ORDINANCE

OSM-002-09

ADOPTION OF CHAPTER 16 OF THE DU PAGE COUNTY CODE - DU PAGE COUNTY ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

WHEREAS, the United States Congress has adopted the Clean Water Act and, thereafter, the Water Quality Act to combat water pollution; and

WHEREAS, the aforesaid Federal legislation authorized the establishment of the National Pollution Discharge Elimination System ("NPDES") permitting program, under which permitting is, generally, administered by the states; and

WHEREAS, the Illinois Environmental Protection Agency ("IEPA") has issued a General National Pollution Discharge Elimination System Permit for Discharges from Small Municipal Separate Storm Sewer Systems ("Phase II") to the County of DuPage and several DuPage County municipalities (the "co-permitees"); and

WHEREAS, NPDES Permits require permittees to develop, adopt and implement an ordinance for the detection, prohibition and elimination of illicit discharges into the storm sewer systems of the permittees; and

WHEREAS, the Illinois General Assembly has authorized the County of DuPage to prevent the pollution of any stream or any body of water within the County by 55 ILCS 5/5-15015; and

WHEREAS, illicit discharges of pollutants into storm sewer systems is a significant source of water pollution to DuPage County streams and waterbodies; and

WHEREAS, the County has adopted the DuPage County Stormwater Management Plan (the "Plan"), pursuant to 55 ILCS 5/5-1062, which plan recognizes that improved water quality is an integral part of the proper management of storm and flood waters; and

WHEREAS, the DuPage County Stormwater Management Division has worked closely with the municipal engineers of the co-permitee municipalities to develop a program to detect, prohibit and eliminate illicit discharges into the storm sewer systems of the County and co-permitees in order to prevent water
pollution, and in particular, to comply with the requirements of their General NPDES Phase II permit; and

WHEREAS, the DuPage County Stormwater Management Division and the municipal engineers of the co-permittee municipalities have developed a program that includes public education, monitoring and tracing of illicit discharges and a proposed ordinance as the enforcement component thereof; and

WHEREAS, the proposed Illicit Discharge Detection and Elimination Ordinance has undergone a thirty (30) day agency, public and community review; and

WHEREAS, the proposed Illicit Discharge Detection and Elimination Ordinance is intended to reduce and, or, prevent the pollution of any stream or any body of water within the County, and to reduce and, or, prevent pollutants from entering the Waters of the Unites States; and

WHEREAS, improving water quality in the County, and reducing or eliminating the public’s exposure to water-borne pollutants is in the best interests of the County and its residents; and

WHEREAS, the Stormwater Management Planning Committee of the DuPage County Board has reviewed and recommends approval of the Illicit Discharge Detection and Elimination Ordinance; and

WHEREAS, the Stormwater Management Planning Committee further recommends that the Illicit Discharge Detection and Elimination Ordinance be incorporated into Appendix F of the Plan as an amendment thereto; and

WHEREAS, the Stormwater Management Planning Committee further recommends that the Illicit Discharge Detection and Elimination Ordinance take effect upon adoption by the County Board.

NOW, THEREFORE, BE IT ORDAINED by the DuPage County Board, that the Illicit Discharge Detection and Elimination Ordinance is hereby adopted as attached; and

BE IT FURTHER ORDAINED by the DuPage County Board pursuant to authority granted to the County of DuPage by the Illinois General Assembly, the DuPage County Illicit Discharge Detection and Elimination Ordinance, Chapter 16 of the DuPage County Code shall become effective immediately upon approval; and
BE IT FURTHER ORDAINED that the County Clerk shall publish this Ordinance in the newspaper of general circulation in the County of DuPage.

Enacted and approved this 26th day of May, 2009 at Wheaton, Illinois.

Robert J. Schillerstrom, Chairman
DuPage County Board

ATTEST: __________________________
Gary A. King, County Clerk

Ayes: 17
Absent: 1
DuPage County
Illicit Discharge Detection and Elimination Ordinance
COUNTRY OF DUPAGE, ILLINOIS

ILlicit DISCHARGE DEtection AND ELIMINATION ORDINANCE

For Inclusion into Appendix F of the
DuPage County Stormwater Management Plan
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ARTICLE 1. AUTHORITY AND PURPOSE.

