

**Bill No. 3245, An Ordinance of the City of Wentzville, Missouri to Prevent Stormwater Pollution Discharges to the Stormwater Drainage System, and Amending the Wentzville Code of Ordinances to Add These Provisions.**

WHEREAS, the City of Wentzville, Missouri, (hereinafter referred to as "City") finds that it is in the interest of public health and welfare to restrict discharges into the City's storm drainage system to reduce pollutants in stormwater and protect water resources; and

WHEREAS, pursuant to the federal Clean Water Act, 33 U.S.C. §1251 et seq., and federal regulations issued pursuant thereto, (the "Clean Water Act") the City is required under its National Pollutant Discharge Elimination System (NPDES) Permit to effectively prohibit non-stormwater discharges into the storm drainage system and implement appropriate enforcement procedures and actions; and

WHEREAS, Section 67.398 RSMo., authorizes cities to enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of a nuisance including any material or condition which is unhealthy or unsafe and declared to be a public nuisance; and

WHEREAS, non-stormwater discharges into the storm drainage system containing pollutants, hazardous materials and other unhealthy and unsafe materials is hereby deemed to be a public nuisance in addition to being in derogation of the Clean Water Act; and

WHEREAS, the City intends to ensure compliance with Federal, State and local laws;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI THAT:**

The Code of Ordinances of the City of Wentzville, Missouri is hereby amended by adding a new Chapter, which reads as follows:

**STORMWATER POLLUTION CONTROL**

**SECTION 1. PURPOSE.**

The intent of this Stormwater Pollution Control Code ("Code") is to comply with the City's NPDES permit to protect the quality of the State's and the Nation's watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act. Specifically, the purpose of this ordinance is to provide for the health, safety, and general welfare of the City of Wentzville citizens by:

- A) Regulating non-stormwater discharges to a stormwater drainage system to the maximum extent practicable as required by federal and state law.

- B) Prohibiting stormwater pollution discharges and illicit connections to stormwater drainage systems; and
- C) Establishing the authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

SECTION 2. DEFINITIONS. For the purposes of this Code, the following terms shall mean:

**Authorized Enforcement Agency**: the City of Wentzville or any agency or political subdivision authorized to regulate the discharge or control of stormwater.

**Best Management Practices (BMPs)**: Activities, maintenance procedures, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. 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.

**Construction Activity**: Activities subject to NPDES Land Disturbance Permits. These include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**Director**: the Director of Public Works of the City of Wentzville, Missouri or his or her designee.

**EPA**: The federal Environmental Protection Agency.

**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.

**Illicit Discharge**: Any direct or indirect discharge to the stormwater drainage system that is not composed entirely of stormwater, except discharges exempted in SECTION 8 of this Code. This includes, but is not limited to pollutants, or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards.

**Illicit Connection**: Either of the following:

- A) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter stormwater drainage system. This includes, but is not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter stormwater drainage systems; and any connections to such systems from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by The City of Wentzville; or,
- B) Any drain or conveyance connected from a commercial or industrial land use to a stormwater drainage system which has not been documented in plans, maps, or equivalent records and approved by the City of Wentzville.

**Industrial Activity:** Activities subject to NPDES Industrial Permits as defined in 40 CFR §122.26(b)(14), as amended.

**NPDES Permit:** A National Pollutant Discharge Elimination System permit issued by EPA (or by a State under authority delegated pursuant to 33 U.S.C. § 1342(b)) authorizing 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:** Any discharge to a stormwater drainage system that is not composed entirely of stormwater except discharges exempted in SECTION 8.

**Person:** Any individual, association, organization, partnership, firm, corporation, company, 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 contamination that is pollution (as defined in 10 CSR §20-2, as amended, on file with the City Clerk). Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; hazardous materials; yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects; floatables; pesticides, herbicides, and fertilizers; sewage, animal waste, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes or 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 walks and parking areas.

