

CITY OF HENDERSON ORDINANCES

Chapter 13.04 STORMWATER REGULATIONS

Sections:

[13.04.010 Definitions.](#)

[13.04.020 General provisions.](#)

[13.04.030 Authority.](#)

[13.04.040 Commentary.](#)

[13.04.050 Word usage and construction of language.](#)

[13.04.060 Conflicting provisions.](#)

[13.04.070 Responsibility for enforcement.](#)

[13.04.080 Severability.](#)

[13.04.090 Ultimate responsibility.](#)

[13.04.100 Discharge prohibitions.](#)

[13.04.110 Suspension of MS4 access.](#)

[13.04.120 Construction activity discharges.](#)

[13.04.130 Industrial activity discharges.](#)

[13.04.140 Monitoring of discharges.](#)

[13.04.150 Requirements to prevent, control, and reduce storm water pollutants by the use of best management practices](#)

[13.04.160 Watercourse protection.](#)

[13.04.170 Notification of spills.](#)

[13.04.180 Enforcement.](#)

[13.04.190 Appeal of notice of violation.](#)

[13.04.200 Enforcement measures after appeal.](#)

[13.04.210 Cost of abatement of the violation.](#)

[13.04.220 Injunctive relief.](#)

[13.04.230 Violations deemed a public nuisance.](#)

[13.04.240 Criminal prosecution.](#)

[13.04.250 Enforcement actions and penalties not exclusive.](#)

[13.04.260 Construction site inspection program fees.](#)

13.04.010 Definitions.

For the purposes of this ordinance, the words and terms set forth in this chapter shall be defined as follows:

"Authorized enforcement agency" means employees or designees of the director of the municipal agency designated to enforce this title.

"Best management practices (BMPs)" means the schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater 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" means the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

"Construction activity" means activities subject to NPDES Construction Permits. Effective March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

"Dirt" means loose earth, ashes and manure, but exclusive of sand and gravel that is to be used in construction work.

"Garbage" means putrescible animal and vegetable wastes, other than source-separated recyclables, that result from the handling, storage, sale, preparation, cooking, and serving of food and that have been discarded or abandoned.

"Hazardous waste" means any waste or combination of wastes, including without limitation solids, semisolids, liquids or contained gases, which:

1. Because of its quantity or concentration or its physical, chemical or infectious characteristics may:
 - a. Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
 - b. Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management;
2. Is identified as hazardous waste by the Nevada Department of Conservation and Natural Resources as a result of studies undertaken for the purpose of identifying hazardous wastes. The term includes, but is not limited to, toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

"Hazardous materials" means 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" means any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 13.04.100 of this chapter.

"Illicit connections" means an illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which 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, process 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 said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

"Industrial activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR 122.26 (b)(14).

"Municipal separate storm sewer system (MS4)" means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains: (1) Owned or operated by a state, city, town, borough, county, parish, 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; (2) Designed or used for collecting or conveying stormwater; (3) Which is not a combined sewer; and (4) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

"National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by the Nevada Division of Environmental Protection (NDEP) under authority delegated pursuant to 33 USC Section 1342(b) 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" means any discharge to the storm drain system that is not composed entirely of storm water.

"Overflow" or "overflowing solid waste" means solid waste of non-residential customers that is deposited on the ground outside of a solid waste container, or excess solid waste that has been piled onto a solid waste container that is already full to such an extent that the excess solid waste will spill onto the ground in the emptying process, requiring more than minimal manual cleanup of waste from the ground.

"Person" means 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" means 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, ordnances, 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" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Refuse" means those discarded materials that have no useful physical, chemical, or biological properties after serving their original purpose and that cannot be reused or recycled for the same or other purposes.

"Rubbish" means non-putrescible wastes, other than source-separated recyclables, that have been discarded or abandoned such as paper, cardboard, automobiles, cans, wood, glass, bedding, crockery and similar materials.

"Sewage waste" means any solid or semi-solid waste, including biosolids, sludge, screenings and grit.

"Storm drainage system" means 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.

"Stormwater" means any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Stormwater pollution prevention plan" means a document which 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 stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

"Wastewater" means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. 2783 § 1, 2008)

13.04.020 General provisions.

A. Purpose. 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 multiple separate storm sewer system (MS4) to the maximum extent practicable as required by federal, state and local law in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit (MS4 Permit) issued by the NDEP.

B. Policy. The specific objectives of this chapter are to regulate the contribution of pollutants to the MS4 that would cause a violation of the MS4 permit, prohibit illicit connections and discharges to the MS4, and establish the legal authority to carry out all inspection, surveillance and monitoring procedures, and enforcement procedures and activities necessary to ensure compliance with this chapter.

