

**TOWN OF CEDARBURG  
ORDINANCE NO. 2023-9**

**An Ordinance to Repeal and Replace Chapter 108-13.1 Illicit Discharges and Connections, of the  
Town of Cedarburg Code of Ordinances, Ozaukee County, Wisconsin.**

- WHEREAS,** The Town of Cedarburg is a body corporate and politic; and
- WHEREAS,** the Town Board exercises village powers by Ch. 61, Wis. Stats.; and
- WHEREAS,** the Town of Cedarburg adopted Chapter 108-13.1 Illicit discharges and connections through approval of Ordinance 2008-18 on October 1, 2008; and
- WHEREAS,** the Town of Cedarburg Director of Public Works or designee administers and enforces the provisions of this Chapter; and
- WHEREAS,** Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code.
- WHEREAS,** the Town Board recognizes updates to Chapter 108-13.1 Illicit discharges and connection, is required as a part of the MS4 permit the Town of Cedarburg has received from the Wisconsin Department of Natural Resources;

**NOW, THEREFORE, BE IT ORDAINED** by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, that Chapter 108-13.1 Illicit discharges to the waters of the Town of Cedarburg of the Town of Cedarburg Code of Ordinances is hereby repealed and replaced to read as follows:

Note: This Chapter 110 Construction Site Erosion Control and Sediment Control ordinance repeals and replaces all previous versions of Section 108-13.1 of the Town of Cedarburg Code of Ordinances.

**§ 108-13.1 Illicit discharges to the waters of the Town of Cedarburg.**

- A. Purpose. The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of and protect surface waters of the Town of Cedarburg (Town) 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.
- B. Authority. This chapter is enacted pursuant to the authority of s. 33.455, Wis. Stats.
- C. Administration. This ordinance shall be enforced by the Director of Public Works or designee. The Director of Public Works or designee shall have the power and authority to enter upon any public or private premises to inspect potential illicit discharges.
- D. Applicability. This ordinance shall apply to all surface and ground waters of the Town of Cedarburg.
- E. Definitions. As used in this chapter:

**DISCHARGE**

Any actions or omissions that cause or allow for the spill, release, escape or other discharge, of any potentially polluting substance.

**ILLICIT DISCHARGE**

An illegal discharge including, but not limited to, any discharge of sump pumps, yard drains, roof drains, or 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, diverted stream flows, air conditioning condensation, irrigation water, flows from riparian habitats and wetlands, and similar discharges. These and other discharge exceptions do not apply if the discharge is identified by the Director of Public Works or designee as a source of pollution to the waters of the Town of Cedarburg.

#### **MUNICIPAL STORM SEWER SYSTEM**

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, village, county, 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 drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States.
- B. Designed or used for collecting or conveying stormwater.
- C. Which is not a combined sewer conveying both sanitary wastewater and stormwater.
- D. Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

#### **PERSON**

An individual, owner, operator, corporation, partnership, association, limited liability company, municipality, interstate agency, state agency or federal agency.

#### **POLLUTION**

Human-made or human-induced alteration of the chemical, physical, biological, or radiological integrity of water.

#### **POTENTIALLY POLLUTING SUBSTANCE**

Any substance which may cause pollution if discharged to waters of the Town of Cedarburg, including but not limited to, fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sanitary sewer wastes, storm sewer catch basin wastes, oil or petroleum waste, dredged soil, solid waste, incinerator residue, sewage, garbage or garbage leachate, refuse, munitions, chemical wastes, biological materials, radioactive substance, wrecked or discarded equipment, waste from mobile sources, industrial, municipal and agricultural waste.

#### **RESPONSIBLE PERSON**

The person or persons who cause a discharge of a potentially polluting substance, an illicit discharge or both. Responsible person includes the person on whose behalf the activity that results in the discharge was conducted, whether through employment of or contracting with the person who caused the discharge.

