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City of Anacortes
Ordinance No. 4023

An Ordinance of the City of Anacortes, Washington, amending Chapters 18.30 and 19.12 of the Anacortes Municipal Code regarding Illicit Discharges and Connections to the Stormwater Drainage System and Definitions and Interpretation

Whereas the Anacortes Municipal Code regulates Illicit Discharges and Connections to the Stormwater Drainage System at Chapter 18.30 and provides associated definitions and interpretation thereof at Chapter 19.12; and

Whereas Department of Ecology recently released guidance for development of Source Control Programs for Phase II jurisdictions; and

Whereas The City is required to implement a Source Control Program as a requirement of the City's Municipal Phase II Stormwater Permit issued by the Washington State Department of Ecology.

Whereas the City's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater permit requires maintenance of an inspection inventory of publicly and privately owned institutional, commercial, and industrial businesses/sites, which have the potential to generate pollutants to the storm system; and

Whereas the City desires update Chapter 18.30 AMC to implement an effective and compliant Source Control Program that will educate and provide technical assistance to local businesses, enhancing environmental protection against harmful pollutants being discharged into local waterways through the stormwater system.

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

Section 1. Chapter 18.30 of the Anacortes Municipal Code entitled "Illicit Discharges and Connections to the Stormwater Drainage System" and Chapter 19.12 entitled "Definitions and Interpretation" are revised to read as shown in Attachment A, which is hereby adopted and incorporated herein by reference; and

Section 2. This ordinance shall take effect five (5) days from and after its passage, approval and publication in the manner required by law.

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PASSED and APPROVED this 18th day of July, 2022.

CITY OF ANACORTES:

Matt Miller, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

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Chapter 18.30
ILLICIT DISCHARGES AND CONNECTIONS TO THE STORMWATER DRAINAGE SYTEM

18.30.010 Purpose.

The purpose of this chapter is to protect surface and groundwater quality by controlling the discharge of pollutants and to ensure ongoing compliance with the city's NPDES permit.

18.30.020 Intent.

This chapter is enacted as an exercise of the City's power to protect and preserve the public health, safety, and welfare. Its provisions must be liberally construed to give full effect to the objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this chapter.

18.30.030 Applicability.

A. Unless specifically exempted herein, this chapter applies to all discharges that occur in the City limits of Anacortes.

B. This chapter applies to the discharge of contaminants to surface water, stormwater and groundwater as set forth in Section 18.30.040 and requires certain sites and activities to utilize best management practices as set forth in Section 18.30.040E.

18.30.0~~20~~40 Definitions.

The definitions in AMC ~~19.05.100~~ 19.12 apply to this chapter and are incorporated by reference.

18.30.0~~30~~50 Illicit discharges.

A. *Illicit Discharges Prohibited.*

1. No person may throw, drain, or otherwise discharge, or cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.

2. Illicit discharges include, but are not limited to solid waste; yard waste; dirt; sand; gravel, cement; paint products; human and animal waste; soap; detergent; antifreeze, oil, gasoline, grease, and all other automotive and petroleum products; pesticides; herbicides; fertilizers; flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers; drain cleaners; commercial and household cleaning materials; acids; alkalis; ink;

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steam-cleaning waste; laundry waste; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; plaster and dry-wall compound.

B. *Allowable Discharges.* The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.

2. Rising groundwater.

3. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).

4. Uncontaminated pumped groundwater.

5. Foundation drains.

6. Air conditioning condensation.

7. Irrigation water from agricultural sources that is commingled with urban stormwater.

8. Springs.

9. Water from crawl space pumps.

10. Footing drains.

11. Flows from riparian habitats and wetlands.

12. Discharges from emergency firefighting activities.

C. *Conditionally Allowed Discharges.* The following types of discharges are not illicit discharges for the purposes of this chapter if they meet the stated conditions, unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.

2. Lawn watering and other irrigation runoff are permitted but must be minimized.

3. *Dechlorinated swimming pool discharges.* These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.

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4. Street and sidewalk wash water, water to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

5. Other non-stormwater discharges that are in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.

D. *Exemptions.*

1. The following discharges are exempt from the provisions of this section:

a. the regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit;

b. acts of God or nature not compounded by human negligence;

c. properly operating on-site domestic sewage systems.

