

CHAPTER 101

ILLICIT DISCHARGE DETECTION AND ELIMINATION

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101.01 PURPOSE AND INTENT. The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-storm water discharges to the Storm Water Drainage System, to the maximum extent practicable, as required by federal and State law. This chapter establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II permit and the Federal Clean Water Act. The objectives of this chapter are to:

1. Establish legal authority to conduct inspection and monitoring procedures necessary to ensure compliance with this chapter.
2. Investigate and eliminate, to the maximum extent practicable, the contribution of pollutants to the MS4 by storm water discharges introduced by system users.
3. Prohibit illicit connections and discharges to the MS4.

101.02 DEFINITION. As used in this chapter, the term "City Engineer" includes any other representative of the City Engineer's office who is designated by the Council to act in the place and with the authority of the City Engineer.

101.03 APPLICABILITY. This chapter applies to all water entering the MS4, generated on developed or undeveloped lands, unless explicitly exempted by the NPDES permit, federal and State regulations, and the City Council.

101.04 AUTHORITY OF CITY ENGINEER.

1. The City Engineer shall administer, implement, and enforce the provisions of this chapter.
2. With respect to the City's compliance with the NPDES Phase II permit regulations, the City Engineer may do the following in relation to illicit discharge detection and elimination:

- A. Carry out all inspections, monitoring, and enforcement procedures necessary to determine compliance with this chapter.
- B. Administer the City's compliance with the NPDES MS4 permit to discharge storm water.
- C. Create, promote, and distribute to citizens educational program materials related to storm water pollution prevention.
- D. Investigate potential storm water pollution violations that are within the City limits on residential, commercial, industrial, and City-owned properties for the presence of illicit discharges as defined by this chapter and which may contaminate storm water runoff.
- E. Review and enforce remediation programs as required for properties where illicit discharge to the storm sewer system is found to exist.
- F. Develop programs to control the discharge of pollutants, and the dumping or disposal of materials other than storm water (e.g. industrial and commercial waste, trash, motor vehicle fluids, yard waste, grass clippings, animal waste, etc.) into the MS4.
- G. Acquire and authorize testing of water samples through field-testing programs.
- H. Audit City use of herbicides, fertilizers, and pesticides to determine compliance with federal and State regulations and recommend alternative solutions where practicable for the reduction of the use of these items through education and out-reach programs.
- I. Audit City department procedures to confirm that the City is in compliance with federal and State NPDES regulations and determine if the City has obtained, and is in compliance with, permits required by federal and State environmental laws.

101.05 EXEMPTED NON-STORM-WATER DISCHARGES. The following non-storm-water discharges are exempt from the discharge prohibitions of this chapter, unless a particular discharge has been determined to be a substantial contributor of pollutants to the MS4 and the discharge continues more than ten (10) days after delivery of written notice of such determination to the discharger:

- 1. Firefighting activities that are necessary due to an immediate danger to life or property.
- 2. Fire hydrant flushing.
- 3. Potable water sources.
- 4. Water line flushing.
- 5. Uncontaminated groundwater.
- 6. Uncontaminated pumped ground water.
- 7. Crawl space pump water.
- 8. Natural springs.
- 9. Natural riparian habitat or wetland flows.

10. Irrigation water (except for wastewater irrigation).
11. Air conditioning condensation.
12. Exterior building wash water when no detergents or other surfactants are used.
13. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred and when no detergents or other surfactants are used (unless all spilled material has been removed).
14. Diverted stream flows.
15. Storm sewer system cleaning water.
16. Residential or non-commercial washing of vehicles.
17. De-chlorinated swimming pool discharge less than one PPM chlorine.
18. Residual street wash water.
19. De-chlorinated water from reservoir discharges.
20. Foundation or footing drains where flows are not contaminated with process materials such as solvents (not including active groundwater dewatering systems).
21. Discharges specified in writing by the City Engineer as being necessary to protect public health and safety of citizens.
22. Dye-testing procedures (requires a verbal notification to the City Engineer prior to the time of the test).
23. Any other water source not containing pollutants, as approved by the City Engineer.

101.06 ILLICIT DISCHARGES AND ILLICIT CONNECTIONS PROHIBITED.

1. No person shall discharge or cause to be discharged into the MS4 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.
2. The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.
3. 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.
4. A person is considered to be in violation of this chapter if the person connects a line conveying a pollutant to the MS4, or allows such a connection to continue. The prohibition shall not apply to any non-storm-water discharge permitted under this chapter, 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 this chapter, the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

101.07 ILLICIT DISCHARGE ITEMS. The following direct or indirect discharges into community waters, Waters of the State, or Waters of the United States are, without limitation,

examples of illicit discharges. This listing of discharges is not intended to be exhaustive, nor shall it be construed as such, but is illustrative only.

