

**ORDINANCE NO. 2005-12-7063**

**AN ORDINANCE AMENDING CHAPTER 2  
REGARDING CITY CITATION OFFICERS  
AND AMENDING CHAPTER 42 TO  
PROHIBIT ILLICIT DISCHARGE  
NUISANCES INVOLVING THE CITY'S  
SEPARATE STORM SEWER SYSTEMS (MS4)  
OF THE CODE OF ORDINANCES OF THE  
CITY OF PADUCAH, KENTUCKY**

WHEREAS, this Ordinance amends Chapter 2 Section 571 to add the City Engineer as a City Citation Officer and amends Chapter 42 to include Illicit Discharges as a nuisance under the City of Paducah's Nuisance Enforcement Code; and

WHEREAS, this Ordinance is authorized by Kentucky law, specifically the statutory authority granted to Kentucky cities by Kentucky Revised Statute, [Nuisance Code Statute]; and

WHEREAS, this Ordinance is being enacted pursuant to mandates imposed by the Federal Clean Water Act, and in particular those parts that require local governments to comply with water pollution control requirements.

BE IT ORDAINED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That Chapter 2, Section 571, Designated Officials, of Chapter 2, Administration, of the Code of Ordinances of the City of Paducah, Kentucky, is hereby amended as follows:

- (a) The city does hereby empower the individuals who serve in the hereinafter referenced positions to act in the position of Citation Officers and to have such authority and power as provided in KRS 83A.087.
- (b) The positions which are hereby accorded with the authority of Citation Officer are as follows:
  - (1) Fire Chief.
  - (2) Fire Marshal.
  - (3) Fire Safety Inspector.
  - (4) Director and Chief Building and Electrical Inspector.
  - (5) Deputy Building Inspector.
  - (6) Deputy Electrical Inspector.
  - (7) Any person who is certified for building or electrical inspector.
  - (8) Code Enforcement Officer.
  - (9) Safety Officer.
  - (10) Parking Control Specialist.
  - (11) City Engineer.

SECTION 2. That Chapter 42, "Environment", of the Code of Ordinances of the City of Paducah, Kentucky, is hereby amended to create section 42-52 entitled "Illicit Discharges."

**(1) – PURPOSE AND SCOPE**

This Ordinance is intended to protect the general health, safety, and welfare of the citizens of the City of Paducah by declaring illicit discharges into the storm sewer system to be nuisances, and more specifically;

1.0 To protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by prohibiting non-storm water discharges and connection to the municipal separate storm sewer system (MS4), collectively called storm water conveyance system.

1.1 To prohibit illicit discharges and connections to the MS4.

1.2 To establish legal authority to carry out all inspection, surveillance and monitoring, and enforcement procedures necessary to ensure compliance with this Section.

## **(2) - DEFINITIONS**

2.1 Definitions for this section. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

2.2 Enforcement Agency is the City of Paducah's Engineering Department and its duly authorized representatives or designees.

2.3 Hazardous Materials is any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological 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.

2.4 Illicit Discharge is any direct or indirect non-storm water substance or hazardous material disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, intentionally or unintentionally, into the MS4 or any area that has been determined to drain directly or indirectly into the MS4, except as exempted in Section 5 of this section.

2.5 Illicit Connection is defined as any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4. Included are conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

2.6 Inspector is a person designated by the City Engineer or the Enforcement Agency.

2.7 Municipal Separate Storm Sewer System (MS4) of Paducah means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains designed or used for collecting or conveying storm water that is owned or operated by the City of Paducah and discharges to waters of the Commonwealth. Sanitary and combined sewers are not included in the definition of the municipal separate storm sewer system.

2.8 Non-Storm Water Discharge is any discharge to the MS4, that is not composed solely of storm water except as permitted by Section 5 of this Ordinance.

2.9 Pollutant is anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

2.10 Premises is the area of land, site, grounds, or property on which the illegal discharge emanates.

2.11 Utility is the owner/operator, public or private, of any underground or overhead line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, stormwater, steam, sewage and other similar substances.

- 2.12 Watercourse is any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.
- 2.13 Wetlands are a lowland area, such as a marsh that is saturated with moisture, as defined by the United States Army Corps of Engineers.

### **(3) – GENERAL PROVISIONS**

- 3.1 Except as herein provided or exempted by the City Engineer and/or Enforcement Agency, this Section shall apply to all non-storm water discharges and connections to the MS4 owned and operated by the City of Paducah.
- 3.2 The City Engineer and/or Enforcement Agency shall administer, implement, and enforce the provisions of this Section.
- 3.3 This Section shall be construed to insure consistency with requirements of the Clean Water Act, the City of Paducah KPDES Stormwater Permit, and acts amendatory thereof or any other applicable regulations.
- 3.4 The standards and requirements set forth herein and promulgated pursuant to this Section are minimum standards. This Section does not intend nor imply that compliance by any person, company, developer, or any other entity will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the MS4.