2. A person does not commit an illicit discharge if:

a. that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART, even if pollutants continue to enter surface and stormwater or groundwater; or

b. that person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.

E. *Best Management Practices (BMPs).*

1. Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.

2. BMPs must be applied to any business or residential activity that might result in illicit discharges. Any person storing or using materials containing contaminants in any manner that may result in a prohibited discharge must implement the source control BMPs described in the stormwater management manual. Any person operating a facility or performing an activity described in the stormwater management manual or the City's NPDES permit must implement the source control BMPs described therein for the facility or activity. Full implementation of the source control BMPs described in the stormwater management manual constitutes the minimum required actions an owner, occupant or operator of real property must take toward preventing prohibited discharges from the real property. Full implementation of the BMPs required by this section does not exempt a person from also complying with any other requirement of this chapter. In applying the stormwater management manual, the director must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the director may require implementation of treatment BMPs as set forth in

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AKART. Full implementation of all stormwater BMPs required by an NPDES industrial stormwater permit or State Waste Discharge Permit constitutes compliance with this section.

18.30.0~~40~~60 Illicit connections and uses.

A. No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.

B. Connections to the stormwater drainage system from the interiors of structures are prohibited.

C. Connections to the stormwater drainage system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

18.30.070 Inspections.

A. The City must inspect facilities that perform activities that might result in prohibited discharges as specified in the stormwater management manual and the City's NPDES Permit.

B. The City may enter onto and inspect properties or facilities to determine compliance with this chapter if (1) the City has the right to enter onto the property or facility for purposes of inspection pursuant to an easement, covenant, license, search warrant or other instrument, or (2) the owner, occupant or operator of the property, or another person having apparent control or authority over the property, grants the City permission to enter and perform an inspection.

C. Whenever there is cause to believe that a violation of this chapter has been or is being committed, the City may inspect per AMC Title 20, Civil Enforcement and Penalties.

18.30.0~~50~~80 Violations.

A. A violation of this chapter is a class 1 civil infraction for each day it continues.

B. The director may impose a civil penalty of up to one thousand dollars per day per violation.

C. To abate a violation, the director may:

1. require implementation of stormwater BMPs described in the Stormwater Management Manual or AKART BMPs described in RCW 90.48.010 and 90.48.520.

2. require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the director, and provide that analysis to the director.

3. make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.

D. The city attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this chapter.

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18.30.90 Liability.

A. Nothing contained in this chapter is intended to be nor may be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

B. Any city employee charged with the enforcement of this chapter, acting in good faith and without malice on behalf of the city in the discharge of his/her duties, may not be personally liable for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. The City will defend any suit brought against an employee because of any act or omission performed by the employee in the enforcement of any provision of this chapter.

Chapter 19.12
DEFINITIONS AND INTERPRETATION

The following definitions are added to AMC 19.20.020.

19.12.020 Definitions.

G. G Definitions.

"Groundwater" means water in a saturated zone or stratum beneath the land surface or a surface waterbody.

I. I Definitions.

"Illicit discharge" means any discharge to the stormwater system that is not composed entirely of stormwater or of "allowable discharges" as adopted in AMC 18.30.050.

N. N Definitions.

"National Pollutant Discharge Elimination System (NPDES)" means the part of the federal Clean Water Act that requires point source dischargers to obtain permits. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

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O. O Definitions.

"Operational source control BMP" means a schedule of activities, prohibition of practices, and other managerial practices to prevent or reduce pollutants from entering stormwater.

R. R Definitions.

"Receiving waters" means bodies of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow. Groundwater to which surface runoff is directed by infiltration.

S. S Definitions.

"Source control BMP" means a structure or operation intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants.

"Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface waterbody, or a constructed infiltration facility.

"Structural source control BMP" means a physical, structural, or mechanical device or facility that is intended to prevent pollutants from entering stormwater.

T. T Definitions.

"Treatment BMP" means a best management practice that is intended to remove pollutants from stormwater.

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Matt Miller mattm@cityofanacortes.org Mayor City of Anacortes Security Level: Email, Account Authentication (None)	 Signature Adoption: Uploaded Signature Image Using IP Address: 23.90.91.2	Sent: 7/19/2022 8:47:09 AM Viewed: 7/19/2022 9:55:44 AM Signed: 7/19/2022 9:55:57 AM
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