

ARTICLE V. - STORMWATER DISCHARGES

DIVISION 1. - GENERALLY

Sec. 86-501. - Applicability.

This article shall apply to discharges entering into a drainage facility or water body generated on developed and undeveloped lands.

(Ord. No. 12-05, 10-3-05)

Sec. 86-502. - Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized enforcement agency: City manager and/or a person designated to act as the authorized enforcement agency by the city manager.

Best management practices (BMPs): Practices described in the Michigan MDEQ Guidebook of BMPs for Michigan watersheds, and equivalent practices and design criteria that accomplish the purposes of this article as determined by the authorized enforcement agency.

Clean Water Act: Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations.

Discharge: Introduction (intentionally or unintentionally, and directly or indirectly) of a liquid, substance, or other material into a drainage facility or water body.

Discharger: Person introducing (intentionally or unintentionally, and directly or indirectly) of a liquid, substance, or other material into a drainage facility or water body.

Drainage facility: As defined in section 86-351.

EPA: U.S. Environmental Protection Agency.

MDEQ: Michigan Department of Environmental Quality.

National Pollutant Discharge Elimination System (NPDES) Permit: Permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

Person: An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or other legal entity.

Pollutant: Substance or material that because of its quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to substantial hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, including sediment, solid waste, yard waste, animal waste, chemical waste, biological waste, industrial waste, municipal waste, commercial waste, agricultural waste, radioactive material, sewage, vehicle or equipment fluids, or other substance defined as a pollutant under the Clean Water Act, or listed in the MDEQ Critical Materials Register.

Premises: A building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved.

Property owner: A person having legal or equitable title to a premises or exercising care, custody, or control over a premises.

State of Michigan Water Quality Standards: Applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

Stormwater: Drainage of precipitation resulting from rainfall, snowmelt, or other natural events or processes.

Stormwater pollution prevention plan: Document that describes the BMPs and activities to be implemented by a person to identify sources of pollution at a site and the actions to eliminate or reduce pollutant discharges to a drainage facility or water body, to the extent practicable.

Water body: A naturally occurring stream or pond.

(Ord. No. 12-05, 10-3-05)

Secs. 86-503—86-520. - Reserved.

DIVISION 2. - PROHIBITIONS AND AUTHORIZATIONS

Sec. 86-521. - Prohibited discharges.

- (1) It is unlawful for a person to discharge, or cause to be discharged, a pollutant into a drainage facility or water body. This includes the commencement, conducting, or continuance of a pollutant discharge to a drainage facility or water body.
- (2) A person discharging stormwater shall effectively prevent pollutants from being discharged with the stormwater, except in accordance with BMPs.
- (3) The authorized enforcement agency may require dischargers to implement pollution prevention measures, using stormwater pollution prevention plans and BMPs, as determined necessary by the authorized enforcement agency to prevent or reduce the discharge of pollutants to a drainage facility or water body.
- (4) This section does not apply to a discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with the requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for discharge to a drainage facility.
- (5) This section does include pollutant discharges made prior to the effective date of this article, and regardless of whether the pollutant discharge was permissible under law or practices applicable or prevailing at the time.

(Ord. No. 12-05, 10-3-05)

Sec. 86-522. - Allowable discharges.

Discharges not included under section 86-521 are permissible, but only if they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with required BMPs.

(Ord. No. 12-05, 10-3-05)

Sec. 86-523. - Storage of pollutants in drainage facilities.

Except as permitted by law, a person shall not store or stockpile a pollutant within a drainage facility or water body, unless adequate protection and/or containment has been provided so as to prevent said pollutant from entering into a drainage facility or water body.

(Ord. No. 12-05, 10-3-05)

Secs. 86-524—86-540. - Reserved.

DIVISION 3. - INSPECTION, MONITORING, REPORTING AND RECORDKEEPING

Sec. 86-541. - Inspection and sampling.

The authorized enforcement agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this article. Upon request, the discharger shall allow properly identified representatives of the authorized enforcement agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The authorized enforcement agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a premises is a violation of this article.

(Ord. No. 12-05, 10-3-05)

Sec. 86-542. - Monitoring facilities.

If directed in writing to do so by the authorized enforcement agency, a discharger of stormwater from a premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of stormwater to provide for inspection, sampling, and flow measurement of each discharge to a drainage facility or water body, as specified by the authorized enforcement agency. The authorized enforcement agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. Such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

(Ord. No. 12-05, 10-3-05)

Sec. 86-543. - Accidental discharges.

A discharger who accidentally discharges a pollutant into a drainage facility or water body shall immediately notify the authorized enforcement agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the authorized enforcement agency within five days. The written report shall specify the following:

- (1) The composition of the discharge and the cause thereof.
- (2) The exact date, time, and estimated volume of the discharge.
- (3) Measures taken to clean up the discharge, measures taken or proposed to be taken to mitigate known or potential adverse impacts of the discharge, and measures proposed to be taken to reduce and prevent recurrences.
- (4) The names and telephone numbers of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

(Ord. No. 12-05, 10-3-05)

Sec. 86-544. - Recordkeeping.

