

# Chapter 14

## STORM WATER MANAGEMENT AND DISCHARGE CONTROL

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### **4-14-1: TITLE:**

This chapter shall be known as the *CITY OF GARDEN CITY STORM WATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE* and may be so cited. (1988 Code)

### **4-14-2: PURPOSE AND INTENT:**

The purpose and intent of this chapter is to:

- A. Ensure the future health, safety, and general welfare of Garden City citizens by regulating or eliminating nonstorm water discharges to the municipal separate storm drain system, including controlling discharges from spills, dumping or disposal of waste materials, and reducing pollutants in storm water discharges to the maximum extent practicable; and
  
- B. Protect and enhance the water quality of our watercourses, water bodies, ground water and wetlands in a manner pursuant to and consistent with the clean water act. (1988 Code)

### **4-14-3: DEFINITIONS:**

The terms as used in this chapter shall have the following meanings:

**AUTHORIZED ENFORCEMENT AGENT:** The director of public works and/or any individual designated by the director of public works as an environmental enforcement officer.

**BEST MANAGEMENT PRACTICES (BMPs):** Schedules of activities, prohibitions of practices, general good housekeeping practices, design standards, operational practices, maintenance procedures, educational activities, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the state or U.S. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from raw material storage.

**CLEAN WATER ACT (CWA):** The federal water pollution control act enacted by public law 92-500 as amended by public laws 95-217, 95-576, 96-483, and 97-117; 33 USC 1251 et seq.

**DIRECTOR OF PUBLIC WORKS:** The director of the Garden City public works department.

**ILLICIT CONNECTION:** Any physical connection to a publicly maintained storm drain system composed of nonstorm water which has not been permitted by the public entity responsible for the operation and maintenance of the system.

**ILLICIT DISCHARGE:** Any discharge to the storm drain system that is not composed entirely of storm water except discharges pursuant to a NPDES permit, discharges resulting from fire fighting activities, and discharges further exempted in section 2.01 of this ordinance.

**LOCAL AGENCY:** This term, as used in the U.S. EPA's NPDES general storm water permits for industries and construction activities, shall mean one or more of the agencies that is involved with providing review, approval or oversight of the sites: a) activities; b) pollution prevention controls; or c) storm water discharge.

**MUNICIPAL NPDES PERMIT:** An areawide NPDES permit issued to a government agency or agencies for the discharge of storm water from a storm drain system.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT:** A storm water discharge permit issued by the U.S. EPA, region X, in compliance with the federal clean water act.

**NONSTORM WATER DISCHARGE:** See definition of Illicit Discharge.

**PERSON:** Any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

**POLLUTANT:** Dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt, industrial, municipal and agricultural waste, gases entrained in water, paints, oil and other automotive fluids, soil, rubbish, trash, debris, refuse, fecal coliform, fecal streptococcus, enterococcus, heavy metals, hazardous waste, road sanding materials, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind, or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution.

**POLLUTION:** The degradation of the physical, thermal, chemical, biological or radioactive properties of the waters of the state or U.S. "Pollution" also means the discharge of any pollutant into the waters of the state or U.S., which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses.

**PREMISES:** Any building, lot, parcel of land, land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**STORM DRAIN SYSTEM:** Includes, but is not limited to, those facilities located within the city and owned or operated by a public entity by which storm water may be collected and conveyed to waters of the United States, including any roads with drainage systems, public streets, inlets, curbs, gutters, piped storm drains and retention or detention basins, which are not part of a publicly owned treatment works ("POTW") as defined at 40 CFR section 122.2.

**STORM WATER:** Surface runoff and drainage associated with rain storm events and snow melt. (1988 Code)

#### **4-14-4: REGULATORY CONSISTENCY:**

This chapter shall be construed to assure consistency with the requirements of the federal clean water act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and the municipal NPDES permit and any amendments, revisions or reissuance thereof. (1988 Code)

#### **4-14-5: DISCHARGE OF POLLUTANTS:**

A nonstorm water discharge to the storm drain system is a violation of this ordinance except as specified below.

- A. The prohibition of discharges shall not apply to any discharge regulated under a NPDES permit waiver or discharge order issued to the discharger and administered by the EPA or the state of Idaho under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit waiver or order and other applicable laws or regulations.
  
- B. Discharges from the following activities will not be considered a source of pollutants to waters of the state or U.S. when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, ground water infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, roof drains, water from crawl space pumps, residential air conditioning condensation, springs, individual residential and nonprofit group car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from firefighting activities and training. Accordingly, discharges from such activities are not subject to this prohibition.

With written concurrence of the U.S. EPA, the city may exempt in writing other nonstorm water discharges which are not a source of pollutants to the waters of the state or U.S. (1988 Code)

#### **4-14-6: COMPLIANCE WITH BMPs:**

Where BMP requirements have been promulgated by any federal, state of Idaho, regional, city, county and/or local entity, for any activity, operation, or facility which may cause or contribute to storm water pollution and/or illicit discharges to the storm water system, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements. All physical development or redevelopment activities shall refer to the most current Boise City "Storm Water Management Design Manual" for guidance in the best management practices for design of drainage facilities to provide flood control, water quality improvement, and visual appeal. (Ord. 786, 5-16-2002)

#### **4-14-7: NOTIFICATION OF SPILLS:**

All persons in charge of a facility or responsible for emergency response for a facility are responsible to train facility personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the city public works department upon becoming aware of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the storm drain system.