Sec. 16-1. Statutory Authority.

1. This Ordinance shall be known, and may be cited, as the DuPage County Illicit Discharge Detection and Elimination Ordinance.

2. The DuPage County Stormwater Management Committee (the “Committee”) and the DuPage County Board promulgate this Ordinance pursuant to their authority to adopt ordinances regulating the quality of all stormwater runoff channels, streams, and basins in DuPage County, in accordance with the adopted DuPage County Stormwater Management Plan (the “Plan”). The Plan represents the County’s policy for management of stormwater quantity and quality. The statutory authority for this Ordinance is contained in 55 ILCS 5/4-104, 5/4-1041, 5-1042, 5-1049, 5-1062, 5-1063, 5-1104, 5-12003, and 5-15001 et seg.; and 415 ILCS 5/43, and other applicable authority, all as amended from time to time.

3. As applicable, the municipalities within DuPage County may promulgate and enforce this Ordinance pursuant to 65 ILCS 5/1-2-1, 5/11-12-12, 11-30-2, 11-30-8, and 5/11-31-2 and such other authority as applicable to those communities.

Sec. 16-2. Purposes of this Ordinance.

1. The purpose of this Ordinance is to ensure the health, safety, and general welfare of the citizens of DuPage County, and protect and enhance water quality in a manner pursuant to and consistent with the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) through the regulation of non-stormwater discharges to the storm drainage system. This Ordinance establishes methods for controlling the introduction of discharges other than those occurring as a direct result of precipitation and, or, snow melt into the municipal separate storm sewer system (MS4) and the storm drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II permit process. Other purposes of this Ordinance include:

   a. To regulate the contribution of pollutants to the MS4 and the storm drainage system by non-stormwater discharges; and

   b. To prohibit illicit connections and discharges to the MS4 and the storm drainage system.

2. The purposes of this Ordinance are consistent with the Plan and advance the following objectives of the Plan:

   a. Protect and enhance the quality, quantity, and availability of surface and
groundwater resources.

b. Preserve and enhance existing aquatic and riparian environments and encourage restoration of degraded areas.

c. Promote equitable, acceptable, and legal measures for stormwater management.

3. The purposes of this Ordinance shall be implemented by its provisions.

Sec. 16-3. through 16-10. Reserved.

ARTICLE 2. DEFINITIONS.

Sec. 16-11. Interpretation of Terms and Words.

For the purposes of this Ordinance, the terms and words used herein shall be interpreted as follows:

1. Words used in the present tense include the future tense; and

2. Words used in the singular number include the plural number and words used in the plural number include the singular number; and

3. The words "shall", "will", and "must" are mandatory, not permissive; and

4. The phrase "Director" refers to the individual responsible for the enforcement.

Sec. 16-12. Definitions.

For the purposes of this Ordinance, the following words and terms shall have the meanings set forth except where otherwise specifically indicated. Words and terms not defined shall have the meanings indicated by common dictionary definition.

Building. A structure that is constructed or erected partially or wholly above ground and is enclosed by walls and a roof. The term "building" includes manufactured homes and includes both the above-ground and the below-ground portions of the structure.


Committee. The Stormwater Management Committee of the DuPage County Board,
authorized by 55 ILCS 5/5-1062.

**Community.** Any municipality, or the unincorporated County, within DuPage County acting as a unit of local government.

**County.** The County of DuPage, Illinois.

**Department.** The DuPage County Stormwater Management Division or successor agency.

**Director.** The DuPage County Director of Stormwater Management or successor position or his or her designee.

**Drain.** Piping and appurtenances for conveying a fluid.

**Facility.** Something that is built, installed, or established to serve a particular purpose.

**Hazardous Materials.** Any material which may cause, or significantly contribute to, a substantial hazard to human health, safety, property, or the environment.

**Illicit Connections.** An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the storm drainage system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the community or,

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drainage system that has not been documented in plans, maps, or equivalent records and approved by the community.