**Responsible Person(s):** Those chargeable, jointly or severally, with violations of this Code, who have violated or knowingly continue to violate the Code or after receiving notice of violations fail to abate or correct said violations or comply with a Notice of Violation, and shall include, but are not limited to, the following:

- A) Those who commit or otherwise assist or participate in violations;
- B) The owner or other persons who maintain the building, premises, property or other place where the violation has been committed or exists;
- C) The owner's agent or person in charge of the building, premises, property or other place where the violation has been committed or exists;
- D) The lessee or tenant of all or part of the building, premises, property or other place where the violation has been committed or exists; or
- E) The developer, agent, architect, contractor, subcontractor, or any other person who performs work or enters into a contract for work in violation of this Code.

**Stormwater Drainage System:** The system of stormwater collection facilities and conveyances, whether publicly or privately owned, including but not limited to any roads with drainage systems, streets, curbs, gutters, storm drains and pipes, pumping facilities, catch basins, retention and detention basins, natural and human-made or altered drainage channels, and other drainage structures.

**Stormwater:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Stormwater Pollution Prevention 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 stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**Wastewater:** Any water or other liquid discharged from a Premises that is "wastewater" (as defined in 10 CSR §20-2.010(79), as amended, on file with the City Clerk).

**Watercourse(s):** All natural watercourses depicted on the most current United States Geological Survey 7.5 Minute Series (Topographic) Maps and/or the City of Wentzville's Natural Watercourse and Riparian Buffer Protection Map

### SECTION 3. APPLICABILITY.

This Code shall apply to all discharges entering the stormwater drainage system generated on any developed and undeveloped lands.



SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The Director shall administer, implement, and enforce the provisions of this Code.

SECTION 5. SEVERABILITY.

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

SECTION 6. MINIMUM STANDARDS.

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

SECTION 7. DISCHARGE PROHIBITIONS.

A) Prohibition of Illicit Discharges.

1. No Person shall cause or allow Illicit Discharges to Stormwater Drainage Systems or watercourses.
2. Throwing, depositing, leaving, abandoning, or keeping materials or wastes on public or private lands in a manner and place where they may result in an Illicit Discharge is prohibited.

B) Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage System is prohibited. A Person is considered to be in violation of this Code if the Person connects a line conveying any Non-stormwater Discharge to the Stormwater Drainage System, or allows such a connection to continue.
2. 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.

SECTION 8. EXCEPTIONS TO DISCHARGE PROHIBITIONS. The following discharges are exempt from discharge prohibitions established by this Code:

- A) Discharges from the following activities, which do not cause or contribute to a violation of any water quality standard:

1. Water line flushing or other potable water sources,
  2. Landscape irrigation or lawn watering,
  3. Diverted stream flows,
  4. Natural riparian habitat or wetland flows,
  5. Rising ground water, springs, ground water infiltration to stormwater drainage systems, or uncontaminated pumped ground water,
  6. Foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps,
  7. Air conditioning condensation,
  8. Non-commercial or charity washing of vehicles, (exclusive of commercial vehicles)
  9. De-chlorinated swimming pool water (typically less than one PPM chlorine),
  10. Fire fighting activities,
  11. Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance, as determined by the enforcement official,
  12. Any other water source not containing pollutants, and
  13. Stormwater runoff from private streets and parking lots, as long as the paved surfaces are routinely cleaned.
- B) Discharges specified in writing by the Director or another Authorized Enforcement Agency as being necessary to protect public health and safety.
- C) Dye testing is an allowable discharge, but requires a written notification to the City of Wentzville prior to the time of the test.
- D) Any Non-stormwater Discharge or connection permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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 by the Missouri Department of Natural Resources for any discharge to stormwater drainage systems.