A person that violates a requirement of this article or that is subject to monitoring under this article shall retain and preserve for no less than three years books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and summaries of such records relating to monitoring, sampling, and chemical analysis of a discharge from a premises connected with the violation or subject to monitoring.

(Ord. No. 12-05, 10-3-05)

Secs. 86-545—86-560. - Reserved.

DIVISION 4. - ENFORCEMENT

Sec. 86-561. - Sanction for violations.

- (1) A person who violates a provision of this article (including a notice, order, permit, decision or determination made by the authorized enforcement agency) is responsible for a municipal civil infraction.
- (2) A person who aids or abets another person in a violation of this article shall be subject to the sanctions provided in this section.

(Ord. No. 12-05, 10-3-05)

Sec. 86-562. - Failure to comply.

The authorized enforcement agency may, after giving reasonable notice and opportunity for compliance, correct a violation of this article or damage or impairment to a drainage facility caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to the fees, amounts or other costs and expenses required to be paid to the authorized enforcement agency under other sections of this article.

(Ord. No. 12-05, 10-3-05)

Sec. 86-563. - Emergency measures.

If emergency measures are necessary to protect public safety, health, and welfare or damage to property, the authorized enforcement agency may carry out or arrange for such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this article, and shall promptly reimburse [the City of] Wyoming for such costs.

(Ord. No. 12-05, 10-3-05)

Sec. 86-564. - Reimbursement of costs.

A person who discharges to a drainage facility or water body, resulting in a violation of this article, or obstructs, damages, or impairs a drainage facility, or causes or contributes to a violation of a federal, state, or local law governing the City of Wyoming, shall be liable to and shall reimburse [the City of] Wyoming for all expenses, costs, losses or damages (direct or indirect) payable or incurred by [the City of] Wyoming as a result. The costs that must be reimbursed to [the City of] Wyoming shall include, but are not limited to, the following:

- (1) Costs incurred by the City of Wyoming in responding to the violation or discharge, including expenses for cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment.
- (2) Costs to the City of Wyoming for monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting.

- (3) Fines, assessments, penalties, and claims, including natural resource damages, levied against the City of Wyoming, or its representative, by a governmental agency or third party.
- (4) Costs to [the City of] Wyoming for staff time (including required overtime), consultant and engineering fees, and actual attorney fees and defense costs associated with responding to, investigating, verifying, and prosecuting any discharge, violation, or noncompliance, or otherwise enforcing the requirements of this article.

(Ord. No. 12-05, 10-3-05)

Sec. 86-565. - Collection of costs.

- (1) Costs incurred by [the City of] Wyoming pursuant to sections 86-562, 86-563, 86-564 and 86-566 shall constitute a lien on a premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or as otherwise authorized by law. Such charges that are delinquent for six months or more may be certified annually to the city treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes.
- (2) The failure by a person to pay amounts required to be reimbursed to [the City of] Wyoming as provided by this article shall constitute an additional violation of this article.

(Ord. No. 12-05, 10-3-05)

Sec. 86-566. - Access to drainage facilities.

- (1) The authorized enforcement agency may, without prior notice, suspend access to a drainage facility to a person or premises 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 a drainage facility or water body. If a person fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to a drainage system or water body, or to minimize danger to persons, and bill the person for the costs to [the City of] Wyoming in taking such steps.
- (2) A person discharging to a drainage facility in violation of this article may have their access to the drainage facility terminated, if the authorized enforcement agency determines that such termination would ablate or reduce a prohibited discharge. The authorized enforcement agency will notify a violator of the proposed termination of its access. It shall be unlawful for a person to reinstate access to a drainage facility terminated pursuant to this section without the prior written approval of the authorized enforcement agency.

(Ord. No. 12-05, 10-3-05)

Sec. 86-567. - Appeals.

A person to whom a provision of this article has been applied may appeal in writing to the city manager, not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The city manager shall consider the appeal and make a decision whereby he/she affirms, rejects, or modifies the action being appealed. The city manager may grant a temporary variance from the terms of this article so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the article provisions being appealed will present or cause unnecessary hardship for the person appealing; provided, however, that unnecessary hardship shall not include the need for additional reasonable expenses in order to comply with the article; and
- (2) The granting of the relief requested will not prevent accomplishment of the goals and purposes of this article, nor result in less effective management of stormwater.

(Ord. No. 12-05, 10-3-05)

Secs. 86-568—86-570. - Reserved.

DIVISION 5. - PERFORMANCE AND DESIGN STANDARDS

Sec. 86-571. - BMPs.

A person responsible for a premises that is used for commercial or industrial purposes shall provide, at the person's expense, reasonable protection from an accidental prohibited discharge into a drainage facility or water body through the use of structural and nonstructural BMPs. Compliance with the terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with commercial or industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

(Ord. No. 12-05, 10-3-05)