waters of the United States, or to minimize danger to public health and safety. The city may obtain a temporary restraining order or injunction authorizing such termination.”


SECTION 2: Section 74-68 of the Wheaton City Code, 2017, as amended, is hereby amended by repealing and rescinding Section 74-68, in its entirety.

SECTION 3: That all ordinances or parts of ordinances in conflict with provisions of this Ordinance are hereby repealed.

SECTION 4: That this Ordinance shall become effective from and after its passage, approval, and publication provided by law.


Mayor

ATTEST:


City Clerk

Ayes:

Roll Call Vote:

Councilman Prendiville

Mayor Gresk

Councilman Rutledge

Councilman Scalzo

Councilman Barbier

Councilwoman Fitch

Nays:

None

Absent:

Councilman Sues

Motion Carried Unanimously

Passed: September 18, 2017

Published: September 19, 2017