#### SECTION 9. CONCEALMENT AND ABETTING.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of this Chapter.

#### SECTION 10. SUSPENSION OF ACCESS TO STORMWATER DRAINAGE SYSTEMS.

- A) Suspension due to Illicit Discharges in Emergency Situations. The Director may, without prior notice, suspend discharge access to stormwater drainage systems by any Responsible 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 public health or welfare or other affected Persons, or to stormwater drainage systems or to Waters of the United States. If the Responsible Person fails to comply with a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the Stormwater Drainage System or Waters of the State (as defined in 10 CSR §20-2.010 (82), as amended, on file with the City Clerk), or to minimize danger to other Persons. This includes immediate termination of a Premise's water supply, sewer connection, or other municipal utility services. The Director may allow the Person to recommence its discharge when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further suspension/termination proceedings are initiated against the Responsible Person under this Code.

- B) Suspension due to the Detection of Illicit Discharge. The Director may, temporarily or permanently, terminate the access to the Stormwater Drainage Systems of a Person discharging in violation of this Code if the Director determines that such termination would abate or reduce the Illicit Discharge. The Director will notify the Responsible Person of the proposed termination of its access to a Stormwater Drainage System.
- C) No Reinstatement without Prior Approval. A Person is in violation of this Code if the Person, without the prior approval of the Authorized Enforcement Agency, reinstates access to the Stormwater Drainage System for a Premises where access has been terminated pursuant to this Section.

#### SECTION 11. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any Person subject to an Industrial or Construction Activity NPDES permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director prior to or as a condition of a site development plan, improvement plan, or building permit: (a) upon inspection of the facility; (b) during any enforcement proceeding or action; or (c) for any other reasonable cause.

#### SECTION 12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City of Wentzville may require Best Management Practices (BMPs) for any activity, operation or Premises which is, or may cause or contribute to stormwater pollution. Commercial and industrial establishments shall provide, at the owner or operator's expense, reasonable protection from discharges of Pollutants into the municipal Stormwater Drainage System or Watercourses through the use of structural and/or non-structural BMPs. Further, any Person responsible for Premises, which are, or may be, the source of an Illicit Discharge, may be

required to implement, at said Person's expense, additional BMPs to prevent the further discharge of Pollutants to the Stormwater Drainage System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

#### SECTION 13. NATURAL WATERCOURSE PROTECTION.

Pursuant to the City's Regulations for the Protection of Natural Watercourses set forth in Article VIII of Chapter 410 (Subdivision Regulations) of the Municipal Code, every Person owning or leasing property through which a Watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, excessive vegetative waste, and other debris that would pollute, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain property within or adjacent to a Watercourse so that privately-owned structures, other materials, or conditions will not impair the beneficial use, function, or physical integrity of the watercourse.

#### SECTION 14. CONTAINMENT AND NOTIFICATION OF ILLICIT DISCHARGES.

A) Containment of Illicit Discharges.

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 discharging into Stormwater, Stormwater Drainage Systems, 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 shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

B) Notification of Illicit Discharges.

In the event of a release of non-hazardous, Illicit Discharges that causes or will cause a violation of state water quality standards, (10 CSR §20-7.031, on file with the City Clerk), said Person shall notify the Director 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 Director or his or her designee, within three 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 submit to the Director a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## SECTION 15. INSPECTION AND MONITORING OF DISCHARGES.

A) Applicability.

This section applies to all Premises that have stormwater discharges associated with Industrial or Construction Activity.

B) Right of Entry.

1. The Director shall be permitted to enter and inspect Premises subject to regulation under this Code as often as may be necessary to determine compliance with this Code. If security measures are in force which require proper identification and clearance before entry into its Premises, the owner or Person shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Agency.
2. Any temporary or permanent obstruction to safe and easy access to the Premises to be inspected and/or sampled shall be promptly removed by the Responsible Person at the written or oral request of the City, and shall not be replaced without permission of the Director. The costs of clearing such access shall be borne by the Responsible Person.
3. Unreasonable delays in allowing the City or other Authorized Enforcement Agency to access Premises for the purpose of conducting any activity authorized or required by this Code, or State or Federal law are a violation of this Code.
4. In non-emergency situations, if the Director has been refused access to any part of the Premises from which stormwater is discharged, and the Director is able to demonstrate probable cause to believe that there may be a violation of this Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Code 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 an administrative search warrant from any court of competent jurisdiction. In the case of an emergency or other exigent circumstances, it shall be unlawful for any Person, owner or Person in possession of any Premises to refuse to allow the Director to enter upon the Premises to protect the health, safety and welfare of the public.