C. Scope. The provisions of this chapter shall apply to all residents and property owners of the city, a responsible party operating and maintaining a commercial or industrial business, a responsible party conducting grading and other soil disturbing activities, and/or users of city provided street, storm drainage system, and utility infrastructure.

D. Applicability. The provisions of this chapter shall apply to all pollutants, stormwater, or urban use water discharged from any developed and undeveloped lands within the city of Henderson (city), including land owned by local, county, state or federal agencies unless explicitly exempted by the city, Nevada Division of Environmental Protection (NDEP), U.S. Environmental Protection Agency (EPA), or by permit.

E. Administration. Except as otherwise provided herein the Public Works Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the director may be delegated by the director to persons acting in the beneficial interest.

F. Compliance. No discharge of pollutants, stormwater, or urban use water from any developed and undeveloped lands shall be allowed until all applicable development review and approval processes have been followed, all applicable approvals have been obtained, and all required permits or authorizations to proceed have been issued.

(Ord. 2783 § 2, 2008)

13.04.030 Authority.

This chapter is enacted pursuant to the powers granted and limitations imposed by the laws of the state of Nevada, including the statutory authority granted in Nevada Revised Statutes (NRS) Chapter 445A.

(Ord. 2783 § 3, 2008)

13.04.040 Commentary.

Whenever a provision of this chapter requires additional explanation to clarify its intent, a commentary is included. These commentaries are intended solely as a guide for administrative officials and the public to use in interpreting the chapter.

(Ord. 2783 § 4, 2008)

13.04.050 Word usage and construction of language.

- A. **Meanings and Intent.** All provisions, terms, phrases, and expressions contained in this chapter shall be construed according to the purpose and intent set out in the general provision section.
- B. **Headings, Illustrations, and Text.** In case of any difference of meaning or implication between the text of this chapter and any heading, drawing, table, figure, commentary block or illustration, the text shall control.
- C. **Lists and Examples.** Unless otherwise specifically indicated, lists of items or examples that use terms such as "including" and "such as," or similar language, are intended to provide examples and not to be exhaustive lists of all possibilities.
- D. **Computation of Time.** References to days are calendar days unless otherwise stated. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or a holiday observed by the city, that day shall be excluded and the due date shall be extended to the next calendar day.
- E. **References to Other Regulations, Publications and Documents.** Whenever reference is made to a resolution, ordinance, statute, regulation or document, it shall be construed as a reference to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation or document, unless otherwise specifically stated.
- F. **Delegation of Authority.** Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to others.
- G. **Technical and Non-Technical Terms.** Words and phrases shall be construed according to their commonly understood usage, but technical words and phrases that have acquired a specific meaning in law shall be construed and understood according to such meaning.
- H. **Public Officials and Agencies.** All public officials, bodies and agencies to which references are made are those of the city of Henderson, unless otherwise indicated.
- I. **Mandatory and Discretionary Terms.** The words "shall," "will" and "must" are always mandatory. The words "may" and "should" are advisory and discretionary terms.
- J. **Conjunctions.** Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
 - 1. "And" indicates that all connected items, conditions, provisions or events apply;

2. "Or" indicates that one or more of the connected items, conditions, provisions or events may apply.

K. Tenses and Plurals. Words used in one tense (past, present or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

(Ord. 2783 § 5, 2008)

13.04.060 Conflicting provisions.

The provisions of this chapter shall not be deemed to nullify any provision of local, state, or federal law. In the event of conflicting provision the following shall apply:

A. Conflict with State or Federal Regulations. If the provisions of this chapter are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law.

B. Conflict with Other City Regulations. If the provisions of this chapter are inconsistent with one another or if they conflict with provisions found in other adopted ordinances, resolutions or regulations of the city, the more restrictive provision will control.

C. Conflict with Private Agreements. It is not the intent of this chapter to interfere with, abrogate or annul any easement, covenant, deed restriction, or other agreement between private parties. However, if the provisions of this chapter impose a greater restriction than imposed by a private agreement, the provisions of this chapter will control. If the provisions of a private agreement impose a greater restriction than this chapter, the provisions of the private agreement will control. The city shall not be responsible for monitoring or enforcing private agreements.

(Ord. 2783 § 6, 2008)

13.04.070 Responsibility for enforcement.

The director of public Works shall have primary responsibility for enforcing provisions of this chapter. Other officers, persons, or entities acting in the beneficial interest of or in the employ of the city as authorized by the director of public works shall share responsibility for enforcing provisions of this chapter.