**Illicit Discharge.** Any direct or indirect non-storm water discharge to the storm drainage system, except as exempted in Section 16-41.3 of this Ordinance.

**Industrial Activity.** Activities subject to an industrial NPDES stormwater permit, as defined in 40 CFR, Section 122.26 (b)(14).

**Line.** A hollow conduit through which fluids are transported between two or more points.

**Municipal Separate Storm Sewer System (MS4).** A conveyance or system of conveyances (including but not limited to sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm
sewers) owned or operated by a governmental entity and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

**National Pollutant Discharge Elimination System (NPDES) Permit.** A permit issued by Illinois Environmental Protection Agency (IEPA) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-Stormwater Discharge.** Any discharge to the storm drainage system that is not the direct result of precipitation and, or, snow melt in the tributary drainage basin.

**Notice of Intent (NOI).** Illinois Environmental Protection Agency Notice of Intent to participate in coverage under the General Permit to Discharge Storm Water Associated with Industrial Activity.

**Parcel.** Contiguous land under single ownership or control.

**Person.** Any individual, association, partnership, public or private corporation, municipality, political subdivision, government agency, or any other legal entity, including heirs, successors, agents, officers, and assigns of such entity.

**pH Neutral.** pH value between 6.5 and 9.0 Standard Units.

**Plan.** The DuPage County Stormwater Management Plan, adopted by the DuPage County Board in September 1989, as amended from time to time.

**Pollutant.** Anything that 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, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, wastewater, 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.

**Runoff.** The waters derived from precipitation and, or, melting snow within a tributary drainage basin that exceeds the infiltration capacity of that basin.

**Sewage.** Polluted stormwater, wastewater, or other refuse liquids usually conveyed by sewers.

**Sewer.** An artificial conduit to carry off sewage and, or, surface water (as from rainfall), including sanitation, stormwater, and, or, combined sewers.
Sewerage. A system of sewers and appurtenances for the collection, transportation, pumping, and treatment of sewage.

Storm Drainage System. A facility 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. Any surface flow, runoff, and drainage from any form of natural precipitation, and resulting from such precipitation.

Structure. Anything that is erected or constructed. The term “structure” includes, without limitation: buildings, manufactured homes, tanks, dams, sewers, constructed channels, outfalls, parking lots, driveways, roads, sidewalks, and concrete patios.

Wastewater. Water that has been used and is not for reuse unless treated by a wastewater treatment facility.

Waters of the United States. As defined in the CWA, “Waters of the United States” applies only to surface waters, rivers, lakes, estuaries, coastal waters, and wetlands. Not all surface waters are legally “Waters of the United States.” Generally, those waters include the following:

- All interstate waters;
- Intrastate waters used in interstate and, or, foreign commerce;
- Tributaries of the above;
- Territorial seas at the cyclical high tide mark; and
- Wetlands adjacent to all the above.

Sec. 16-13. through 16-20. Reserved.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 16-21. Applicability.

This Ordinance shall apply to all water entering the storm drainage system from any developed or undeveloped lands within the jurisdiction of the Department, unless explicitly exempted by Section 16-41.3 of this Ordinance, including any amendments or revisions thereto.
Sec. 16-22. Interpretation.

1. The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, prosperity, and general welfare and the environment of the residents of the County, and to effectuate the purposes of this Ordinance and enabling legislation.

2. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other applicable statute, law, ordinance, regulation, or rule, the provision that is most restrictive or imposes the higher standards or requirements shall apply.

3. The provisions of this Ordinance shall be interpreted to be cumulative of, and to impose limitations in addition to, all other ordinances, laws, codes, and regulations, in existence or which may be passed governing any subject matter of this chapter. To the greatest extent possible, the provisions of this Ordinance shall be construed to be consistent with, and not in conflict with, the provisions of such other ordinances, laws, codes, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

Sec. 16-23. through 16-30. Reserved.

ARTICLE 4. ADMINISTRATION.

Sec. 16-31. Participating Communities.

Participating communities within DuPage County shall promulgate and enforce this Ordinance in accordance with the following participation levels. Participation levels shall be established through the adoption of inter-governmental agreements.