C) Inspection and Monitoring Authority.

1. NPDES-permitted facility operators shall allow the Director ready access to all parts of the Premises for the purposes of inspection and sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
2. The Director shall have the right to set up on any NPDES-permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
3. The Director has the right to require the Responsible Person to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Responsible Person at his or her own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

#### SECTION 16. ENFORCEMENT:

A) *Notice of Violation.* Whenever the Director finds that a Person or Premises has violated a prohibition or failed to meet a requirement of this Code, the Director may order compliance by written notice of violation ("NOV") to the Responsible Person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of Illicit Connections or Discharges to the maximum extent practicable;
3. That violating discharges, practices, or operations shall cease and desist;
4. Implementing source control or treatment BMPs to prevent a continued or potential violation from occurring;
5. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and

Submission of the NOV requirements shall in no way relieve the Person of liability for any violation before or after receipt of the NOV.

B) *Non-Compliance after Notice of Violation.*

1. Any Responsible Person who shall fail or refuse to correct the



violation pursuant to the requirements set forth in the Notice of Violation, shall be deemed guilty of an offense and upon conviction, shall be punished as provided in Section 100.190 of the Municipal Code.

2. In addition to the penalties hereinabove authorized and established, the Director may take such other actions at law or in equity as may be required to abate the violation and/or restore property affected by the violation.
3. Any Person judicially determined to have violated any provision of these regulations, shall pay the City's actual costs, including attorneys' fees, court costs, environmental consulting, testing, sampling and monitoring expenses, and other expenses associated with enforcing these regulations.

C) *Abatement; Cost of Abatement.*

1. In non-emergency situations, if abatement of a violation and/or restoration of affected property is required, the NOV shall set forth a deadline within which such remediation or restoration must be completed which shall not be less than seven days of receiving notice or, upon failure to pursue the removal or abatement, without unnecessary delay. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, a citation may be issued or that the work may be completed by the City (or its contractor) at the expense of the violator.
2. If the Director causes such condition to be removed or abated, the cost of such removal or abatement shall be certified to the City Clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

SECTION 17. ENFORCEMENT; OTHER RELIEF:

- A) *Equitable Relief and Sanctions.* It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Code. If a Person has violated or continues to violate the provisions of this Code, in addition to any other civil or criminal penalties established or imposed for violations of this Code, the City may apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with or restrain or enjoin violations of the provisions of this Code, to remedy any violation hereunder and prevent further illegal acts, conduct, or discharges in or about such Premises. As part of any judgment and order granting equitable relief in favor of the City, the court shall award the City its actual costs and fees, including attorneys' fees, expended in the enforcement of this Code. The court may also grant all other necessary and proper relief including revocation of any permit governing the subject premises.
- B) *Compensatory Action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this Code; the City and the Responsible Person may agree to, or the Court may order, an alternative compensatory action, such as litter pickups, storm drain marking, attendance at compliance workshops, creek cleanup, etc.
- C) *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 Code 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/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- D) *Remedies Not Exclusive.* The remedies listed in this Code are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

#### SECTION 18. APPEALS:

- A) Any person aggrieved by any final decision of the Director or other City official under this Code may seek a hearing before the City Administrator within five (5) days of the decision by following the submission requirements set forth in Subsection C below. The appeal shall not stay any suspension or termination.

