

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN  
Adopted pursuant to Sec. 25.01 of the Town of Cottage Grove Code

Title: ~~Erosion Control and Wetlands~~ Illicit Discharge Control

Code Section(s) <del>created, amended, or repealed</del>	<u>Chapter 14</u>
Presented to Board by	<u>Chuck Nahn, Stormwater Consultant</u>
Committee Review by	<u>None</u>
Date(s) Public Hearing(s) held (if required)	<u>December 15, 2008</u>
Date adopted	<u>December 15, 2008</u>
Vote	<u>4-0</u>
Date of posting of adoption of ordinance	<u>January 2, 2009</u>
Date of publication of adoption of ordinance	<u>January 7, 2009</u>

The Town Board of the Town of Cottage Grove does ordain as follows:

TCG Ord. Chapter 14, formerly entitled Erosion Control and Wetlands, is hereby re-titled “Illicit Discharge Control” and amended to read as follows:

**CHAPTER 14 – ILLICIT DISCHARGE CONTROL**

**14.01 Purpose.**

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Cottage Grove and protect waters of the state through the regulation of illicit discharges to the municipal separate storm sewer system as required by federal and state law. This Chapter establishes methods for controlling the discharge of pollutants into the municipal separate storm sewer system owned or operated by Town of Cottage Grove in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code.

The objectives of this Chapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system associated with discharges from any user of the municipal separate storm sewer system.
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

**14.02 Definitions**

For the purposes of this Chapter, the following definitions are applicable:

- (1) “Authorized agent” means employees or designees of the Town of Cottage Grove designated to administer or enforce this Chapter, including but not limited to Police Officers, Building Inspectors, Fire Inspectors or the Highway Superintendent.

- (2) “Illicit connection” means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal separate storm sewer system and any connections to the municipal separate storm sewer system from indoor drains and sinks.
- (3) “Illicit discharge” means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges authorized by a WPDES permit or other discharges not requiring a WPDES permit.
- (4) “Municipal separate storm sewer” or “MS4” means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:
- (a) Owned or operated by the Town of Cottage Grove.
  - (b) Designed or used for collecting or conveying storm water.
  - (c) Which is not a combined sewer conveying both sanitary wastewater and storm water.
  - (d) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (5) “Non-storm water discharge” means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water.
- (6) “Storm water” means surface runoff and drainage of rainfall and snow or ice melt.
- (7) “Waters of the state” means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, well, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

### **14.03 Applicability**

This Chapter shall apply to all discharges to the MS4 and to all activities that can reasonably be expected to result in a discharge to the MS4.

### **14.04 Responsibility for Administration**

The Town of Cottage Grove shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed by this Chapter upon the authorized agent may be delegated by the Town Board Chair to persons or entities acting in the beneficial interest of or in the employ of the Town.

### **14.05 Severability**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter 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 Chapter.

#### **14.06 Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; Therefore, this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharges.

#### **14.07 Discharge Prohibitions**

(1) Prohibition of Illicit Discharges.

No person shall discharge or cause to be discharged into the MS4 or waters of the state 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 illicit discharge to the MS4 is prohibited. The following non-storm water discharges or flows are generally not considered illicit discharges if done so in a non-polluting manner: water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool water, street wash water and fire fighting.

(2) Prohibition of Illicit Connections.

(a) The construction, use maintenance or continued existence of illicit connections to the 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 Chapter if the person connects a line conveying sanitary waste to the MS4, or allows such a connection to continue.

#### **14.08 Monitoring of Discharges**

##### **Access to Facilities**

The authorized agent shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. 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 agent.

#### **14.09 Notification of Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or water of the state, 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 authorized agent in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized agent within three business days of the phone notice.

#### **14.10 Enforcement, Penalties, and Remedies**

(1) **VIOLATIONS.** It shall be unlawful for any person to violate any provision of this Chapter. Violations of this Chapter are hereby declared to be a public nuisance. Each and every day during which the violation continues shall constitute a separate offense. The Town may institute appropriate action of proceedings to enjoin violations of this Chapter.

(2) **NOTICE AND ORDER OF VIOLATION.** If, following an inspection, the authorized agent determines that there are grounds to believe that there has been a violation of any provision of this Ordinance, notice of such violation shall be given to the person responsible for the violation , ordering specific remedial action and a specific time for abatement. In the event the violation is not abated within the time period allowed, the person responsible for the violation shall be subject to the penalties specified in (3) and (4) below.

(3) **NONCOMPLIANCE - REMEDY OF DEFECTS; ABATEMENT**

(a) The person responsible for the violation shall have the time specified in the order of violation to remedy the violations.

(b) The authorized agent shall, in his or her discretion, have the ability to extend the time for corrections if the circumstances warrant an extension and the person responsible for the violation is making a good faith effort to correct the violations.

(c) If the person responsible for the violation, after order of violation, fails or refuses to timely remedy the violation, then the Town, at its sole option, may cause such work to be done. If the Town exercises this option, the authorized agent shall enter upon the responsible person's property and cause the nuisance to be removed or abated and the Town shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance. Prior to commencing such work, the authorized agent shall do the following:

1. Provide notice to the person responsible for the violation, via either personal service or certified mail with return receipt or commercial delivery with verified delivery (such as Federal Express), that the Town will abate the violations along with an estimate of the approximate dates and times during which abatement will occur; and,
2. Have the Town Clerk certify the approximate cost for any such work done, including reasonable costs for administration and Inspection fees (collectively, "costs of

abatement”), and provide notice of same to the person responsible for the violation (“Abatement Order”).

(d) Following such notice and Abatement Order, the person responsible for the violation shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violations. Any person affected by such Abatement Order shall, within thirty (30) days of service of the order, apply to the Circuit Court for an order restraining the Town and the authorized agent from entering on the premises and abating or removing the nuisance, or be forever barred. The Court shall determine the reasonableness of the Abatement Order.

(e) If the person responsible for the violation fails to pay the costs of abatement within 30 days of the notice from the Town Clerk, interest shall accrue against the balance due at the rate of 1% per month and the total balance due shall become a lien against real estate on the next tax roll in accordance with law. If the person responsible for the violation is not a property owner in the Town of Cottage Grove, the Town may seek other restitution options.

(4) **PENALTY FOR VIOLATION**

In addition to, and separate from, any of the procedures set forth above, violations of this ordinance shall be punishable as class D forfeitures, under s. TCG 25.04.

**14.11 Effective date**

This ordinance shall take effect the day after passage and posting or publication pursuant to law.

Adopted this 15<sup>th</sup> day of December, 2008, by a vote of 4, 0 against, and 0 abstain.

(Signed copy available in the Town Clerk’s Office)

**TOWN OF COTTAGE GROVE**

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Kris Hampton, Town Chair

**ATTEST:**

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Kim Banigan, Town Clerk

Approved as to form as of this  
15<sup>th</sup> day of December, 2008.

**ANDERSON & KENT, S.C.**

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Constance L. Anderson  
Cottage Grove Town Attorney