

ORDINANCE NO. 2556

AN ORDINANCE adopting regulations for illicit discharges into the stormwater system and illicit connections to the stormwater system, and providing a penalty for violation of the regulations.

The Council of the City of Camas do ordain as follows:

Section I

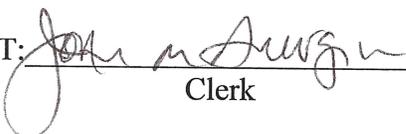
There is hereby added to the Camas Municipal Code a new Chapter regulating illicit discharges, dumping and illicit connections to the stormwater system. The new Chapter shall be as set forth in Exhibit "A" attached hereto and by this reference incorporated herein.

Section II

This Ordinance shall take force and be in effect five (5) days from and after its publication according to law.

PASSED BY the Council and APPROVED by the Mayor this 17th day of August, 2009.

SIGNED: 
Mayor

ATTEST: 
Clerk

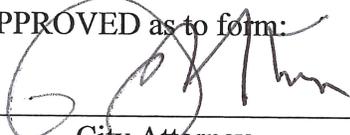
APPROVED as to form:

City Attorney

Exhibit “A”

Chapter 14.04

ILLICIT DISCHARGES, DUMPING & ILLICIT CONNECTIONS

Sections:

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14.04.010 Purpose

The Washington State Department of Ecology (DOE) issued the Western Washington Phase II Municipal Stormwater Permit (hereafter referred to as the DOE Permit) to designated municipalities throughout the state on February 16, 2007. The DOE Permit specifically defines what are considered prohibited non-stormwater illicit discharges, dumping, and illicit connections.

In order to meet the Federal Clean Water Act and DOE’s requirements to protect the environment, the City has adopted regulations for identifying what is allowed and what is prohibited for discharging into waters of the state.

14.04.020 Applicability

The provisions of this chapter shall apply to all new and existing development, public and private. The provisions of this chapter shall also apply to the maintenance responsibility of existing stormwater facilities.

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1. Meeting the requirements of this chapter is the joint and severable responsibility of the owner(s) of the site and the person(s) responsible for maintenance on both new and existing facilities.
2. The responsible City official is authorized to enforce the provisions of this chapter.

14.04.030 Statutory Authority

The City adopts this chapter as, required, under the Department of Ecology Western Washington Phase II Municipal Stormwater Permit issued on January 17, 2007, effective February 16, 2007, with an expiration date of February 15, 2012.

14.04.040 Severability

If any provision of this title or its application to any person or circumstances is held invalid, the remainder of this title, or the application of the provision to other persons or circumstances, shall not be affected.

14.04.050 Acronyms & Definitions

Acronyms

For the purpose of this chapter the following shall apply:

AKART	All Known, Available and Reasonable method of prevention, control, and Treatment
BMPs	Best Management Practices
CWA	Clean Water Act
the City	City of Camas
DOE	Washington State Department of Ecology
EPA	US Environmental Protection Agency
DOE Manual	Ecology’s <i>2005 Stormwater Management Manual for Western Washington</i>
MEP	Maximum Extent Practicable
NPDES	National Pollutant Discharge Elimination System
DOE Permit	Western Washington Phase II Municipal Stormwater Permit
PGIS	Pollutant Generating Impervious Surfaces
RCW	Revised Code of Washington State
CMC	Camas Municipal Code
WAC	Washington Administrative Code
WSDOT Manual	Washington State Department of Transportation Highway Runoff Manual

Definitions

For the purpose of this chapter the following shall apply:

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AKART – All known, available, and reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.

Best Management Practices (BMPs) - Those physical, structural and managerial practices, and prohibitions of practices, that, when used singly or in combination, control stormwater runoff peak flow rates and volumes and prevent or reduce pollution of surface water or groundwater.

Clean Water Act – The federal Water Pollution Control Act (33 USC Section 1251 et seq.), and any subsequent amendments thereto.

Director – The Public Works Department Director and/or designees.

Groundwater - Water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

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.