### **(4) - PROHIBITION OF DISCHARGES AND DECLARATION OF NUISANCE; EXCEPTIONS.**

- 4.1 No person, company, developer or any other entity shall discharge or cause to be discharged into the MS4 any pollutants including but not limited to hazardous materials 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 is prohibited.
- 4.2 This section does not apply to the following categories of non-storm water discharges or flows, unless the City Engineer and/or Enforcement Agency of the regulated MS4 identifies them as significant contributors of pollutants to its MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharge 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.
- 4.3 The prohibition of discharges or flows shall not apply to any non-storm water discharges permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Kentucky Division of Water 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 provided that written approval has been granted for any discharge to the storm drain system.
- 4.4 The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition includes without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practice applicable at the time of connection.

## **(5) – RULES AND REGULATIONS**

### **5.1 Compliance by Elimination of Illicit Discharges**

Notwithstanding the requirements of Section 4 herein, the City Engineer and/or Enforcement Agency may require by written notice that the person, property owner, occupant, tenant, lessor, lessee, or agency (hereinafter referred to as “party”) responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

The elimination of an illicit discharge within three days after receipt of Notice of Violation from the City shall be considered compliance with the provisions of this article and no further action shall be taken. Written permission given to the City Engineer and/or Enforcement Agency for the removal of the illicit discharge and/or illicit discharge sources on the premises on which it is located shall be considered compliance with the provisions of this section and no further action shall be taken against the party, except for the collection of all costs, expenses and/or charges for the removal of the nuisance.

### **5.2 Monitor and Analyze**

The City Engineer and/or Enforcement Agency may require by written notice a requirement that any party engaged in any activity and/or owning or operating any property or facility which has been determined to contribute to storm water pollution, illicit discharges, and/or non-storm water discharges to the MS4 to undertake at said party’s expense such monitoring and analyses and furnish such reports to the City Engineer and/or Enforcement Agency as deemed necessary to determine compliance with this Section.

### **5.3 Notification of Spills**

Notwithstanding other requirements of local, state and federal law, as soon as any party responsible for a property, facility or operation, or responsible for emergency response for a property, facility or operation, has information of any known or suspected release of pollutants or hazardous materials which are resulting or may result in illegal discharges to the MS4, said party shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material, said party shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials to the MS4, said party shall notify City Engineer and/or Enforcement Agency in person or by phone or facsimile no later than 2:00 p.m. of the next business day. Notifications shall be confirmed by written notice addressed and mailed to the City Engineer and/or Enforcement Agency within three business days of the original notice.

## **(6) – INSPECTION, MONITORING, AND REMEDIATION**

### **6.1 Right of Entry and Inspection**

Whenever the City Engineer and/or Enforcement Agency has cause to believe that there exists, or potentially exists, any condition which constitutes a violation of this Section, the City Engineer and/or Enforcement Agency may enter the believed violating premises served by the MS4 at all reasonable times to inspect the same.

### **6.2 Urgency Abatement.**

The City Engineer and/or Enforcement Agency is authorized to require immediate abatement of any violation of this Section that constitutes an immediate threat to the health, safety or well being of the public. If any such violation is not abated immediately as directed by the City Engineer and/or Enforcement Agency the City is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation

undertaken by the City shall be fully reimbursed by the property owner and/or responsible party.

6.3 *Sampling Devices and Testing*

During any inspection as provided herein, the City Engineer and/or Enforcement Agency may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. The cost of all testing may be passed on to the party, owner or operator of the premises where the illicit discharge emanates.

**(7) - ARTICLE SUPPLEMENTAL TO OTHER REGULATIONS.**

7.1 This Section is not the exclusive regulation pertaining to illicit discharges and the City's Storm Sewer Systems (MS4). Illicit Discharges are hereby declared to be a public nuisance and unlawful as set out in section 4 above. The provisions of this section are supplemental and in addition to all other regulatory codes, statutes and ordinances heretofore enacted by the city, state or any other legal entity or agency having jurisdiction.

7.2 The provisions of this section shall be deemed cumulative of the provisions and regulations contained in the Code of Ordinances of the City of Paducah, Kentucky, save and except that, where the provisions of this section and the sections hereunder are in conflict with the provisions elsewhere in this Code, then the provisions contained herein shall prevail.

7.3 *Acts Potentially Resulting in a Violation of the Federal Clean Water Act.* Any person who violates any provision of this Section or any provision of any permit issued by the City of Paducah may also be in violation of the Clean Water Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Ordinance may also include written notice to the party of such potential liability.

SECTION 3. This ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

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Mayor

**ATTEST:**

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Tammara S. Brock, City Clerk

Introduced by the Board of Commissioners December 13, 2005  
Adopted by the Board of Commissioners, December 20, 2005  
Recorded by Tammara S. Brock, City Clerk, December 20, 2005  
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