(Ord. 2783 § 7, 2008)

13.04.080 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid by a court of law with proper jurisdiction, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2783 § 8, 2008)

13.04.090 Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. 2783 § 9, 2008)

13.04.100 Discharge prohibitions.

A. Prohibition of Illicit Discharges.

1. No discharge of wastewater or stormwater in any form, as defined in the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), shall be made into the storm water system or waters of the State of Nevada that would cause a violation of the NPDES storm water permit.
2. No discharge of any pollutant, as defined in the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) shall be made into the stormwater system or waters of the State of Nevada within the city of Henderson without first obtaining the appropriate NPDES permit from the State of Nevada or the U.S. Environmental Protection Agency.
3. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
 - a. Those discharges allowed in the "National Pollutant Discharge Elimination System Permit for Discharges from Municipal Separate Storm Sewer Systems", Permit No. NV0021911 issued by the NDEP on June 19, 2003;
 - b. Discharges specified in writing by the city as being necessary to protect public health and safety.
 - c. Dye testing is an allowable discharge, but requires a verbal notification to the city prior to the time of the test.
 - d. 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 city, NDEP or EPA; 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 MS4.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system that 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, that are in violation of Title 14 of the Henderson Municipal Code (HMC);
2. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. 2783 § 10, 2008)

13.04.110 Suspension of MS4 access.

- A. Suspension due to Illicit Discharges. The city may, without prior notice, suspend access to the MS4 by developed and undeveloped lands, or by property owners or operators, when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, health or welfare of persons, MS4, waters of the state of Nevada, or waters of the United States. If the violator fails to comply with a suspension order issued the city may take such steps as deemed necessary to prevent or minimize damage to the environment, health or welfare of persons, MS4, waters of the state of Nevada, or waters of the United States.
- B. Suspension due to the Detection of Illicit Discharge. Any developed and undeveloped lands, or property owners or operators, discharging to the MS4 in violation of this chapter may have their MS4

access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

1. A person shall be in violation of this chapter if the person reinstates MS4 access to premises terminated pursuant to this chapter, without the prior approval of the city.

(Ord. 2783 § 11, 2008)

13.04.120 Construction activity discharges.

A. Stormwater General Permit NVR100000 Coverage Required. Any persons or facility operators subject to coverage under "Stormwater General Permit NVR100000" for construction activity issued by NDEP shall obtain such coverage. Proof of coverage under said permit shall be required in a form acceptable to the city prior to allowing discharges to the MS4.

B. Compliance Required. Any persons or facility operators subject to coverage under "Stormwater General Permit NVR100000" for general construction activity issued by NDEP shall comply with all provisions of said permit and the provisions in this chapter. Proof of compliance may be required in a form acceptable to the city prior to the allowing of discharges to the MS4.

(Ord. 2783 § 12, 2008)

13.04.130 Industrial activity discharges.

A. Stormwater General Permit NVR050000 Coverage Required. Any persons or facility operators subject to maintaining a permit under Chapter 27 of the International Fire Code shall obtain coverage under "Stormwater General Permit NVR050000" for industrial activity issued by NDEP. Proof of coverage under said permit may be required in a form acceptable to the city prior to allowing discharges to the MS4.

B. Renewable Fire Permit Required. Any persons or facility operators subject to maintaining a permit under Chapter 27 of the International Fire Code shall comply with all provisions of said chapter and the provisions of this chapter. Proof of compliance with said permit may be required in a form acceptable to the city of Henderson prior to the allowing of discharges to the MS4.

(Ord. 2783 § 13, 2008)

13.04.140 Monitoring of discharges.

A. Applicability. This section applies to all facilities that have storm water discharges associated with construction and industrial activity.

B. Access to Facilities.

1. The city shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance. If a discharger has security measures in force which 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.
2. Facility operators shall allow the city 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 a permit to discharge storm water, and the performance of any additional duties as defined by local, state and federal law.

3. The city shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the city to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The city 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 stormwater 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 and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the city access to a permitted facility is a violation of a storm water discharge permit and of this chapter. A person who is the operator of a facility with a permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
7. If the city has been refused access to any part of the premises from which stormwater 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 2783 § 14, 2008)

13.04.150 Requirements to prevent, control, and reduce storm water pollutants by the use of best management practices

A. Required BMP's. The city shall require BMP's for any activity, operation, business, facility, or development that may cause or contribute to pollution or contamination of storm water, the MS4, waters of the state of Nevada, or waters of the U.S. The owner or operator responsible for said activity, operation, business, facility, or development shall provide, at their own expense, reasonable protection from accidental or intentional discharge of prohibited materials or other wastes into the MS4 to the maximum extent practicable through the use of BMP's. The use of BMP's shall not absolve any owner or operator from complying with any requirement set forth in this chapter or state and federal permits.