As soon as any person in charge of a facility or responsible for emergency response for a facility has such knowledge, such person shall take all necessary steps to ensure the containment and cleanup of such release and shall notify the city public works department of the occurrence no later than the next business day.

The notification requirements of this section are in addition to any other notification requirements set forth in federal, state or local regulations and/or laws. (1988 Code)

#### **4-14-8: DISCHARGE IN VIOLATION OF PERMIT:**

Any discharge that would result in or contribute to a violation of an existing or future municipal NPDES permit and any

amendments, revisions or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the city in any administrative or judicial enforcement action against the permit holder relating to such discharge. (1988 Code)

#### **4-14-9: ILLICIT CONNECTIONS:**

It is prohibited to establish, use, maintain or continue illicit drainage connections to the storm drain system, or to commence or continue any illicit discharges to the storm drain system. (1988 Code)

#### **4-14-10: REDUCTION OF POLLUTANTS IN STORM WATER:**

- A. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all reasonable measures, as determined by the entity responsible for the maintenance and operation of the system, to reduce such pollutants. Examples of such activities include, but are not limited to, use and disposal of household chemicals such as pesticides and fertilizers; and ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, retail establishments, etc.
  
- B. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any public or private plot of land so that the same might be or become a pollutant. The only exception being where such pollutant is being temporarily stored in properly contained waste receptacles.
  
- C. It is a violation of this section to cause or permit any dumpster, solid waste bin, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the city.
  
- D. The occupant or tenant, the owner, lessee, or proprietor of any real property in the city where there is located a paved sidewalk or parking area shall maintain said paved surface free of dirt or litter to the extent reasonable and practicable and provide an adequate means for the disposal of refuse, rubbish, garbage, or other articles so as to prevent such matter from entering a storm drain system. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property.
  
- E. No person shall throw or deposit litter in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere within the city. (1988 Code)

#### **4-14-11: PARKING LOTS AND SIMILAR STRUCTURES:**

Persons owning or operating a paved parking lot, gas station pavement, paved private street or road, or similar structure, shall clean and maintain those structures in a manner that does not result in discharge of pollutants to the storm drain system. (1988 Code)

#### **4-14-12: OUTDOOR STORAGE AREAS; COMMERCIAL AND INDUSTRIAL FACILITIES:**

In outdoor areas, no person shall store grease, oil or other hazardous substances in a manner that will or may result in such substances entering the storm drain system. In outdoor areas, no person shall store motor vehicles, machine

parts, or other objects in a manner that may leak grease, oil, or other hazardous substances to the storm drain system. To prevent the discharge of hazardous substances from the property to the storm drain system, the city may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition. (1988 Code)

#### **4-14-13: CONSTRUCTION SITES:**

Any person performing construction work in the city of Garden City shall comply with the provisions of this chapter and shall provide erosion and sediment controls that effectively prevent discharges of pollutants to the storm drain system. The director of public works may establish standards and guidelines implementing BMPs designed to provide erosion and sediment control from construction sites. (1988 Code)

#### **4-14-14: NEW DEVELOPMENT AND REDEVELOPMENT:**

To minimize the discharge and transport of pollutants, the city may require, in its discretion, a new development or redevelopment project to control the volume and rate of storm water runoff from the project so as to prevent any deterioration of water quality which would impair the subsequent or competing uses of the water. The director of public works may adopt or establish standards and guidelines implementing BMPs designed to control the rate and volume of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants from and into a storm drain system.

Acceptable methods and standards for controlling storm water runoff volumes, rates, and pollutant load may include, but are not limited to, the following:

- A. Increase Permeable Areas: Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design; use moderately porous materials for or near driveways and walkways; incorporate detention ponds and retention swales into the project's design.
  
- B. Direct Runoff To Permeable Areas: Direct storm water runoff away from impermeable areas to swales, berms, green strip filters, and gravel beds. Install rain gutters and orient them toward permeable areas. Modify the grade of the property to divert flow to permeable areas and minimize the amount of storm water runoff leaving the property. When designing curbs, berms or other structures, avoid designs which impede access and flows to permeable or landscaped areas.
  
- C. Maximum Storm Water Storage For Reuse: Use retention structures, subsurface areas, cisterns, or other structures to store storm water runoff for reclamation, reuse or slow release. (1988 Code)

#### **4-14-15: COMPLIANCE WITH GENERAL PERMITS:**

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the U.S. EPA, the Idaho department of water resources, or the Idaho division of environmental quality, shall comply with all provisions of such permits, including notification to and cooperation with local entities as required by federal regulations. Proof of compliance with said NPDES general permits may be required in a form acceptable to the director of public works prior to issuance of any grading, building or occupancy permits. (1988 Code)

#### **4-14-16: AUTHORITY TO INSPECT:**

- A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an environmental enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this chapter, the agent may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the

agent by this chapter; provided that: 1) if such building or premises is occupied, he or she first shall present proper credentials and request entry; and 2) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

B. The property owner or occupant has the right to refuse entry but, in the event such entry is refused, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry and performing such inspection.

C. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including, but not limited to, random sampling and/or sampling in areas with evidence of storm water pollution, illicit discharges, or similar factors.

1. Authority To Sample And Establish Sampling Devices: With the consent of the owner or occupant or with court consent, any authorized enforcement agent may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the agent may take any samples deemed necessary to aid in the pursuit of the inquiry or to record the on site activities.

2. Requirement To Test Or Monitor: Whenever the director of public works or his designee determines that any person engaged in any activity and/or owning or operating any facility may cause or contribute to storm water pollution or illicit discharges to the storm water system, the director of public works or his designee may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the director of public works or his designee may recommend. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order.

D. Within twenty (20) days of the date of receipt of the order notice, the recipient shall respond personally or in writing advising the city of the recipients' position with respect to the orders's requirements. Thereafter, the recipient shall be given the opportunity to meet with the public works director or his designee to review the order's requirements and revise the order as the public works director or his designee deem necessary. Within ten (10) days of such meeting, the public works director or his designee shall issue a final written order. Final orders of the public works director or his designee may be appealed to the Garden City council by the filing of a written appeal with the public works department within ten (10) days of receipt of the final order. The appeal notice shall set forth the particular order requirements or issues being appealed. The Garden City council shall hear the appeal at its earliest practical date and may either affirm, revoke or modify the order. The decision of the Garden City council shall be final.

E. In the event the owner or operator of a facility fails to conduct the monitoring and/or analyses and furnish the reports required by the order in the time frames set forth therein, the city may cause such monitoring and/or analyses to occur and assess all costs incurred, including reasonable administrative costs and attorney fees, to the facility owner or operator. The city may pursue judicial action to enforce the order and recover all costs incurred.

F. The knowing violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor. (1988 Code)

#### **4-14-17: APPEAL:**

Any person, firm, corporation or organization notified of noncompliance with this chapter or required to perform monitoring, analyses, reporting and/or corrective activities who is aggrieved by the decision of the environmental enforcement officer may appeal such decision in writing to the Garden City council within ten (10) days following the effective date of the decision. Upon receipt of such request, the Garden City council shall request a report and recommendation from the authorized enforcement agent and shall set the matter for administrative hearing at the earliest practical date. At said hearing, the Garden City council may hear additional evidence, and may revoke, affirm or modify the environmental enforcement officer's decision. Such decision shall be final. (1988 Code)

#### **4-14-18: DISCLAIMER OF LIABILITY:**

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This chapter shall not create liability on the part of the city, any agent or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (1988 Code)

#### **4-14-19: CONTINUING VIOLATION:**

Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly, as herein provided. (1988 Code)

#### **4-14-20: CONCEALMENT:**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision. (1988 Code)

#### **4-14-21: ACTS RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT:**

Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the federal clean water act and may be subject to the sanctions of that act including civil and criminal penalties. (1988 Code)

#### **4-14-22: VIOLATIONS DEEMED A PUBLIC NUISANCE:**

In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance by the director of public works or his designee, and may be summarily abated and/or restored by the city and/or civil action taken to abate, enjoin or otherwise compel the cessation of such nuisance.

The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid.

If any violation of this chapter constitutes a seasonal and recurrent nuisance, the director of public works or his designee shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further declaration.

In any administrative or civil proceeding under this chapter in which the city prevails, the city may be awarded all costs of investigation, administrative overhead, out of pocket expenses, costs of administrative hearings, costs of suit and reasonable attorney fees. (1988 Code)

#### **4-14-23: CIVIL ACTIONS:**

In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the city. In any such action, the city may seek, and the court shall grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction.

B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the city to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter. (1988 Code)

#### **4-14-24: ADMINISTRATIVE ENFORCEMENT POWERS:**

In addition to the other enforcement powers and remedies established by this ordinance, any environmental enforcement officer has the authority to utilize the following administrative remedies.

A. Cease And Desist Orders: When an environmental enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, the agent may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: 1) comply with the requirement; 2) comply with a time schedule for compliance, and/or 3) take appropriate remedial or preventive action to prevent the violation from recurring.

B. Notice To Clean: Whenever an environmental enforcement officer finds any oil, earth dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds or in close proximity to any open drain or ditch channel, which may result in an increase in pollutants entering the storm drain system or a nonstorm water discharge to the storm drain system, he or she may give notice to remove and lawfully dispose of such material in any manner that he or she reasonably may provide. The recipient of such notice shall undertake the activities as described in the notice within the time frames set forth therein.

In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the director of public works or his designee may cause such required activities as described in the notice to be performed, and the cost thereof shall be assessed and invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, a lien shall be placed upon and against the property. (1988 Code)