#### **STORMWATER**

Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

F. Discharge or release prohibited. It shall be unlawful for any person to cause or allow an illicit discharge, including permitting the escape of any potential polluting substance into waters of the Town of Cedarburg, or into any municipal storm sewer system, or drainage way leading into any lake, wetland, or stream, or to permit the same to be so discharged to the ground surface. Unless otherwise approved by the Town Board, no person shall discharge roof drains, yard drains, or sump pumps directly onto streets, sidewalks, or other areas within Town right-of-way that drain into the municipal storm sewer system, including ditches. Roof drains, yard drains, and sump pumps shall discharge onto pervious areas at grade on private property prior to entering the municipal storm sewer system.

G. Identify non-stormwater discharge and flows. The Director of Public Works or designee will identify non-

storm water discharges or flows that are not considered illicit discharges. Categories of non-storm water discharges that are not considered illicit discharges include water line flushing, landscape irrigation, diverted stream flows, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, fire-fighting, and discharges authorized under a WPDES permit. However, the occurrence of a discharge listed above may be considered an illicit discharge on a case-by-case basis if the permittee or the Department of Natural Resources identifies it as a significant source of a pollutant to waters of the state.

H. Clean-up of potentially polluting substances. Responsible persons, including the person who causes a discharge of a potentially polluting substance through any means including but not limited to delivering, hauling, disposing, storing, discharging, or otherwise handling or maintaining potentially polluting substances shall be responsible for the immediate cleanup of any such spilled material to prevent it becoming an illicit discharge and causing pollution to the waters of the Town of Cedarburg.

I. Duty to Notify. Any person responsible for the illicit discharge or discharge of potentially polluting substances shall immediately report the discharge to the Director of Public Works or designee. The Town shall notify any person responsible for the illicit discharge or discharge of potentially pollutant substances if the responsible person has not done so already. This notice shall describe the illicit and/or potentially illicit discharge and inform the responsible person of actions needed and a schedule for corrective action.

J. 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 the Director of Public Works or designee in an effort to minimize the polluting effects of the discharge and restore the environment.

K. Storage of polluting substances. It shall be unlawful for any person to store any potentially polluting substance in a manner that allows it to escape onto the ground surface, municipal storm sewer system, drainage way, wetland, lake, or stream.

L. Enforcement and penalties.

(1) The Director of Public Works or designee shall notify the responsible party by certified mail of any non-complying discharges. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

(2) Upon receipt of written notification from the Director of Public Works or designee under sub. (1), the responsible party shall correct the illicit discharge. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Director of Public Works or designee in the notice.

(3) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Director of Public Works or designee may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Director of Public Works or designee plus interest and legal costs shall be billed to the responsible party.

(4) The Director of Public Works or designee is authorized to refer any violation of this ordinance to the Town Attorney for the commencement of further legal proceedings in any court with jurisdiction.

(5) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(6) When the Director of Public Works or designee determines that the responsible person has failed to follow practices set forth in the illicit discharge ordinance, or has failed to comply with schedules, the Director of Public Works or a party designated by the Director of Public Works may enter upon the land and perform the work or other operations necessary to bring the condition of said outfalls into conformance with requirements of the illicit discharge ordinance. The Director of Public Works or designee shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(7) Any person, firm, association, or corporation that 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 \$500 and the

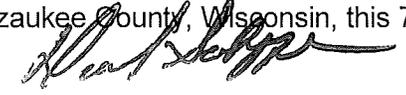
costs of prosecution. Each day that a violation exists shall constitute a separate offense.

M. Effective date. The effective date of this ordinance shall be June 7, 2023. The provisions of this ordinance shall apply to any discharge discovered or occurring after that date.

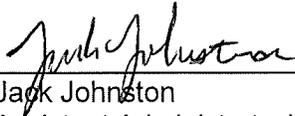
N. Severability. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

**PASSED AND ADOPTED** by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 7<sup>th</sup> day of June, 2023.



David M. Salvaggio  
Town Chairman



Jack Johnston  
Assistant Administrator/Clerk