

1 **2020 OA-_____**

2
3 **CREATING CHAPTER 50 OF THE DANE COUNTY CODE OF ORDINANCES,**
4 **PROHIBITING DISCHARGE OF POLLUTANTS TO**
5 **THE WATERS OF DANE COUNTY**
6

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

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

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12 **ARTICLE 2.** Chapter 50 is created to read as follows:

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14 **DISCHARGE OF POLLUTANTS TO THE WATERS OF DANE COUNTY**

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17 **50.01 PURPOSE.** The purpose of this Chapter is to provide for the health, safety,
18 and general welfare of the citizens of Dane County and protect surface waters and
19 groundwaters of Dane County by preventing potentially polluting substances from
20 reaching the municipal storm sewer system, lakes, streams, wetlands and
21 groundwater as required by federal and state law. This Chapter establishes
22 methods for controlling the discharge of potentially polluting substances into the
23 municipal storm sewer system in order to comply with the requirements of the
24 Clean Water Act, Chapter 283.33, Wis. Stats., and Wisconsin Pollutant Discharge
25 Elimination System municipal storm water discharge permit program under
26 Chapter NR 216, Wis. Adm. Code.

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28 **50.02 AUTHORITY.** This chapter is enacted pursuant to the authority of s. 33.455,
29 Wis. Stats.

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31 **50.03 ADMINISTRATION.** This ordinance shall be enforced by Public Health
32 Madison and Dane County.

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34 **50.04 APPLICABILITY.** This ordinance shall apply to all surface and ground
35 waters of Dane County. This ordinance does not apply to activities allowed by and
36 in compliance with DCO Chapter 49.

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39 **50.05 DEFINITIONS.** As used in this chapter:

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

42 **(2)** *Illicit discharge* means any discharge of a potentially polluting substance
43 directly or through stormwater that reaches a municipal storm sewer system,
44 drainage way, wetland, waterbody or groundwater, except those authorized by a
45 Wisconsin Pollutant Discharge Elimination System (WPDES) permit or other
46 discharge not requiring a WPDES permit such as landscape irrigation, individual

47 residential car washing, diverted stream flows, uncontaminated groundwater
48 infiltration, uncontaminated pumped groundwater, discharges from potable water
49 sources, foundation drains, air conditioning condensation, irrigation water, flows
50 from riparian habitats and wetlands, and similar discharges. These and other
51 discharge exceptions do not apply if the discharge is identified by Public Health
52 Madison and Dane County as a source of pollution to the waters of Dane County.

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

- 57 a. Owned or operated by a state, city, town, village, county, district,
58 association, or other public body (created by or pursuant to State law)
59 including special districts under state law such as a sewer district, flood
60 control district or drainage district, or similar entity, or an Indian tribe or an
61 authorized Indian tribal organization, or a designated and approved
62 management agency under section 208 of the Clean Water Act that
63 discharges into waters of the United States.
- 64 b. Designed or used for collecting or conveying stormwater.
- 65 c. Which is not a combined sewer conveying both sanitary wastewater
66 and stormwater.
- 67 d. Which is not part of a publicly owned wastewater treatment works
68 that provides secondary or more stringent treatment.

69 **(l) *Person*** means an individual, owner, operator, corporation, partnership,
70 association, limited liability company, municipality, interstate agency, state agency
71 or federal agency.

72 **(5) *Pollution*** means human-made or human-induced alteration of the chemical,
73 physical, biological or radiological integrity of water.

74 **(6) *Potentially polluting substance*** includes any substance which may cause
75 pollution if discharged to waters of Dane County, including but not limited to, fuel
76 oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank
77 wastes, sanitary sewer wastes, storm sewer catch basin wastes, oil or petroleum
78 waste, dredged soil, solid waste, incinerator residue, sewage, garbage or garbage
79 leachate, refuse, munitions, chemical wastes, biological materials, radioactive
80 substance, wrecked or discarded equipment, waste from mobile sources,
81 industrial, municipal and agricultural waste.

82 **(7) *Responsible Person*** means the person or persons who cause a discharge
83 of a potentially polluting substance, an illicit discharge or both. Responsible person
84 includes the person on whose behalf the activity that results in the discharge was
85 conducted, whether through employment of or contracting with the person who
86 caused the discharge.

87 **(8) *Stormwater*** means runoff from precipitation including rain, snow, ice melt or
88 similar water that moves on the land surface via sheet or channelized flow.**50.06**
89 **DISCHARGE OR RELEASE PROHIBITED.** It shall be unlawful for any person to
90 cause or allow an illicit discharge, including permitting the escape of any potential
91 polluting substance into waters of Dane County, or into any municipal storm sewer

92 system, or drainage way leading into any lake, wetland or stream, or to permit the
93 same to be so discharged to the ground surface.

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95 **50.07 CLEAN-UP OF POTENTIALLY POLLUTING SUBSTANCES.**

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

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103 **50.08 DUTY TO NOTIFY.** Any person responsible for the illicit discharge or
104 discharge of potentially polluting substances shall immediately report the
105 discharge to Public Health Madison and Dane County.

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107 **50.09 FINANCIAL LIABILITY.** Any person responsible for the illicit discharge or
108 discharge of potentially polluting substances may be held financially liable for the
109 cost of any cleanup or attempted cleanup deemed necessary by Dane County, or
110 its designated agent, in an effort to minimize the polluting effects of the discharge
111 and restore the environment.

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113 **50.10 STORAGE OF POLLUTING SUBSTANCES.** It shall be unlawful for any
114 person to store any potentially polluting substance in a manner that allows it to
115 escape onto the ground surface, municipal storm sewer system, drainage way,
116 wetland, lake or stream.

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118 **50.11 PENALTIES.**

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

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

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127 **50.12 EFFECTIVE DATE.** The effective date of this ordinance shall be xxx. The
128 provisions of this ordinance shall apply to any discharge discovered or occurring
129 after that date.

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131 **50.13 SEVERABILITY.** The provisions of this ordinance are hereby declared to
132 be severable. If any provision, clause, sentence or paragraph of this ordinance or
133 the application thereof to any person, establishment or circumstances shall be held
134 invalid, such invalidity shall not affect the other provisions or application of this
135 ordinance.

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