1. Duties of a Full Participant community include:

   a. Completion of an inter-governmental agreement for full participation in the Illicit Discharge Detection and Elimination Program.

   b. Provide the Department with a current storm sewer atlas. An updated storm sewer atlas shall be provided to the Department annually.

   c. Provide assistance to the Department in acquiring access to the storm drainage system as mutually deemed necessary.

   d. Provide timely prosecution of persons found to be in violation of this Ordinance when necessary per Article 8 of this Ordinance.
e. Provide the Department with documentation of any enforcement action or prosecution from the previous one (1) year for inclusion in the IEPA Annual Facility Inspection Report.

2. Duties of a Partial Participant community include:
   
a. Completion of an inter-governmental agreement for partial participation in the Illicit Discharge Detection and Elimination Program.

b. Provide the Department with a current storm sewer atlas. An updated storm sewer atlas shall be provided to the Department annually.

c. Tracing discharges to their source when the Department determines that an illicit discharge has been located within the jurisdiction of the community.

d. Provide timely prosecution of persons found to be in violation of this Ordinance when necessary per Article 8 of this Ordinance.

e. Provide the Department with documentation of any enforcement action or prosecution from the previous one (1) year for inclusion in the IEPA Annual Facility Inspection Report.

3. Duties of a Non-Participant community include:

   a. Responsible for developing and implementing an Illicit Discharge Detection and Elimination Program to ensure compliance with the IEPA NPDES regulations within municipal limits on its own behalf.

   b. If an inter-governmental agreement is not submitted to the County for partial or full participation, the community will be designated as a non-participant.

Sec. 16-32. Responsibility for Administration.

The Department shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Department may be delegated in writing by the Director to persons or entities acting in the beneficial interest, or in the employ of, the Department as representatives, contractors, designees and, or, assigns.

Sec. 16-33. Duties of Director.

The duties and functions of the Director shall include:
1. Determining policy related to and directing the enforcement of this Ordinance, as applicable;

2. Supervising the execution of this Ordinance; and

3. Notifying the communities, and the IEPA, of any amendments to this Ordinance.

Sec. 16-34. Representative Capacity.

In all cases when any action is taken by the Director, or his or her duly appointed designee, to enforce the provisions of this Ordinance, such action shall be taken in the name of and on behalf of the County, and neither the Director nor his or her designee, in so acting for the County shall be rendered personally liable.

Sec. 16-35. through 16-40. Reserved.

ARTICLE 5. DISCHARGE PROHIBITIONS.

Sec. 16-41. Prohibition of Illicit Discharges.

1. No person shall place, drain, or otherwise discharge, cause, or allow others under their control to place, drain, or otherwise discharge into the storm drainage system or MS4 any pollutants or waters containing any pollutants, other than normal storm water unless specifically exempted in Section 16-41.3 of this Ordinance.

2. The following discharges into the MS4 or the storm drainage system shall be prohibited:

   a. Discharges that are not a direct result of precipitation and, or, snow melt within the drainage area of the MS4.

   b. Discharges from an illicit connection.

3. The following discharges are exempt from discharge prohibitions established herein provided they do not cause an adverse effect on water quality as determined by the Director:

   a. Discharges caused by governmental public works and stormwater management units as part of their standard operations in compliance with all applicable regulations.
b. Discharges required by law or authorized by permit, including any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the USEPA and, or, IEPA.

c. Water line and fire hydrant flushing.

d. Landscape irrigation water.

e. Rising ground waters.

f. Ground water infiltration.

g. Pumped ground water.

h. Discharges from potable water sources.

i. Foundation drains.

j. Air conditioning condensate.

k. Irrigation water (except for wastewater irrigation).

l. Springs.

m. Water from crawl space pumps.

n. Footing drains.

o. Storm sewer cleaning water.

p. Water from any outdoor residential, charitable, or automobile dealership premise car wash.

q. Routine external building washdown which does not use detergents.

r. Flows from riparian habitats and wetlands.

s. Dechlorinated pH neutral swimming pool discharges.

t. Residual street wash water.

u. Discharges or flows from fire fighting activities.

v. Dechlorinated water reservoir discharges.
w. Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed).

x. Discharges associated with dye testing of water line, sanitary sewers, storm sewers, private drains or septic systems; however, this activity shall not take place until the discharger, or tester, has provided notification to the Department at least two (2) full business days prior to the test date, unless an emergency situation does not allow time for such notification.

y. Other discharges approved by the Department as being substantially like any of the discharge types enumerated in Section 16-41.3 of this Ordinance.

