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2021 OA-017

AMENDING CHAPTER 2 AND CREATING CHAPTER 50 OF THE DANE
COUNTY CODE OF ORDINANCES, PROHIBITING DISCHARGE OF
POLLUTANTS TO THE WATERS OF DANE COUNTY

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Section 2.01(2) is amended to read as follows:

2.01 PURPOSE AND AUTHORITY.

(2) This chapter is created pursuant to the authority granted by sec. ~~66.119~~
66.0113 Wis. Stats. The county hereby elects to use the citation method of enforcement of certain ordinances other than those for which a statutory counterpart exists.

ARTICLE 3. Section 2.02(23) is created to read as follows:

2.02 ORDINANCES AFFECTED.

(23) Chapter 50, Prohibiting Discharge of Pollutants to the Waters of Dane County.

ARTICLE 4. Section 2.03(2)(q) is created to read as follows:

2.03 PERSONS AUTHORIZED TO ISSUE CITATIONS.

(2) The following county officials with respect to the enforcement of only those chapters or sections of the ordinances specified:

(q) Chapter 50, Discharge of Pollutants to the Waters of Dane County: Director of Public Health Madison and Dane County or Land and Water Resources Department Director.

ARTICLE 5. Sections 2.06(829) – (831) are created to read as follows:

2.01 SCHEDULE OF DEPOSITS.

(288)	<u>50.07</u>	<u>Failure to clean-up potentially polluting substance</u>	<u>627.00</u>
(289)	<u>50.08</u>	<u>Failure to notify Public Health Madison and and Dane County of a potentially polluting discharge or illicit discharge</u>	<u>627.00</u>
(290)	<u>50.10</u>	<u>Improper storage of potentially polluting substance</u>	<u>627.00</u>

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ARTICLE 6. Chapter 50 is created to read as follows:

CHAPTER 50
DISCHARGE OF POLLUTANTS TO THE WATERS OF DANE COUNTY

50.01 PURPOSE. The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of Dane County and protect surface waters and groundwaters of Dane County by preventing potentially polluting substances from reaching the municipal storm sewer system, lakes, streams, wetlands and groundwater as required by federal and state law. This Chapter establishes methods for controlling the discharge of potentially polluting substances into the municipal storm sewer system in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code.

50.02 AUTHORITY. This chapter is enacted pursuant to the authority of s. 33.455, Wis. Stats.

50.03 ADMINISTRATION. This ordinance shall be enforced by Public Health Madison and Dane County or Land and Water Resources.

50.04 APPLICABILITY. This ordinance shall apply to all surface and ground waters of Dane County. This ordinance does not apply to an illicit discharge that is being addressed by a state or federal remediation process.

50.05 DEFINITIONS. As used in this chapter:

(1) Discharge means any actions or omissions that cause or allow for the spill, release, escape or other discharge, of any potentially polluting substance.

(2) Illicit discharge means any discharge of a potentially polluting substance directly or through stormwater that reaches a municipal storm sewer system, drainage way, wetland, waterbody or groundwater, except those authorized by a Wisconsin Pollutant Discharge Elimination System (WPDES) permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car washing, firefighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, flows from riparian habitats and wetlands, and similar discharges.

(3) Municipal storm sewer system means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:

(a) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or

94 drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal
95 organization, or a designated and approved management agency under section
96 208 of the Clean Water Act that discharges into waters of the United States.

97 (b) Designed or used for collecting or conveying stormwater.

98 (c) Which is not a combined sewer conveying both sanitary wastewater and
99 stormwater.

100 (d) Which is not part of a publicly owned wastewater treatment works that
101 provides secondary or more stringent treatment.

102 (4) *Person* means an individual, owner, operator, corporation, partnership,
103 association, limited liability company, municipality, interstate agency, state
104 agency or federal agency.

105 (5) *Potentially polluting substance* includes any substance which may pollute
106 or have an adverse effect on water quality if discharged to waters of Dane
107 County, including but is not limited to, fuel oil, gasoline, solvents, industrial liquids
108 or fluids, milk, grease trap and septic tank wastes, sanitary sewer wastes, storm
109 sewer catch basin wastes, oil or petroleum waste, dredged soil, solid waste,
110 incinerator residue, sewage, garbage or garbage leachate, refuse, munitions,
111 chemical wastes, biological materials, radioactive substance, wrecked or
112 discarded equipment, waste from mobile sources, industrial, municipal and
113 agricultural waste.

114 (6) *Responsible Person* means the person or persons who cause a discharge
115 of a potentially polluting substance, an illicit discharge or both. Responsible
116 person includes the person on whose behalf the activity that results in the
117 discharge was conducted, whether through employment of or contracting with the
118 person who caused the discharge.

119 (7) *Stormwater* means runoff from precipitation including rain, snow, ice melt
120 or similar water that moves on the land surface via sheet or channelized flow.

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122 **50.06 DISCHARGE OR RELEASE PROHIBITED.** It shall be unlawful for any
123 person to cause or allow an illicit discharge, including permitting the escape of
124 any potential polluting substance into waters of Dane County, or into any
125 municipal storm sewer system, or drainage way leading into any lake, wetland or
126 stream, or to permit the same to be so discharged to the ground surface.

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128 **50.07 CLEAN-UP OF POTENTIALLY POLLUTING SUBSTANCES.**

129 Responsible persons, including the person who causes a discharge of a
130 potentially polluting substance through any means including but not limited to
131 delivering, hauling, disposing, storing, discharging or otherwise handling or
132 maintaining potentially polluting substances shall be responsible for the
133 immediate cleanup of any such spilled material to prevent its becoming an illicit
134 discharge and causing pollution to the waters of Dane County.

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136 **50.08 DUTY TO NOTIFY.** Any person responsible for the illicit discharge or
137 discharge of potentially polluting substances shall immediately report the
138 discharge to the emergency number for Public Health Madison and Dane
139 County.

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50.09 FINANCIAL LIABILITY. Any person responsible for the illicit discharge or discharge of potentially polluting substances may be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary by Dane County, or its designated agent, in an effort to minimize the polluting effects of the discharge and restore the environment.

50.10 STORAGE OF POLLUTING SUBSTANCES. It shall be unlawful for any person to store any potentially polluting substances shall be stored in such manner as to securely prevent them from escaping onto the ground surface, municipal storm sewer system, drainage way, wetland, lake or stream.

50.11 PENALTIES. (1) Any person who violates or refuses to comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$50 nor more than \$2000 and the costs of prosecution. Each day that a violation exists shall constitute a separate offense.

(2) The corporation counsel is authorized to seek enforcement of any part of this ordinance by court action seeking injunctive relief. It shall not be necessary for the county to seek other remedies before seeking injunctive relief.

50.12 EFFECTIVE DATE. The effective date of this ordinance shall be *[Clerk to insert effective date]*. The provisions of this ordinance shall apply to any discharge discovered or occurring after that date.

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

[EXPLANATION: This ordinance prohibits the discharge of pollutants to the waters of Dane County and assesses responsibility and liability for such discharges.]