1. Compliance with all terms and conditions of a valid stormwater permit issued by NDEP or the U.S. EPA authorizing the discharge of stormwater to the system shall be deemed in compliance with the provisions of this section.
2. The BMP's for all new development and substantial redevelopment after adoption of this chapter shall follow established local guidelines whenever possible. If local guidelines are not established for certain practices, then generally accepted regional, state, and federal practices should be followed.
3. The BMP's used shall be identified on the stormwater pollution prevention plan (SWPPP) that follow established federal, state, and local guidelines as necessary for compliance with requirements of the stormwater permit issued by NDEP.
4. The BMP's used for each new development and substantial redevelopment project subject to this chapter are may be inspected by the city for reasonable protection from accidental or intentional discharge of prohibited materials or other wastes to the maximum extent practicable for

any activity, operation, facility, or development that may cause or contribute to pollution or contamination of storm water, the MS4, waters of the state of Nevada, or waters of the U.S.

5. The inspection and maintenance of BMP's located on private land shall be at the sole responsibility and expense of the property owner or operator.

B. Inadequate BMP's. If at any time the city determines that the BMP's are inadequate to provide reasonable protection from accidental or intentional discharge of prohibited materials or other wastes to the maximum extent practicable for any activity, operation, facility, or development that may cause or contribute to pollution or contamination of storm water, the MS4, waters of the state of Nevada, or waters of the U.S the owner or operator responsible for said property or premise may be required to implement additional BMP's at their own expense to prevent the potential or further discharge of pollutants.

(Ord. 2783 § 15, 2008)

13.04.160 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, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 2783 § 16, 2008)

13.04.170 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, the MS4, waters of the state, or waters of the U.S. 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 materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the department of public works 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 department of public works within five 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.

(Ord. 2783 § 17, 2008)

13.04.180 Enforcement.

A. Notice of Potential Discharge Violation. Whenever an authorized agent of the city finds that an owner or operator has inadequate, or failed to install, best management practices (BMP's) on private property or at a permitted construction site as required by this chapter, the city shall order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. That violating practices or operations shall cease and desist;
2. The mitigation of inadequate or the implementation of source control or treatment BMPs;
3. A re-inspection of the site to ensure that any inadequate BMP's are mitigated or new BMP's are installed that meet the requirements for compliance of this code; and

The notification letter shall provide a description of the BMP's found to be in non-compliance and set forth a deadline within which such mitigation or installation of said BMP's must be completed. The notice shall advise that a re-inspection must be scheduled within 14 days of receipt of the notification and the contact information for scheduling such re-inspections. Said notice shall further advise that, should the violator fail to complete the work within the established deadlines, additional notifications and enforcement actions shall be implemented as described in the following matrix:

TABLE INSET:

Action	City Notification Letter	Stop Current Inspections	Stop Work Order	City Mitigation	Citations	State Involvement
Violation						
No Control Measures	X					
Inadequate Control Measures	X					
Poor Housekeeping	X					
No Response to 1st Notification Letter	X	X				
No Response to 2nd Notification Letter (certified)	X	X				
No Response to 3rd Notification Letter (certified)	X	X	X	X	X	X

The 2nd and subsequent notification letters shall provide a description of the BMP's found to be in non-compliance and set forth a deadline within which such mitigation or installation of said BMP's must be completed. The notice shall advise that a re-inspection must be scheduled within seven days of the receipt and the contact information for scheduling such re-inspections; as well as a description of the enforcement actions that the city is taking due to the lack of response.

B. Notice of Discharge Violation. Whenever an authorized agent of the city finds that an owner or operator has allowed pollutants to be discharged from private property or at a permitted construction site in violation of this chapter, the city shall order compliance immediately, followed by written notice of violation to the responsible person. Such notice may require without limitation:

1. The elimination of illicit discharges;
2. That violating discharges, practices, or operations shall cease and desist;
3. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
4. The mitigation of inadequate or the implementation of source control or treatment BMPs.