Hyperchlorinated - Water that contains more than 10 mg/Liter chlorine. Disinfection of water mains and appurtenances requires a chlorine residual of 10mg/L at the end of the disinfection period. This level is well above the Maximum Residual Disinfectant Level of an annual average of 4mg/Liter chlorine for potable water.

Illicit connection - Any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

Illicit discharge - Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by the City of Camas;
2. Designed or used for collecting or conveying stormwater;
3. Which is not part of a Publicly Owned Treatment Works (POTW). “POTW” means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned; and

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4. Which is not a combined sewer. “Combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system.

National Pollutant Discharge Elimination System (NPDES) - The national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES Permits and, in Washington State, are administered by the Washington Department of Ecology.

Non-Stormwater Discharge – Any discharge to the storm drain system that is not composed entirely of stormwater.

Person – Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner of a premises or as the owner’s agent.

Permit - The most current version of the National Pollution Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit.

Pollutant – Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects 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.

Premises – any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Private system” means any element in the surface water system which is not under city ownership or management.

Storm Drainage System – Publicly owned facilities, including the City’s municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater - Runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

Stormwater Pollution Prevention Plan – A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

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Unsafe condition - Any condition or activity in the surface water system on public or private premises which may cause pollution or does or may impede the operation or functioning of the surface water system or which may cause damage thereto.

14.04.060 Prohibited Discharges

No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain, or otherwise discharge into the municipal storm drain system and/or surface and ground waters, and materials other than stormwater.

A. Examples of prohibited discharges include, but are not limited to, the following:

1. Trash or debris.
2. Construction materials.
3. Petroleum products, including but not limited to, oil, gasoline, grease, fuel oil, and heating oil.
4. Antifreeze and other automotive products.
5. Metals in either particulate or dissolved form.
6. Flammable or explosive materials.
7. Radioactive material.
8. Batteries.
9. Acids, alkalis, or bases.
10. Paints, stains, resins, lacquers, or varnishes.
11. Degreasers and/or solvents.
12. Drain cleaners.
13. Pesticides, herbicides, or fertilizers.
14. Steam cleaning wastes.
15. Soaps, detergents, or ammonia.
16. Swimming pool or spa filter backwash.
17. Chlorine, bromine, or other disinfectants.
18. Heated water.
19. Domestic animal wastes.
20. Sewage.
21. Recreational vehicle waste.
22. Animal carcasses.
23. Food wastes.
24. Bark and other fibrous materials.
25. Lawn clippings, leaves, or branches.
26. Silt, sediment, concrete, cement or gravel.
27. Dyes.
28. Chemicals not normally found in uncontaminated water.
29. Any other process-associated discharge except as otherwise allowed in this section.
30. Any hazardous material or waste not listed above.

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14.04.070 Allowable Discharges

The following types of discharges shall not be considered illegal discharges for the purposes 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.

A. Examples of allowable discharges include the following:

1. Broken water mains.
2. Diverted stream flows.
3. Rising ground waters.
4. Uncontaminated ground water infiltration, as defined in 40 CFR 35.2005(20).
5. Uncontaminated pumped ground water.
6. Foundation drains.
7. Air conditioning condensation.
8. Irrigation water from agricultural sources that is commingled with urban stormwater.
9. Springs.
10. Water from crawl space pumps.
11. Footing drains.
12. Flows from riparian habitats and wetlands.
13. Discharges from emergency fire fighting activities.

14.04.080 Conditional Discharges

The following types of discharges shall not be considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or 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, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated 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 shall be minimized;
3. De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re0suspension of sediments in the stormwater system;
4. Street and sidewalk wash water, water used 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 used is minimized. At active construction sites street sweeping must be performed prior to washing the street;
5. Non-stormwater discharges covered by another NPDES permit, 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;

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6. Other non-stormwater discharges. The discharges shall be 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 contaminants from entering surface or ground water.