1. Sewage dumping or dumping of sewage sludge.
2. Chlorinated swimming pool discharge with chlorine concentrations greater than one PPM.
3. Discharge of any polluted household wastewater, such as (but not limited to) laundry wash water and dishwasher, except to a sanitary sewer or septic system.
4. Leaking sanitary sewers and connections that have remained uncorrected for a period of time as indicated in the NPDES permit issued to the City by the Department.
5. Commercial, industrial, or non-exempt public vehicle wash or power wash discharge.
6. Dead animals or animal fecal waste.
7. Non-storm-water discharges, except those allowed pursuant to a permit issued by the IDNR.
8. Concrete truck wash water.
9. Dredged material from waterways.
10. Spoil material such as sediment runoff from construction sites.
11. Chemical waste.
12. Hazardous waste.
13. Runoff from discarded vehicles or equipment.
14. Garbage.
15. Rubbish.
16. Yard waste.
17. Floatable materials.
18. Any other item deemed a pollutant as designated by the City Engineer.

101.08 STORM WATER MONITORING SITES. The City Engineer shall monitor concentration of pollutants in storm water discharges from locations as designated in the City Storm Water Management Program or as otherwise determined by the City Engineer.

101.09 WATERCOURSE PROTECTION. Every person owning property in the city through which a watercourse passes, or other responsible person, shall keep and maintain that part of the watercourse that is within their property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or other responsible person shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures shall not become a hazard to the use, function, or physical integrity of the watercourse.

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

1. The City Engineer may adopt requirements identifying best management practices (BMPs) for any activity, operation, or facility that may cause or contribute to

pollution or contamination of storm water runoff in the MS4. Notwithstanding the preceding sentence, the requirements of this section shall not apply to any activity, operation, or facility that is subject to an NPDES permit that governs the storm water runoff or discharges of such activity, operation, or facility, except as may be necessary for the owner or operator to comply with requirements of the applicable NPDES permit.

2. The owner or operator of a nonresidential establishment shall provide, at said person's own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and non-structural BMPs.

3. Any person responsible for a property or premises that is or may be the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance, to the maximum extent practicable, with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with any activity, operation, or facility shall be deemed in compliance with the provisions of this section. Structural and non-structural BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

101.11 SUSPENSION OF DISCHARGE RIGHTS DUE TO ILLICIT DISCHARGES IN EMERGENCY SITUATIONS.

1. The City Engineer may, without prior notice, suspend MS4 discharge rights to a person when such suspension is necessary to stop actual or threatened discharge that presents or may present imminent and substantial danger to the environment, 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 Engineer may take such steps as are, in the discretion of the City Engineer, deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

2. A person violates this chapter if the person reinstates MS4 discharge to a premises terminated pursuant to this chapter, without the prior written approval of the City Engineer.

101.12 SUSPENSION DUE TO THE DETECTION OF ILLICIT DISCHARGE IN NON-EMERGENCY SITUATIONS.

1. Any person discharging to the MS4 in violation of this chapter may have said person's MS4 discharge rights terminated if such termination would abate or reduce an illicit discharge. The City Engineer shall notify a violator of the proposed termination of its MS4 discharge rights no less than 30 days before the date of proposed termination. The violator may petition the City Engineer for a reconsideration and hearing.

2. A person violates this chapter if the person reinstates MS4 discharge to a premises terminated pursuant to this chapter, without the prior written approval of the City Engineer.

101.13 MONITORING OF DISCHARGES.

1. The City Engineer, bearing proper credentials and identification, may enter and inspect properties within the City if there is reasonable cause to believe that an illicit discharge to the MS4 is occurring. These inspections may include investigations, monitoring, observation, measurement, enforcement, sampling, and testing, to determine if suspected discharge is in fact illicit.
2. The City Engineer shall duly notify the owner of said property, or the representative of the owner or other responsible person on-site, of the inspection. The inspection shall be conducted at reasonable times during the course of the business day.
3. In the event the City Engineer reasonably believes that discharges from the property into the MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place without notice to the owner of the property or a representative on-site. The inspector shall present proper credentials upon reasonable request by the owner or the owner's representative when contacted.
4. Upon refusal by any property owner to permit an inspector to enter a site or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas to which no objection is raised. The inspector shall immediately report the refusal and the grounds of the refusal to the City Engineer. The City Engineer may seek appropriate compulsory process.
5. The City Engineer shall have the right to place monitoring devices on the property necessary, in the discretion of the City Engineer, to conduct monitoring and/or sampling of discharges.