Sec. 16-42. Prohibition of Illicit Connections.

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drainage system or MS4 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 storm drainage system or MS4, or allows such a connection to continue.

4. Connections in violation of this Ordinance must be disconnected and redirected, if necessary, to an approved wastewater management system or the sanitary sewer system upon approval of the Department and the appropriate sanitary treatment facility.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system or MS4, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from the Department requiring that such locating be completed. Such notice shall specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, MS4, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the Department.

Sec. 16-43. through 16-49. Reserved.
ARTICLE 6. INDUSTRIAL ACTIVITY DISCHARGES.

Sec. 16-50. Submission of Notice of Intent (NOI) to the Department.

1. Any person operating a facility subject to the IEPA's General Permit to Discharge Storm Water Associated with Industrial Activity shall submit a copy of the Notice of Intent (NOI) to the Department at the same time the operator submits the original Notice of Intent to the IEPA as applicable.

2. The copy of the Notice of Intent may be delivered to the Department either in person or by mailing it to:

   Notice of Intent to Discharge Stormwater
   DuPage County Stormwater Management Division
   421 North County Farm Road
   Wheaton, IL  60187

3. A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Department.

Sec. 16-51. through 16-55. Reserved.

ARTICLE 7. COMPLIANCE MONITORING.

Sec. 16-56. Notification of Spills.

1. Notwithstanding other requirements of law, as soon as any person owning, leasing or exercising control over a property, or responsible for emergency response for a property, has information of any known or suspected spill of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4 or the storm drainage system, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such spill.

   a. In the event of such a spill, said person shall immediately notify local emergency dispatch services and act in accordance with Illinois Emergency Management Agency (IEMA) and IEPA regulations.

   b. Said person shall notify the Department of the spill in person or by phone, facsimile, or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department within three (3) business days of the phone
c. If the spill emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the spill and the actions taken to prevent its recurrence. Such records shall be retained for at least five (5) years.

2. Proper notice, including containment and cleanup as outlined in Section 16-56.1, shall exempt the notifying parties from applicable fines set forth in Section 16-66.

3. Failure to provide notification of a release as provided above is a violation of this Ordinance.

4. Notwithstanding the language of paragraph 2 of this provision, a party causing a spill that contaminates or harms a storm sewer system shall not be relieved of liability for damages resulting from such act.

Sec. 16-57. through 16-60. Reserved.

ARTICLE 8. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

Sec. 16-61. Enforcement: Violations.

1. The Director shall have primary responsibility for the enforcement of the provisions of this Ordinance. The County may enter into agreements with other governmental units for the purpose of implementing this Ordinance.

2. A person violates this Ordinance when that person:

   a. Performs any act expressly prohibited by any provision of this Ordinance; or

   b. Disobeys, neglects, or fails to carry out or comply with any provision of this Ordinance or of any order or notice issued by the Director; or

   c. Allows any condition or act that violates any provision of this Ordinance to continue unabated on property owned, leased, managed, or under the control of such person; or

   d. Directs, orders, permits, or allows a second person to do any act expressly prohibited by any provision of this Ordinance, or to maintain or continue unabated any condition or act that violates any provision of this Ordinance on property owned, leased, managed or under the control of the first person.
Sec. 16-62. Notice to Correct Violations: Director May Take Action.

