

**AN ORDINANCE** Prohibiting Illicit Discharges Into and Illicit Connections to the Municipal Separate Storm Sewer System and Prescribing a Penalty for the Violation Thereof

**WHEREAS**, the city council desires to prohibit illicit discharges into and illicit connections to the municipal separate storm sewer system of the City of Bristol.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRISTOL TENNESSEE AS FOLLOWS:

**SECTION I. Purposes:** The purposes of this ordinance are as follows:

- a. To protect, maintain, and enhance the environment of the City of Bristol and the public health, safety and general welfare of the citizens of the city, by controlling discharges of pollutants to the city's storm water system;
- b. To maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including streams, rivers, lakes, ponds, wetlands, and groundwater of the city; and

**SECTION II. Definitions:** As used in this ordinance:

- a. ***Best management practices (BMP)*** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal separate storm sewer system. This term also includes treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.
- b. ***City*** means the City of Bristol Tennessee.
- c. ***City manager*** means the city manager of the city or his designee, who is responsible for the implementation of this ordinance.
- d. ***Contaminant*** means any physical, chemical, biological, or radiological substance or matter in water.
- e. ***Discharge*** means to dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, including any direct or indirect entry, of any non-storm water solid or liquid matter into the municipal separate storm sewer system.
- f. ***Illicit connection*** means any unauthorized or illegal connection to the municipal separate storm water system whether or not such connection results in a discharge into that system.
- g. ***Municipal separate storm sewer system (MS4)*** means a conveyance or system of conveyances, including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, which are:

1. Owned or operated by a state, county, city, town, district, association, or other public body created by or pursuant to state law having jurisdiction over the disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the federal Clean Water Act that discharges to waters of the state;

2. Designed or used for collecting or conveying storm water;

3. Which is not a combined sewer; and

4. Which is not part of a publicly owned treatment works (POTW) as defined by 40 C.F.R. §122.2, as amended from time to time.

h. *National pollutant discharge elimination system (NPDES) permit* means a permit issued pursuant to 33 U.S.C. § 1342, as amended from time to time.

i. *Pollutant* means sewage, industrial waste, or other waste or materials, whether liquid or solid.

j. *Storm water or storm water runoff* means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

k. *Surface water* means waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, rivers, other water courses, lakes and reservoirs.

l. *TDEC* means the Department of Conservation and Environment of the State of Tennessee.

m. *Waters or waters of the state* means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

### **SECTION III. Illicit Discharges:**

#### **3.1. Prohibition of Illicit Discharges**

a. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited.

b. Notwithstanding the foregoing, uncontaminated discharges from the following sources are permitted:

1. landscape irrigation or lawn watering with potable water;
2. diverted stream flows permitted by the State of Tennessee;
3. rising ground water;

4. groundwater infiltration, as defined by 40 C.F.R. § 35.2005(20), as amended from time to time, to separate storm sewers;
5. pumped groundwater;
6. foundation or footing drains;
7. water discharged from crawl space pumps;
8. air conditioning condensate;
9. springs;
10. individual, residential washing of vehicles;
11. flows from natural riparian habitat or wetlands;
12. swimming pools, if dechlorinated to less than one part per million chlorine;
13. discharges from governmental operations;
14. discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;
15. discharges necessary to protect public health and safety, as specified in writing by the city; and
16. dye testing authorized by the city.

**3.2. Prohibition of Illicit Connections**

- a. The construction, use, maintenance, or continued existence of illicit connections to the city's separate municipal storm sewer system is prohibited.
- b. Illicit connections to the city's separate municipal storm sewer system made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection, are prohibited.

**SECTION IV. Elimination of Discharges and Connections:**

- a. Any owner or person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the best management practices necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.
- b. Any person responsible for a property or premises where an illicit connection is located may be required, at the person's expense, to eliminate the connection to the municipal separate storm sewer system.

**SECTION V. Notification of Spills:**

- a. Notwithstanding other requirement 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 in, or may result in, illicit discharges or pollutants discharging into storm water or the municipal separate storm water system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- b. In the event of a release of hazardous materials, the person shall immediately notify the appropriate emergency response agency or agencies of the occurrence. The person shall notify the city manager in person or by telephone or facsimile no later than the next business day.

c. In the event of a release of non-hazardous materials, the person shall notify the city manager in person or by telephone or facsimile no later than the next business day.

d. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city manager within three (3) business days of the telephone notice.

e. 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 five (5) years.

## **SECTION VI. Compliance:**

### **6.1. Notices**

a. The city manager shall have the authority to issue notices of violation and citations.

b. The city manager may require reports or records from the permittee or person responsible for eliminating the illicit discharge or illicit connection to insure compliance.

### **6.2. Inspections by City**

a. The city manager shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

b. The owner or person in control of any premises, facility, operation or residence where an illicit discharge or illicit connection is known or suspected shall allow the city manager to have access to and copy at reasonable times, any applicable state or federal permits related to the suspected or known discharge or connection, and any reports or records maintained in accordance with this ordinance.

c. The failure of an owner or person in control of any premises to allow such inspection by the city manager shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and civil penalties.

### **6.3. Enforcement, Penalties and Liability**

a. Any person who fails to comply with the ordinance shall be in violation of this ordinance. Each day such violation shall continue shall constitute a separate violation.

b. Any person who violates this ordinance shall be subject to the issuance of a stop work order, the withholding of a certification of occupancy, and civil damages. Each day such violation shall continue shall constitute a separate violation.

c. Any failure of a person to comply with a stop work order issued by the city shall be in violation of this ordinance. Each day such violation shall continue shall constitute a separate violation.

d. In order to obtain compliance with this ordinance, the city manager may notify other departments or the city to deny service to the property until the site has been brought into compliance.

e. Upon the request of the city manager, the city attorney shall initiate appropriate legal action to enforce the provisions of this ordinance.

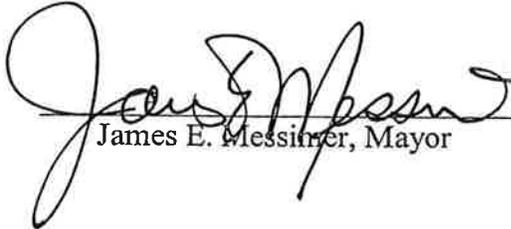
f. The remedies provided for in this ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

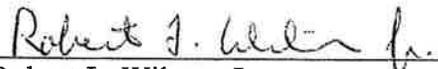
g. Neither the approval of a discharge under this ordinance, nor compliance with the conditions of such approval, shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

**SECTION VII:** The violation of any provision of this ordinance shall be subject to penalty as provided in Section 1-8 of the Code of Ordinances of the city.

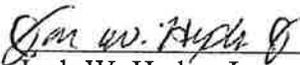
**SECTION VIII:** A public hearing on this ordinance will be held by the city council prior to its consideration on second reading.

**SECTION IX:** This ordinance shall take effect seventeen (17) days from and after its final passage, the welfare of the city requiring it.

  
James E. Messinger, Mayor

  
Robert L. Wilson, Jr.  
City Recorder

Approved as to Form and Legality  
this 1st day of December, 2004

  
Jack W. Hyder, Jr.  
City Attorney

Passed on 1st Reading: 12-7-04  
Public Hearing: 1-4-05  
Passed on 2nd Reading: 1-4-05