- B) To the fullest extent permitted by law, the review procedures herein shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials, or commissions.
- C) All applications for appeals shall be made in writing to and filed with the City Administrator. At the time of filing any such appeal a copy thereof shall be filed by the appellant with the Director. Application for appeals shall include a copy of the NOV, order or decision (the "Decision") being appealed, a statement of the facts concerning the Decision, and shall state wherein the Decision was incorrect or in violation of any protectable right or property interest. The application for appeal shall be accompanied by a written description of: (a) the precise final action to be reviewed, including the date, the decision maker, and copies of all documentation of the decision; (b) the protectable right or property interest claimed to be affected, including a statement of any claimed or threatened damages and the basis for such computation; and (c) a detailed description of the factual and legal grounds for the claim that the final action is incorrect, unlawful or, if claimed, constitutes an unconstitutional taking, without just compensation.
- D) On behalf of the City Administrator, the City Clerk shall fix a time and place for the City Administrator to hear the appeal and shall direct a written notice of the hearing date and time to be served upon the appellant to provide that information. The City Clerk shall give notice to the Director who shall be entitled to appear in defense of his or her decision. At the hearing, reasonable opportunity shall be given for the presentation of evidence bearing on the appeal. Where issues are heard without objection or by consent, such issues shall be deemed to have been properly before the City Administrator. Formalities of procedure shall be deemed waived unless an objection is made.

#### SECTION 19. ADOPTION OF ORDINANCE.

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.

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WHEREAS, pursuant to the federal Clean Water Act, 33 U.S.C. §1251 et seq., and federal regulations issued pursuant thereto, (the "Clean Water Act") the City is required under its National Pollutant Discharge Elimination System (NPDES) Permit to effectively prohibit non-stormwater discharges into the storm drainage system and implement appropriate enforcement procedures and actions; and

WHEREAS, Section 67.398 RSMo., authorizes cities to enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of a nuisance including any material or condition which is unhealthy or unsafe and declared to be a public nuisance; and

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WHEREAS, the City intends to ensure compliance with Federal, State and local laws;

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- A) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter stormwater drainage system. This includes, but is not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter stormwater drainage systems; and any connections to such systems from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by The City of Wentzville; or,

- B) Any drain or conveyance connected from a commercial or industrial land use to a stormwater drainage system which has not been documented in plans, maps, or equivalent records and approved by the City of Wentzville.

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**Responsible Person(s):** Those chargeable, jointly or severally, with violations of this Code, who have violated or knowingly continue to violate the Code or after receiving notice of violations fail to abate or correct said violations or comply with a Notice of Violation, and shall include, but are not limited to, the following:

- A) Those who commit or otherwise assist or participate in violations;
- B) The owner or other persons who maintain the building, premises, property or other place where the violation has been committed or exists;
- C) The owner's agent or person in charge of the building, premises, property or other place where the violation has been committed or exists;



- D) The lessee or tenant of all or part of the building, premises, property or other place where the violation has been committed or exists; or
- E) The developer, agent, architect, contractor, subcontractor, or any other person who performs work or enters into a contract for work in violation of this Code.

**Stormwater Drainage System:** The system of stormwater collection facilities and conveyances, whether publicly or privately owned, including but not limited to any roads with drainage systems, streets, curbs, gutters, storm drains and pipes, pumping facilities, catch basins, retention and detention basins, natural and human-made or altered drainage channels, and other drainage structures.

**Stormwater:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Stormwater Pollution Prevention 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 stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**Wastewater:** Any water or other liquid discharged from a Premises that is "wastewater" (as defined in 10 CSR §20-2.010(79), as amended, on file with the City Clerk).

**Watercourse(s):** All natural watercourses depicted on the most current United States Geological Survey 7.5 Minute Series (Topographic) Maps and/or the City of Wentzville's Natural Watercourse and Riparian Buffer Protection Map

### SECTION 3. APPLICABILITY.

This Code shall apply to all discharges entering the stormwater drainage system generated on any developed and undeveloped lands.

### SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The Director shall administer, implement, and enforce the provisions of this Code.

