

ORDINANCE O2022-026
AN ORDINANCE OF THE CITY OF SHAKOPEE, MINNESOTA AMENDING
SHAKOPEE CITY CODE CHAPTER 54.16, STORMWATER AND URBAN RUNOFF POLLUTION CONTROL
AND CHAPTER 54.49, INSPECTION OF EROSION CONTROL PLAN

THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA ORDAINS:

SECTION 1: Chapter 54.16 and 54.49 of the Shakopee City Code is amended to read as follows:

CHAPTER 54: WATER RESOURCES MANAGEMENT

54.16 Stormwater And Urban Runoff Pollution Control

- A. *Illegal disposal, discharges, and connections.*
1. No person shall intentionally dispose of leaves, grass clippings, dirt, gravel, other landscape debris, or anything other than stormwater into a street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, or storm drain. The following discharges are exempt from discharge prohibitions established by this section:
 - a. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water;
 - b. Discharges or flow from firefighting, and other discharges authorized by the city in writing that are necessary to protect public health and safety;
 - c. Discharges associated With dye testing, however this activity requires verbal notification to the city prior to the time of the test.
 - d. 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 federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and further provided that written approval has been granted for any discharges to the storm drain system.
 2. No person shall cause any illicit discharge to enter the city stormwater system. For the purpose of this chapter, **ILLICIT DISCHARGE** is as defined in the city's stormwater pollution prevention plan (SWPPP) completed for the city's municipal separate storm sewer system (MS4) permit.
 3. No person shall use any illicit connection to intentionally convey non-stormwater to the city stormwater system.
 - a. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under the law or practices applicable or prevailing at the time of the connection.

- f. Unreasonable delays in allowing the city or its designee access to a permitted facility is a violation of a storm water discharge permit and of this chapter. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
- g. If the city or its designee have been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

D. Salt Storage. Salt must be stored so that it does not pollute stormwater runoff. At a minimum, the following requirements for salt storage must be met:

- 1. Designated salt storage areas must be covered or indoors.
- 2. Designated salt storage areas must be located on an impervious surface.
- 3. Practices must be implemented to reduce exposure of salt when transferring material in designated salt storage areas (e.g., sweeping, diversions, and/or containment).

E. Post Construction Stormwater Management. Permanent stormwater best management practices (BMPs) must be maintained to provide the level of function as designed.

D-F. Watercourse protection. Every person owning or occupying premises through which a watercourse passes, shall keep and maintain that part of the watercourse within the premises 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 occupant 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.

E-G. 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 illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters 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 must immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the city 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 personal or phone notice. If the discharge of prohibited materials originates from an 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 must be retained for at least three years.

F-H. Enforcement.

- 1. *Notice of violation.* Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city may order compliance by written

notice of violation to the responsible person. Such notice may require without limitation:

- a. The performance of monitoring, analysis, and reporting;
 - b. The elimination of illicit connections or discharges;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of a fine to cover administrative and remediation costs; and
 - f. The implementation of source control or treatment BMPs.
2. *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination to the City Council. The notice of appeal must be received within 15 days after the date of the notice of violation. Hearing on the appeal shall take place within 30 days after the date of receipt of the notice of appeal. The decision of the City Council shall be final.
 3. *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 15 days after the decision of the City Council, the city may enter upon the subject property and take any and all measures necessary to abate the violation and restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or its designated contractor to enter upon the property for the purposes set forth above.
 4. *Cost of abatement of the violation.* Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the City Council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
 5. *Injunctive relief.* If a person has violated or continues to violate the provisions of this chapter, the city may petition the district court for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.
 6. *Compensatory action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the city may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.
 7. *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
 8. *Remedies not exclusive.* The remedies listed in this section 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.

(Ord. 972, passed 10-17-2017) Penalty, see Shakopee City Code Section 54.99

54.49 Inspection Of Erosion Control Plan

The city will make periodic inspections of the site to ensure compliance with the erosion control plan.

