

**Sec. 38-254. Requirements.**

(a) The owners of stormwater management facilities, BMPs, buffer zones and water quality volume credit areas shall at all times inspect, properly operate and maintain all facilities and systems of stormwater treatment and control (and related appurtenances), and all buffer zones and water quality volume credit areas in such a manner as to maintain the full function of the facilities or BMP's which are installed or used by the owners to achieve compliance with this article.

(b) Inspection and maintenance of privately owned stormwater management facilities, BMP's, buffer zones and water quality volume credit areas shall be performed at the sole cost and expense of the owners of such facilities/areas.

(c) Inspection and maintenance shall be performed in accordance with specific requirements and guidance provided in the manual. Inspection and maintenance activities shall be documented by the owner or their designee, and such documentation shall be maintained by the owner for a minimum of three years, and shall be made available for review by the director upon request.

(d) The director has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(f) The removal of sediment and/or other debris from stormwater management facilities and BMP's shall be performed in accordance with all city, state, and federal laws. Guidelines for sediment removal and disposal are referenced in the manual. The director may stipulate additional guidelines if deemed necessary for public safety.

(g) The director may order corrective actions as are necessary to properly maintain and operate erosion prevention and sediment control measures, BMP's stormwater management facilities, buffer zones and/or water quality volume credit areas within the city for the purposes of stormwater pollution prevention, water quality treatment, channel erosion protection, adherence to local performance standards and/or public safety. If the owner fails to perform corrective actions, the director shall have the authority to order the city or others to take corrective actions. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the owner shall reimburse the city for all of its direct and related expenses. If the owner fails to reimburse the city, the city is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.

(h) This article does not authorize access to adjoining private property by the owner or site operator. Arrangements concerning removal of sediment or pollutants on adjoining property must be settled by the owner or operator with the adjoining land owner.

**Secs. 38-255 - 38-280. Reserved.**

**DIVISION 8. PERMIT CONTROLS AND SYSTEM INTEGRITY**

**Sec. 38-281. General requirements.**

(a) Any alteration, improvement, or disturbance to stormwater management facilities, buffer zones or water quality volume credit areas shown in as-built drawings shall be prohibited without written authorization from the director. This does not include alterations that must be made in order to maintain the intended performance of the stormwater management facilities or BMPs.

(b) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a stormwater management plan to the city.

**Secs. 38-282 - 38-304. Reserved.**

**DIVISION 9. NONSTORMWATER DISCHARGES**

**Sec. 38-305. General requirements.**

(a) Except as set out in subsection (b) of this section, no owner shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system, whether intentional or not, is prohibited.

(b) For purposes of this article, the following are not illicit discharges unless identified as significant contributors of pollutants to the municipal separate storm sewer system:

- (1) Landscape irrigation or lawn watering with potable water;
- (2) Diverted stream flows permitted by the state;
- (3) Rising groundwater;
- (4) Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
- (5) Uncontaminated 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, less than one part per million chlorine);
- (13) Street cleaning and deicing;
- (14) Discharges from firefighting activities;
- (15) Pursuant to a valid and effective NPDES permit issued by the state;
- (16) Discharges necessary to protect public health and safety, as specified in writing by the city;
- (17) Dye testing permitted by the city;
- (18) Water line flushing or other potable water sources;
- (19) Natural riparian habitat or wetland flows; and
- (20) Discharges authorized by the Construction General Permit (CGP).

**Sec. 38-306. Prohibition of illicit connections.**

The construction, use, maintenance, and continued existence of illicit connections to the municipal separate storm sewer system are prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, even if the connection was permissible under law or practices applicable or prevailing at the time.

**Sec. 38-307. Elimination of discharges or connections.**

- (a) Any owner of a property, which is, or may be, the source of an illicit discharge, may be required to implement, at such owner's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.
- (b) Any owner of a property or premises where an illicit connection is located shall be required, at such owner's expense, to eliminate the connection to the municipal separate storm sewer system.
- (c) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this article.
- (d) No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city.

**Sec. 38-308. Notification of spills.**

- (a) Notwithstanding other requirement of law, when any owner or tenant, or agent thereof or 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 a pollutant which results in, or may result in, a discharge into stormwater and/or the municipal separate stormwater system, such person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- (b) When any owner or tenant, or agent thereof or 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 hazardous substance such person shall immediately notify emergency response agencies of the occurrence by emergency dispatch services, and shall notify the director no later than the next business day of the release of hazardous materials.
- (c) When any owner or tenant, or agent thereof or 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 nonhazardous substance such person shall notify the director 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 director within three business days of the telephone notice.
- (e) If the discharge of a pollutant 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.
- (f) Documented illicit discharges shall be responded to no more than seven days from detection, and eliminated as soon as possible.

**Sec. 38-309. Actions in violation of the city's NPDES permit.**

Notwithstanding any other provision in this article, no person or entity shall allow any discharge into

the municipal separate storm sewer system that would be a violation of the city's NPDES general permit for discharges from small municipal separate storm sewer system or would cause the city to be in violation of its permit.

**Secs. 38-310 - 38-330. Reserved.**

**DIVISION 10. ENFORCEMENT**

**Sec. 38-331. Remedies nonexclusive.**

The remedies provided for in this article are not exclusive and the director may take any, all or any combination of these actions against a noncompliant owner. The director is empowered to take more than one enforcement action against any noncompliant owner that is in violation.

**Sec. 38-332. Adoption of enforcement response plan.**

An enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority.

**Sec. 38-333. Show cause hearing.**

An owner that has been issued an assessment of damages or civil penalty or order under this article may within ten days from such action submit a written request to appear before the director and show cause why the proposed enforcement action should not be taken. Upon receipt by the director of a timely request for a show cause hearing the director shall within a reasonable time notify the owner of the time and place for the hearing. In the written request for a show cause hearing the owner is responsible for providing the director an address, email address, fax number, or such for the receipt of the notice of the show cause hearing. A show cause hearing shall not be a bar against or prerequisite for the director taking any other action against the owner, but, except as otherwise provided by section 38-346, an offer of a show cause hearing by the director shall be made before taking further action on the administrative order or assessment of damages or civil penalties.

**Sec. 38-334. Appeals process.**

(a) Except in emergency suspensions pursuant to section 38-346, any owner against whom an assessment for damages or civil penalty or order has been made for a violation of this article, or a permit denied, revoked, suspended by the director, shall have 30 days after having been notified of the assessment or order, or after a permit has been denied, revoked or suspended, to appeal the action to the stormwater appeals board by filing with the city recorder a written petition for appeal setting forth the grounds and reasons for the appeal, and the owner shall serve a copy of the petition for appeal on the director. The failure to serve the city recorder within 30 days with the written petition for appeal is jurisdictional, and if an appeal is not taken within the 30 days the matter shall be final.

(b) Upon receipt of a written petition for appeal the city recorder shall give the owner 30 days written notice of the time and place of the hearing. The director and the owner may agree to a continuance of the hearing; a continuance will be granted when there are not at least three members of the appeals board present for the hearing; the chairman of the appeals board may grant a continuance of the hearing for good cause shown; or as may otherwise be governed by its rules of procedure.

(c) An appeal to the appeals board shall be a de novo review.

(d) The appeals board shall have the authority to establish written rules of procedure for the conduct of its hearings, provided hearings before the appeals board shall be conducted in accordance with the following:

(1) The presence of at least three members of the appeals board shall be necessary to conduct a hearing.

(2) A verbatim record of the proceedings shall be taken. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(3) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the appeals board or the director, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to