### SECTION 5. SEVERABILITY.

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

## SECTION 6. MINIMUM STANDARDS.

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

## SECTION 7. DISCHARGE PROHIBITIONS.

### A) Prohibition of Illicit Discharges.

1. No Person shall cause or allow Illicit Discharges to Stormwater Drainage Systems or watercourses.
2. Throwing, depositing, leaving, abandoning, or keeping materials or wastes on public or private lands in a manner and place where they may result in an Illicit Discharge is prohibited.

### B) Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage System is prohibited. A Person is considered to be in violation of this Code if the Person connects a line conveying any Non-stormwater Discharge to the Stormwater Drainage System, or allows such a connection to continue.
2. 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.

## SECTION 8. EXCEPTIONS TO DISCHARGE PROHIBITIONS.

The following discharges are exempt from discharge prohibitions established by this Code:

- ### A)
- Discharges from the following activities, which do not cause or contribute to a violation of any water quality standard:
1. Water line flushing or other potable water sources,
  2. Landscape irrigation or lawn watering,
  3. Diverted stream flows,
  4. Natural riparian habitat or wetland flows,
  5. Rising ground water, springs, ground water infiltration to stormwater drainage systems, or uncontaminated pumped ground water,
  6. Foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps,
  7. Air conditioning condensation,

8. Non-commercial or charity washing of vehicles, (exclusive of commercial vehicles)
  9. De-chlorinated swimming pool water (typically less than one PPM chlorine),
  10. Fire fighting activities,
  11. Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance, as determined by the enforcement official,
  12. Any other water source not containing pollutants, and
  13. Stormwater runoff from private streets and parking lots, as long as the paved surfaces are routinely cleaned.
- B) Discharges specified in writing by the Director or another Authorized Enforcement Agency as being necessary to protect public health and safety.
- C) Dye testing is an allowable discharge, but requires a written notification to the City of Wentzville prior to the time of the test.
- D) Any Non-stormwater Discharge or connection permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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 by the Missouri Department of Natural Resources for any discharge to stormwater drainage systems.

#### SECTION 9. CONCEALMENT AND ABETTING.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of this Chapter.

#### SECTION 10. SUSPENSION OF ACCESS TO STORMWATER DRAINAGE SYSTEMS.

- A) Suspension due to Illicit Discharges in Emergency Situations. The Director may, without prior notice, suspend discharge access to stormwater drainage systems by any Responsible 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 public health or welfare or other affected Persons, or to stormwater drainage systems or to Waters of the United States. If the Responsible Person fails to comply with a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the Stormwater Drainage System or Waters of the State (as defined in 10 CSR §20-2.010 (82), as amended, on file with the City Clerk), or to minimize danger to other Persons. This includes immediate termination of a Premise's water supply, sewer

connection, or other municipal utility services. The Director may allow the Person to recommence its discharge when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further suspension/termination proceedings are initiated against the Responsible Person under this Code.

- B) Suspension due to the Detection of Illicit Discharge. The Director may, temporarily or permanently, terminate the access to the Stormwater Drainage Systems of a Person discharging in violation of this Code if the Director determines that such termination would abate or reduce the Illicit Discharge. The Director will notify the Responsible Person of the proposed termination of its access to a Stormwater Drainage System.
- C) No Reinstatement without Prior Approval. A Person is in violation of this Code if the Person, without the prior approval of the Authorized Enforcement Agency, reinstates access to the Stormwater Drainage System for a Premises where access has been terminated pursuant to this Section.

#### SECTION 11. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any Person subject to an Industrial or Construction Activity NPDES permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director prior to or as a condition of a site development plan, improvement plan, or building permit: (a) upon inspection of the facility; (b) during any enforcement proceeding or action; or (c) for any other reasonable cause.