1. The Director may issue a Notice of Violation ordering a person to take action to achieve compliance with the provisions of this Ordinance and, or, to cease and desist from any action conducted in violation of this Ordinance. Failure to comply with the terms and conditions of a Notice of Violation and, or, order to cease and desist shall constitute a violation of this Ordinance.

   a. The Director shall set forth the form and content of any notices issued under this Ordinance.

   b. The Director may issue a Warning of Violation ordering a person to take action to achieve compliance with the provisions of this Ordinance. If a person fails to comply with the terms and conditions of a warning, the Director may, thereafter, issue a Notice of Violation.

   c. The Director may issue a Warning of Violation and disburse educational materials outlining appropriate measures to minimize the discharge of pollutants.

2. If a person fails to comply with an order issued under this section, the Director may direct the appropriate legal counsel to commence any legal proceeding authorized by this Ordinance, under the law or equity, necessary to enforce any provision of this Ordinance and, or, to protect public health and safety. Any legal action brought under this Ordinance shall be in the name of the County of DuPage.

Sec. 16-63. Emergency Cease and Desist Orders.

1. The Department may obtain an emergency order in the event of the following:

   a. Any person has violated, or continues to violate, any provision of this Ordinance or any order issued hereunder, or that the person’s past violations are likely to recur; and

   b. That the person’s violation has caused or contributed to an actual or threatened discharge to the MS4 or storm drainage system and an imminent threat of violation is present.

2. The Department may issue the emergency order to the violator directing that the violator:

   a. Immediately cease and desist all such violations;

   b. Immediately comply with all Ordinance requirements; and
c. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and, or, terminating the discharge.

3. Any person notified of an emergency order under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger’s failure to immediately comply voluntarily with the emergency order, the Department may take such steps as deemed necessary to prevent or minimize harm to the MS4, storm drainage system, or Waters of the United States, and, or, endangerment to persons or to the environment, including immediate termination of a facility’s water supply, sewer connection, or other municipal utility services. The Department may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Department that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Department within fifteen (15) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Sec. 16-64. Violations Deemed a Public Nuisance.

Any condition caused or permitted to exist in violation of any provision of this Ordinance shall constitute a threat to public health and safety and is declared and deemed a public nuisance.

Sec. 16-65. Nuisance Abatement.

Whenever a nuisance shall be found to exist on any premise, the Director may order such nuisance to be abated upon determination that the nuisance constitutes a threat to public health or safety.

1. In the event of an emergency situation, as determined by the Director, involving an immediate threat to public health and safety, the Director may direct legal counsel to immediately commence any legal or equitable proceeding necessary to restrain, abate, and, or, remedy said situation. The Director may take such action without having to first issue a Notice of Violation to the person(s) having control of, or acting as agent for, such premise where the nuisance is located, or, waiting for such person(s) to abate or remove such nuisance as previously ordered by the Director.

2. In all other cases, the Director may notify, in writing, the person(s) having control of, or acting as agent for, such premise where the nuisance is located and directing such person(s) to abate or remove such nuisance within such time as is stated on the notice.
Upon the failure or refusal of such person(s) to comply with the notice, the Director may direct that appropriate proceeding commence to compel the abatement, or removal, of such a nuisance in any manner allowed by law, equity, or this Ordinance and, or, authorizing the Department to act to abate, or remove, such nuisance. The person(s) having control of such premises, in addition to the other remedies provided by this Ordinance, shall be liable to the Department for any costs incurred by the Department to effect such abatement, or removal, including reasonable attorney’s fees and other costs of enforcement, to be recovered by a court of competent jurisdiction.

Sec. 16-66. Fines.

Any person violating any provision of this Ordinance shall be guilty of a petty offense. Such violation shall be punishable by a fine of not more than one thousand dollars ($1,000.00) each day, or any portion of a day, during which such violation is committed, continued, or permitted shall constitute a separate offense and shall be punishable as such.

Sec. 16-67. Remedies Not Exclusive.

The remedies listed in this Ordinance are not exclusive of any other remedy available under this Ordinance or under any applicable Federal, State, or local law and do not supersede or limit, any and all other penalties provided by law. The Director may seek, at his discretion, cumulative remedies.

Sec. 16-68. through 16-75. Reserved.

ARTICLE 9. SUSPENSION OF MS4 ACCESS.

Sec. 16-76. Suspension of MS4 Access Due to Detection of Illicit Discharges.

1. Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Department shall notify a violator of the proposed termination of its MS4 access. The violator may petition the Department for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Department.

2. In emergency situations, the Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, storm
drainage system, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Department may take such steps as deemed necessary to prevent or minimize damage to the MS4, storm drainage system, or Waters of the United States, or to minimize danger to public health and safety. The Department shall obtain an emergency court order authorizing such termination.

Sec. 16-77. through 16-85. Reserved.

ARTICLE 10. APPEALS.

Sec. 16-86. Right to Appeal.

1. Every request for an appeal shall be made, in writing, to the Director. The Director may delegate the hearing of appeals to the Stormwater Committee of the DuPage County Board in the manner provided for below.

2. Any person aggrieved by any decision, ruling, or determination by the Director, or by any interpretation or application of any provision of this Ordinance may appeal such matter. An appeal of any decision made by the Director shall be made within seven (7) days of the decision contested, excepting an appeal involving the assessment charge or calculation of any fine or penalty in which cases which an appeal shall be brought before said amount becomes thirty (30) days past due.

   a. The appeal procedure shall commence when the person aggrieved notifies the Director, in writing, of the intent to appeal the decision of the Director. Such notice shall contain a short, clear, statement stating the following:

      i. Identifying the decision of the Director which such person is appealing and how this Ordinance has been misread, misinterpreted, or misapplied in this instance and, or, any mistakes of fact the aggrieved believes the Director to have relied upon.

      ii. The name and both a mailing address and a telephone number of the person making the request, which contact information shall be used for giving notices related to the appeal. The person making the request shall attach all written materials on which he or she intends to rely upon in support of the request.

   b. The Director may, without conducting a hearing, grant relief sought by the appeal, or may set the matter over for a hearing in the manner provided in Section 16-86.2.c.

   c. Upon receipt of such Notice of Appeal, if relief is not granted by the Director
in accordance with Section 16-86.2.b of this Ordinance, the Director shall set a date for a hearing. Such hearing shall take place no fewer than fourteen (14) days nor more than thirty (30) days from the date that the Director receives such Notice of Appeal unless the Director and party requesting the hearing agree to a different schedule. The Director shall notify the person making the appeal of the date of such hearing.

d. At the hearing the person making the appeal may appear in person or represented by counsel, or submit his case in writing. The decision concerning the appeal shall be in writing, shall be communicated to the person making the appeal, and shall state a finding upon which the decision is based.

3. The Stormwater Committee shall have the authority to reverse, modify, or affirm any decision, ruling, or determination by the Director made pursuant to this Ordinance upon appeal. The Stormwater Committee shall not act in a manner that would violate or in any way conflict with any Federal or State standard or requirement. The Committee or County Board may adopt such additional rules and procedures, as it deems appropriate for performing such matters.

4. The decision of the Committee may be appealed to the County Board in accord with the County Board Rules.

Sec. 16-87. Enforcement Measures after Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within seven (7) days of the decision of the Director or Committee upholding the decision of the Department, then representatives of the Department are authorized to take any and all measures necessary to abate the violation and, or, restore the property. In no case shall an appeal stay or bar the County from commencing a legal action seeking emergency relief.

Sec. 16-88. through 16-95. Reserved.

ARTICLE 11. MISCELLANEOUS PROVISIONS.

Sec. 16-96. 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.
Sec. 16-97. Most Restrictive Provisions Apply.

1. The provisions of this Ordinance shall be interpreted to be cumulative of, and to impose limitations in addition to, all other ordinances, laws, codes, and regulations in existence or which may be passed governing any subject matter of this Ordinance. To the greatest extent possible, the provisions of this Ordinance shall be construed to be consistent with, and not in conflict with, the provisions of such other ordinances, laws, codes, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

2. This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Sec. 16-98. Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Sec. 16-99. Amendments.

This Ordinance may be amended in accordance with the adopted rules of the DuPage County Board.

Sec. 16-100. Effective Date.

This Ordinance shall take effect for all purposes, and its effective date shall be, May 26, 2009.

Sec. 16-101. through 16-110. Reserved.