101.14 NOTIFICATION OF SPILLS. Notwithstanding any other requirements of law, as soon as any person responsible for an activity, operation, or facility, or responsible for emergency response for an activity, operation, or facility, has information of any known or suspected release of materials which is resulting or may result in illicit discharges or pollutants discharging into storm water, the storm water drainage system, Waters of the State, or Waters of the United States from said activity, operation, or facility, said 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 material, said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of nonhazardous materials, said person shall notify the City Engineer in person or by phone or facsimile no later than 5:00 p.m. the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Engineer within three (3) business days of the telephonic notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator 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 (3) years.

101.15 ENFORCEMENT; NOTICE OF VIOLATION. When the City Engineer finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the City Engineer shall notify the property owner or other responsible person in writing. This written notice may be delivered by ordinary mail to the property owner or other responsible person at said person's last known address. Such notice shall include:

1. The name of the property owner.

2. The date and the location of the violation.
3. The description of the violation.
4. Actions that must be taken by the property owner to remedy the violation, including (but not limited to) the elimination of illicit discharges and connections, the performance of monitoring, analyses, and reporting, and the implementation of source control or treatment BMPs.
5. The deadline within which the required actions must be completed.
6. Notice date.
7. Restoration procedures to property, if any.
8. Amount of administrative and remediation fines, fees, or costs, if any. The notice shall also advise that if the violator fails to take required remedial action within the stated deadline, the work may be done by a designated governmental agency or a private contractor, in either case at the sole expense of the violator.

101.16 APPEAL OF NOTICE OF VIOLATION. Any person receiving a Notice of Violation may appeal the determination of the City Engineer. The notice of appeal must be received within fourteen (14) days from the date of the Notice of Violation. Hearing on the appeal before the City Council, or other designated committee, shall take place within 14 days from the date of receipt of the notice of appeal. The decision of the City Council shall be considered final.

101.17 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 14 days of the decision of the City Council upholding the decision of the City Engineer, the City Engineer shall enter upon the subject property and take measures necessary to abate the violation and/or restore the property to an acceptable condition. It is unlawful for any person to refuse to allow the City or the City's designated contractor to enter upon the premises for the purposes set forth above.

101.18 COST OF ABATEMENT OF THE VIOLATION. After abatement of the violation, the owner of the property shall be notified of the cost of abatement, including administrative costs. The property owner may, within 30 days following notice of abatement costs, file a written protest objecting to the amount of the assessment. If the amount due is not paid within a timely manner, as determined by the City Engineer, the assessment shall constitute a lien on the property pursuant to Section 384.84 of the *Code of Iowa*. Any abatement costs not paid in full within 30 days of final determination shall bear interest at the rate of ten percent per annum until paid in full.

101.19 INJUNCTIVE RELIEF. It is unlawful for any person to violate or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the City Engineer may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations. The City Engineer may also compel the person to perform abatement or remediation of the violation.

101.20 COMPENSATORY ACTION. In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the City Engineer may impose upon a violator alternative compensatory actions. These actions may include (but are not limited to) storm drain labeling,

attendance at storm water pollution prevention compliance workshops, the cleanup of local waterways or creeks, or other activity as determined appropriate by the City Engineer. The failure of any person to complete any compensatory actions imposed by the City Engineer shall be a violation of this chapter.

101.21 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 chapter shall be considered a threat to public health, safety, and welfare, and is declared and deemed a nuisance. This nuisance 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.

101.22 MUNICIPAL INFRACTION. A violation of this chapter constitutes a municipal infraction under this Code of Ordinances. In addition to any fine or penalty, the City may recover all legal fees, court costs, and other expenses associated with enforcement of this chapter, including necessary sampling and monitoring expenses.

101.23 REMEDIES NOT EXCLUSIVE. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, State, or local law. It is within the discretion of the City Engineer to seek cumulative remedies if necessary.

101.24 ABROGATION AND GREATER RESTRICTIONS. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this chapter or another ordinance, easement, covenant, or deed restriction conflicts or overlaps in jurisdiction, whichever regulation imposes the greater restriction shall be enforced.

101.25 ULTIMATE RESPONSIBILITY. The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend or imply that compliance by any person shall ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into the MS4, waters of the State, or waters of the United States.