#### SECTION 12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City of Wentzville may require Best Management Practices (BMPs) for any activity, operation or Premises which is, or may cause or contribute to stormwater pollution. Commercial and industrial establishments shall provide, at the owner or operator's expense, reasonable protection from discharges of Pollutants into the municipal Stormwater Drainage System or Watercourses through the use of structural and/or non-structural BMPs. Further, any Person responsible for Premises, which are, or may be, the source of an Illicit Discharge, may be required to implement, at said Person's expense, additional BMPs to prevent the further discharge of Pollutants to the Stormwater Drainage System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

### SECTION 13. NATURAL WATERCOURSE PROTECTION.

Pursuant to the City's Regulations for the Protection of Natural Watercourses set forth in Article VIII of Chapter 410 (Subdivision Regulations) of the Municipal Code, every Person owning or leasing property through which a Watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, excessive vegetative waste, and other debris that would pollute, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain property within or adjacent to a Watercourse so that privately-owned structures, other materials, or conditions will not impair the beneficial use, function, or physical integrity of the watercourse.

### SECTION 14. CONTAINMENT AND NOTIFICATION OF ILLICIT DISCHARGES.

- A) Containment of Illicit Discharges.  
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 discharging into Stormwater, Stormwater Drainage Systems, 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 shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- B) Notification of Illicit Discharges.  
In the event of a release of non-hazardous, Illicit Discharges that causes or will cause a violation of state water quality standards, (10 CSR §20-7.031, on file with the City Clerk), said Person shall notify the Director 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 Director or his or her designee, within three 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 submit to the Director a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### SECTION 15. INSPECTION AND MONITORING OF DISCHARGES.

- A) Applicability.  
This section applies to all Premises that have stormwater discharges associated with Industrial or Construction Activity.

B) Right of Entry.

1. The Director shall be permitted to enter and inspect Premises subject to regulation under this Code as often as may be necessary to determine compliance with this Code. If security measures are in force which require proper identification and clearance before entry into its Premises, the owner or Person shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Agency.
2. Any temporary or permanent obstruction to safe and easy access to the Premises to be inspected and/or sampled shall be promptly removed by the Responsible Person at the written or oral request of the City, and shall not be replaced without permission of the Director. The costs of clearing such access shall be borne by the Responsible Person.
3. Unreasonable delays in allowing the City or other Authorized Enforcement Agency to access Premises for the purpose of conducting any activity authorized or required by this Code, or State or Federal law are a violation of this Code.
4. In non-emergency situations, if the Director has been refused access to any part of the Premises from which stormwater is discharged, and the Director is able to demonstrate probable cause to believe that there may be a violation of this Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Code 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 an administrative search warrant from any court of competent jurisdiction. In the case of an emergency or other exigent circumstances, it shall be unlawful for any Person, owner or Person in possession of any Premises to refuse to allow the Director to enter upon the Premises to protect the health, safety and welfare of the public.

C) Inspection and Monitoring Authority.

1. NPDES-permitted facility operators shall allow the Director ready access to all parts of the Premises for the purposes of inspection and sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.



2. The Director shall have the right to set up on any NPDES-permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
3. The Director has the right to require the Responsible Person to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Responsible Person at his or her own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

#### SECTION 16. ENFORCEMENT:

A) *Notice of Violation.* Whenever the Director finds that a Person or Premises has violated a prohibition or failed to meet a requirement of this Code, the Director may order compliance by written notice of violation ("NOV") to the Responsible Person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of Illicit Connections or Discharges to the maximum extent practicable;
3. That violating discharges, practices, or operations shall cease and desist;
4. Implementing source control or treatment BMPs to prevent a continued or potential violation from occurring;
5. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and

Submission of the NOV requirements shall in no way relieve the Person of liability for any violation before or after receipt of the NOV.

B) *Non-Compliance after Notice of Violation.*

1. Any Responsible Person who shall fail or refuse to correct the violation pursuant to the requirements set forth in the Notice of Violation, shall be deemed guilty of an offense and upon conviction, shall be punished as provided in Section 100.190 of the Municipal Code.
2. In addition to the penalties hereinabove authorized and established, the Director may take such other actions at law or in

equity as may be required to abate the violation and/or restore property affected by the violation.

3. Any Person judicially determined to have violated any provision of these regulations, shall pay the City's actual costs, including attorneys' fees, court costs, environmental consulting, testing, sampling and monitoring expenses, and other expenses associated with enforcing these regulations.