- A. The permittee or his/her agent shall ensure that a trained and certified person will regularly inspect the construction site at least once every seven days until final stabilization and within 24 hours of a rainfall event of one-half inch or greater in a 24 hour period. At least one individual present on the site (or available to the project site in three (3) calendar days) must be trained in the job duties in accordance with the NPDES Construction Stormwater General Permit. Any adjustments to the inspection schedule must be in accordance with the NPDES Construction Stormwater General Permit. All inspection and maintenance activities conducted on the site during construction must be recorded in writing and retained within the erosion control plan and provided to the city. Records of each inspection and maintenance activity shall include the following;
1. Date and time of inspection;
 2. Name(s) of persons conducting the inspection;
 3. Findings of inspections, including specific location where corrective actions are needed~~recommendations for corrective actions~~;
 4. Corrective actions taken, including the dates, times and the name of the party completing the corrective action;
 5. Date and the amount of rainfall events that are greater than one-half inch in a 24 hour period. Rainfall amounts must be obtained by either a properly maintained rain gauge installed onsite, a weather station that is within one (1) mile of location, or a weather reporting system that provides site specific rainfall data from radar summaries; and
 - ~~5-6.~~ If discharge is observed during the inspection, the inspector must document, photograph and describe location of the discharge (i.e., color, odor, settled or suspended solids, oil sheen, and other obvious indicators of pollutants); and
 - ~~6-7.~~ Documentation of any changes made to the erosion and sediment control plan amendments to the SWPPP proposed as a result of the inspection within seven (7) calendar days in accordance with the NPDES Construction Stormwater General Permit.
- B. *Site and BMP maintenance.* Prior to any construction, the developer shall provide the Public Works Director with a schedule for erosion and sediment control inspection and maintenance, including schedules for street cleaning, and street sweeping. All site and BMP maintenance activities must comply with the requirements of the NPDES ~~construction~~-Construction Stormwater General ~~P~~ermit. The applicant shall repair, replace or supplement all nonfunctional BMPs with functional BMPs by the end of the next business day after discovery unless another time frame is specified below or is in the NPDES Construction Stormwater General Permit.~~investigate and comply with the following BMP maintenance requirements:~~
1. *Silt fence and perimeter control devices.* All silt fences and perimeter control devices must be repaired, replaced or supplemented when they become nonfunctional or the sediment reaches one-half of the height of the fence or device. Repairs shall be made by the end of the next business day after discovery or as soon as field conditions allow access.
 2. *Temporary and permanent sediment basins.* Temporary and permanent sedimentation basins must be drained and the sediment must be removed when the depth of the sediment collected in the basin reaches one-half the storage volume. Drainage and removal must be completed within 72 hours of discovery or as soon as field conditions allow access.

3. *Surface waters and conveyance systems.* Surface water, including drainage ditches and conveyance systems, must be inspected for visible signs of sediment being deposited by erosion. The applicant must remove all sediment deposited ~~hi-~~in surface waters, including drainage ways, catch basins, and other drainage systems and must restabilize the areas of exposed soil as a result of sediment removal. The removal and stabilization must take place within seven days of discovery unless legal, regulatory or physical access constraints prevent remediation. In the event of an access constraint, the applicant shall use all reasonable efforts to obtain access. If access is precluded, removal and stabilization must take place within seven calendar days of obtaining access. The applicant is responsible for contacting all local, regional, state and federal authorities and obtaining any required permits prior to conducting any work.
4. *Streets and paved surfaces.* Where vehicle traffic leaves any part of the site, the exit locations, streets and curb and gutter systems within and adjacent to the project must be inspected for visible signs of off-site sediment tracking onto paved surfaces. The construction entrance pad BMP must remain clean and tracked sediment must be removed from all off-site paved surfaces as soon as possible or within 24 hours of discovery or, if applicable, within a shorter time to avoid a safety hazard to users of public streets.
5. *General maintenance.* The applicant shall be responsible for the operation and maintenance of temporary and permanent water quality management BMPs, as well as erosion prevention practices, and sediment control practices and pollution prevention management measures-BMPs for the duration of the construction work on the site in accordance with the NPDES Construction Stormwater General Permit. The applicant remains responsible until another party has assumed control over all areas of the site that have not established final stabilization and a Notice of Termination (NOT) has been submitted to the Minnesota Pollution Control Agency.
6. *Infiltration areas.* All infiltration areas must be inspected to ensure that no sediment from ongoing construction activities is reaching the infiltration area and these areas are protected from compaction caused by construction equipment driving across the infiltration area.

(Ord. 972, passed 10-17-2017)

SECTION 2: Effective Date: This ordinance becomes effective from and after its passage and publication.

Adopted in regular session of the City Council of the City of Shakopee, Minnesota, held this 15th day of November 2022.

Mayor of the City of Shakopee

ATTEST:

City Clerk

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Prepared by:
City of Shakopee
485 Gorman Street
Shakopee, MN 55379