The notification letter shall provide a description of the discharge found to be in non-compliance and set forth a deadline within which such mitigation of said discharge must be completed. The notice shall advise that a re-inspection must be scheduled within seven days of the receipt of the notification and the contact information for scheduling such re-inspections. Said notice shall further advise that, should the violator fail to complete the work

within the established deadlines, additional notifications and enforcement actions shall be implemented as described in the following matrix:

TABLE INSET:

Action	City Notification Letter	Stop Current Inspections	Stop Work Order	City Mitigation	Citations	State Involvement
Violation						
Pollutant Discharge to MS4	X	X				
No Response to 1st Notification Letter	X	X	X			
No Response to 2nd Notification Letter (certified)	X	X	X	X	X	
No Response to 3rd Notification Letter (certified)	X	X	X	X	X	X

The 2nd and subsequent notification letters to the construction site owner/operator will include a description of the violation, the required mitigation measures, and the requirements for scheduling a re-inspection of the site; as well as a description of the enforcement actions that the city is taking due to the lack of response.

C. Civil Judicial Compliance. Any user or person who violates, or aids or abets the violation of any provision of this chapter, requirements and conditions set forth in permits duly issued, or violates any cease and desist order, prohibition, shall be held civilly liable for violations regardless of intention or negligence on their part. Said civil liabilities in the sum of no less than one thousand dollars per day, and not to exceed ten thousand dollars per day of which such violation occurs. In addition to civil liabilities herein, the violator shall be liable for any penalties imposed by the city as a result of that violation.

D. Criminal Judicial Compliance. Any user or person who willfully or negligently is in violation of this chapter, their stormwater discharge permit, or a cease and desist order may be guilty of a misdemeanor and may be assessed a penalty in the amount of one thousand dollars a day for each violation and imprisonment of up to six months.

(Ord. 2783 § 18, 2008)

13.04.190 Appeal of notice of violation.

A. Any party affected by any decision, action or determination, including any enforcement action taken by the city may file an appeal. All appeals for reconsideration shall be upon a written request filed with the director, no later than ten (10) business days from the date of the notice of potential discharge or notice of discharge violation, setting forth in detail the facts supporting the user's request for reconsideration.

B. The decision of the director shall be rendered within ten (10) business days of the date of the hearing of the appeal. Such decision shall be deemed to be the final administrative action on such appeal.

C. If a ruling made by the director is unsatisfactory to the customer requesting reconsideration, the customer may within ten days after notification of city action, file a written appeal to the city council with

the city clerk. The written appeal shall be heard by the city council within thirty (30) days from the date of filing. The director's decision, action or determination shall remain in effect during such period of reconsideration or appeal.

(Ord. 2783 § 19, 2008)

13.04.200 Enforcement measures after appeal.

If a violation has not been corrected pursuant to the requirements set forth in a notice of violation, or, in the event of an appeal, within seven days of the decision of the public works director or his designee upholding the decision of the authorized agent of the city, then representatives of the city 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. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 2783 § 20, 2008)

13.04.210 Cost of abatement of the violation.

Within fourteen days after abatement of the violation, the owner of the property will be notified in writing of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 7 days of receipt of the cost assessment. If the amount due is not paid within a timely manner as determined by the decision of the city or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than twelve equal payments. Interest at the rate of percent per annum equal to that set for city Investments at the time of violation shall be assessed on the balance beginning on the first day following abatement of the violation.

(Ord. 2783 § 21, 2008)

13.04.220 Injunctive relief.

It shall be unlawful for any person to violate any provision 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 authorized enforcement agency may petition the Eighth Judicial District Court for a preliminary or permanent injunction restraining the person from activities which would create further violations and to compel the person to perform abatement or remediation of the violation.

(Ord. 2783 § 22, 2008)

13.04.230 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 is a threat to public health, safety, and welfare, and is declared and deemed a nuisance by the city council, 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 public nuisance may be taken.

(Ord. 2783 § 23, 2008)

13.04.240 Criminal prosecution.

Any person that has violated or continues to violate this chapter shall be subject to criminal prosecution to the fullest extent of the law, and shall be subject to a fine of up to one thousand dollars per violation per day and/or imprisonment in the city detention center for a period of time not to exceed six months or both a fine and

imprisonment. The authorized enforcement agency may recover all attorney fees, court costs and other expenses associated with enforcement of this chapter, including remediation, sampling and monitoring expenses.

(Ord. 2783 § 24, 2008)

13.04.250 Enforcement actions and penalties not exclusive.

The enforcement actions and penalties listed in this chapter are not exclusive of any other actions available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative actions.

(Ord. 2783 § 6, 2008)

13.04.260 Construction site inspection program fees.

A. The fees for services provided are listed in the SWPPP inspections procedure on file in the development services center (DSC) and shall be directed to the DSC enterprise fund. Sufficient copies to meet public demand for such procedure shall be available for public use at the DSC.

B. The development services center manager or designee, in consultation with the development industry advisory committee, shall evaluate the need for fee adjustments and make annual recommendations to city council regarding the need for such adjustments.

(Ord. 2783 § 26, 2008)