C) *Abatement; Cost of Abatement.*

1. In non-emergency situations, if abatement of a violation and/or restoration of affected property is required, the NOV shall set forth a deadline within which such remediation or restoration must be completed which shall not be less than seven days of receiving notice or, upon failure to pursue the removal or abatement, without unnecessary delay. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, a citation may be issued or that the work may be completed by the City (or its contractor) at the expense of the violator.
2. If the Director causes such condition to be removed or abated, the cost of such removal or abatement shall be certified to the City Clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

SECTION 17. ENFORCEMENT; OTHER RELIEF:

- A) *Equitable Relief and Sanctions.* It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Code. If a Person has violated or continues to violate the provisions of this Code, in addition to any other civil or criminal penalties established or imposed for violations of this Code, the City may apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with or restrain or enjoin violations of the provisions of this Code, to remedy

any violation hereunder and prevent further illegal acts, conduct, or discharges in or about such Premises. As part of any judgment and order granting equitable relief in favor of the City, the court shall award the City its actual costs and fees, including attorneys' fees, expended in the enforcement of this Code. The court may also grant all other necessary and proper relief including revocation of any permit governing the subject premises.

- B) *Compensatory Action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this Code; the City and the Responsible Person may agree to, or the Court may order, an alternative compensatory action, such as litter pickups, storm drain marking, attendance at compliance workshops, creek cleanup, etc.
- C) *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 Code 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/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- D) *Remedies Not Exclusive.* The remedies listed in this Code are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

#### SECTION 18. APPEALS:

- A) Any person aggrieved by any final decision of the Director or other City official under this Code may seek a hearing before the City Administrator within five (5) days of the decision by following the submission requirements set forth in Subsection C below. The appeal shall not stay any suspension or termination.
- B) To the fullest extent permitted by law, the review procedures herein shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials, or commissions.
- C) All applications for appeals shall be made in writing to and filed with the City Administrator. At the time of filing any such appeal a copy thereof shall be filed by the appellant with the Director. Application for appeals shall include a copy of the NOV, order or decision (the "Decision") being appealed, a statement of the facts concerning the Decision, and shall state wherein the Decision was incorrect or in violation of any protectable right or property interest. The application for appeal shall be accompanied by a written

description of: (a) the precise final action to be reviewed, including the date, the decision maker, and copies of all documentation of the decision; (b) the protectable right or property interest claimed to be affected, including a statement of any claimed or threatened damages and the basis for such computation; and (c) a detailed description of the factual and legal grounds for the claim that the final action is incorrect, unlawful or, if claimed, constitutes an unconstitutional taking, without just compensation.

- D) On behalf of the City Administrator, the City Clerk shall fix a time and place for the City Administrator to hear the appeal and shall direct a written notice of the hearing date and time to be served upon the appellant to provide that information. The City Clerk shall give notice to the Director who shall be entitled to appear in defense of his or her decision. At the hearing, reasonable opportunity shall be given for the presentation of evidence bearing on the appeal. Where issues are heard without objection or by consent, such issues shall be deemed to have been properly before the City Administrator. Formalities of procedure shall be deemed waived unless an objection is made.

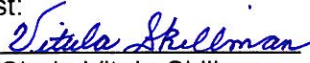
#### SECTION 19. ADOPTION OF ORDINANCE.

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.

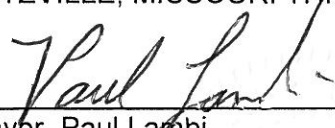
READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI THIS 22 DAY OF September, 2010.

  
Mayor, Paul Lambi


Attest:

  
City Clerk, Vitula Skillman

APPROVED BY THE MAYOR OF THE CITY OF WENTZVILLE, MISSOURI THIS 22 DAY OF September, 2010.

  
Mayor, Paul Lambi

Attest:

  
City Clerk, Vitula Skillman