14.04.090 Prohibition of Illicit Connections

The following connections, both past, current, and future, to the stormwater system are expressly prohibited:

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
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.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

14.04.100 Inspection Authority

Whenever implementing the provisions of this chapter or whenever there is cause to believe that a violation of this chapter has been or is being committed the Director is authorized to inspect during regular working hours, or at other reasonable times, all stormwater systems to determine compliance with the provisions of this chapter.

14.04.110 Existing Private Facility Inspections

1. Inspection Program. The Director is authorized to develop and implement an inspection program for private drainage facilities within the city.
2. Right of Entry. An authorized representative of the utility may enter private property at all reasonable times to conduct inspections, tests or to carry out other duties imposed by the code, provided the utility shall first notify the property owner or person responsible for the premises. If entry is refused or cannot be obtained, the director shall have recourse to every remedy provided by law to secure entry.

14.04.120 Inspection Procedures

1. Prior to making any inspections on private property, the inspector shall present identification credentials, state the reason for the inspection and request entry.
2. If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.
3. If after reasonable effort the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater system creates an imminent hazard to persons or property, the inspector may enter.

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4. Unless entry is consented to by the owner or person(s) in control of the property or portion of the property or unless conditions are reasonably believed to exist which create imminent hazard, the inspector shall obtain a search warrant, prior to entry, as authorized by the laws of the State of Washington.
5. The inspector may inspect the stormwater system without obtaining a search warrant provided for in subsection 4 above, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

14.04.130 Emergency Conditions Requiring Immediate Action

Notwithstanding any other provisions of this code, whenever it appears to the director that conditions covered by this code exist and require immediate action to protect the public health, safety, or public resources, the director is authorized to the extent permitted by law, to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating such emergency conditions.

The director may without prior notice order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a civil violation pursuant to this chapter.

14.04.140 Enforcement Authority

The Director shall administer and enforce this chapter and shall have the authority to adopt and implement administrative procedures for such enforcement.

14.04.150 Enforcement Policy

Enforcement action shall be taken whenever a person has violated any provision of this chapter. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the persons subject to the enforcement action.

14.04.160 Enforcement Orders

The Director shall have the authority to issue to an owner or person(s) representing an owner an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this chapter, the Stormwater Management Manual and/or other City regulations. The order shall include:

1. A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur.
2. A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective action to be taken.
3. A reasonable time to comply, depending on the circumstances.
4. Penalties that may be incurred by any owner of a stormwater system not in compliance with this chapter.

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5. An order to the owner to provide to the Director a detailed plan showing drawings and steps that will be taken to achieve compliance within a specified time. This plan is subject to approval by the Director.

14.04.170 Violation – Penalty

A violation of this Chapter or Order of the Director pursuant to this Chapter shall be a civil violation subject to a civil monetary penalty not to exceed \$5,000.00. Each day of continued violation shall constitute a separate violation for purposes of this penalty. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty. A civil penalty shall be due and payable immediately upon assessment by the Court.

14.04.180 Enforcement Procedure

All civil penalties for violations of this Chapter shall be imposed by the Camas Municipal Court. The Director or his designee or the City Attorney shall initiate the process for imposition of a civil penalty by issuing a citation setting forth the nature of the violation and directing the individual to appear before the Court at a time certain to respond to the citation. All contested proceedings before the Municipal Court shall be heard by the judge without a jury, and the burden of proof shall be by a preponderance of the evidence.

14.04.190 Remediation and Mitigation

14.04.190(A)

Where appropriate, the Director shall have the authority to issue an Order of Remediation requiring a person violating this Chapter to undertake specified actions to remediate and mitigate damage caused by violation of this Chapter. The cost of remediation and mitigation shall be born by the person violating this Chapter, and shall be in addition to any monetary penalties assessed pursuant to this Chapter.

14.04.190(B)

In the event any person fails to comply with a remediation Order, the City may undertake such remediation and mitigation. The cost of such remediation and mitigation shall be a lien against the property and shall also be the personal obligation of the person committing the violation.

14.04.190(C)

Failure to comply with a remediation Order shall constitute a gross misdemeanor, and shall be punishable by one-year in jail or a fine not to exceed \$5,000.00, or by both such jail term and fine.