

ORDINANCE NO. 153

AN ORDINANCE PROHIBITING ILLICIT DISCHARGE AND CONNECTION TO STORM WATER SEWER SYSTEM AND PROVIDING PENALTIES

SECTION 1. PURPOSE/INTENT.

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of University Heights, Iowa, through the regulation of non-storm water discharges to the storm drainage system. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (hereafter “MS4”) in order to comply with requirements of the National Pollutant Discharge Elimination System (hereafter “NPDES”) permit process.

SECTION 2. DEFINITIONS.

For the purposes of this Ordinance, these words and phrases are defined as follows:

The City of University Heights. Employees or designees of the City of University Heights designated to enforce this Ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits.

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.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this Ordinance.

Illicit Connections.

Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, processed wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by the City of University Heights; and/or

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records of the City of University Heights.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by EPA or by the State of Iowa 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-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

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

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, ordinances, 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.

Storm Drainage System. Publicly-owned facilities by which storm water 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.

Storm water. Any surface flow, runoff, and drainage consisting entirely of water

from any form of natural precipitation, and resulting from such precipitation.

Storm water Pollution Prevention Plan. A document that describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to the Storm Drainage System.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION 3. APPLICABILITY.

This Ordinance applies to all water entering the storm drain system generated on any developed and undeveloped lands unless specifically exempted.

SECTION 4. ADMINISTRATION.

The City of University Heights is authorized to administer, implement, and enforce the provisions of this Ordinance. The City of University Heights may delegate its authority to administer, implement, and enforce to persons or entities.

SECTION 5. 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.

SECTION 6. MINIMUM STANDARDS.

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; 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.

SECTION 7. DISCHARGE PROHIBITIONS.

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the Storm Drainage System or watercourses any materials, including but not limited to pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing or other potable water sources; landscape irrigation and/or lawn watering; diverted stream flows; rising ground water; ground water infiltration to storm drains; pumped ground water; foundation or footing drains (not including active groundwater dewatering systems); water from crawl space pumps; air conditioning condensation; irrigation water; springs; non-commercial washing of vehicles; natural riparian habitat or wet-land flows; dechlorinated swimming pool discharges; fire fighting activities; and any other

water source not containing Pollutants.

- (2) Discharges specified in writing by the City of University Heights as being necessary to protect public health and safety.
- (3) Dye testing, so long as verbal notification is provided to the City of University Heights before the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, 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.

Prohibition of Illicit Connections.

- (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 shall be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (4) Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of University Heights.
- (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, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of University Heights requiring that such locating be completed. Such notice will 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, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the City of University Heights.

SECTION 8. SUSPENSION OF MS4 ACCESS.

Suspension due to Illicit Discharges in Emergency Situations.

The City of University Heights may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the City of University Heights may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge.

Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated. The City of University Heights will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of University Heights for a reconsideration and hearing. No person shall reinstate access to premises terminated without the prior approval of the City of University Heights.

SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with any such permit may be required in a form acceptable to the City of University Heights prior to the allowing of discharges to the MS4.

SECTION 10. MONITORING OF DISCHARGES.

- (1) The City of University Heights shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of University Heights.
- (2) Facility operators shall allow the City of University Heights ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by law.
- (3) The City of University Heights shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of University Heights to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) The City of University Heights has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure

storm water flow and quality shall be calibrated to ensure their accuracy.

- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of University Heights and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the City of University Heights access to a permitted facility is a violation of a storm water discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person shall deny reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.
- (7) If the City of University Heights has been refused access to any part of the premises from which storm water is discharged and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of University Heights may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City of University Heights may adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water or the storm drainage system. The owner or operator of a commercial or industrial establishment shall provide, at the owner's expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 12. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute or contaminate the flow of water through the watercourse.

SECTION 13. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water or the storm drain system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of University Heights in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of University Heights within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 14. ENFORCEMENT.

Whenever the City of University Heights finds that a person has violated this Ordinance, the City of University Heights may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation, the following:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fee to cover administrative and remediation costs; and/or
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

SECTION 15. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination to the University Heights City Council. The notice of appeal must be received within 10 (ten) days from the date of the Notice of Violation. Hearing on the appeal shall occur within 30 (thirty) days from the date of receipt of the notice of appeal, or at the next regularly scheduled council meeting, whichever is later.

SECTION 16. 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 10 (ten) days of the decision of the University Heights City Council upholding the decision of the City of University Heights, then representatives of the City of University Heights shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. No person shall refuse to allow the City of University Heights or its designee to enter upon the premises for the purposes set forth above.

SECTION 17. COST OF ABATEMENT OF THE VIOLATION.

Within 10 (ten) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 (ten) days. In the absence of such protest, the property owner shall pay the costs immediately. If such protest is filed, the City of University Heights shall consider it at the next regularly scheduled meeting of the University Heights City Council.

SECTION 18. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this Ordinance, the City of University Heights may seek a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

SECTION 19. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 20. CRIMINAL PROSECUTION.

Any person who violates this Ordinance commits a simple misdemeanor and may be cited, prosecuted, and punished as provided by Iowa law.

SECTION 21. REMEDIES NOT EXCLUSIVE.

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of University Heights to seek cumulative remedies.

This Ordinance shall become effective upon its passage and publication as provided by law.

Adopted by the University Heights City Council on this ____ day of _____, 2006, and approved this ____ day of _____, 2006.

Louise From, Mayor

ATTEST:
(SEAL)

Jerry Musser, City Clerk

STATE OF IOWA)
) SS:
COUNTY OF JOHNSON)

On the ____ day of _____, 2006, before me, a notary public in and for the state of Iowa, personally appeared Louise From, Mayor, and Jerry Musser, Clerk of the city of University Heights, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of University Heights, Iowa; that the seal affixed to this instrument is the corporate seal of the City; and that the instrument was acknowledged and sealed on behalf of the City, and that Louise From and Jerry Musser acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City, by it and by them voluntarily executed.

Notary Public in and for the
State of Iowa

STATE OF IOWA)
) SS:
COUNTY OF JOHNSON)

I, Jerry Musser, being first duly sworn, certify that the above Ordinance was published in the Iowa City Press-Citizen the ____ day of _____, 2006.

Jerry Musser

Signed and sworn to before me on the ____ day of _____, 2006, by Jerry Musser, Clerk of the City of University Heights.

Notary Public in and for the
State of Iowa

UH.illicit.discharge.ordinance