

## CHAPTER 6

### STORMWATER DISCHARGES

#### SECTION

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**19-601. Purpose.** The purpose of the illicit discharge ordinance is as follows:

- (1) To safeguard the health, safety, and general welfare of the citizens;
- (2) To prevent the pollution of streams, ponds and other watercourses from illicit discharges
- (3) To preserve the natural beauty and aesthetics of the community;
- (4) To enable the City of Maryville to comply with the NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems, TMDLs and other applicable state and federal regulations. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-602. Rules applying to chapter.** For the purpose of this chapter, certain rules of construction shall apply herein as follows:

- (1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.
- (2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.
- (3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-603. Definitions.** The following phrases as used in this section shall contain the following definitions:

- (1) "Illicit discharge." Any discharge to the stormwater system that is not composed entirely of stormwater and not specifically exempted in this chapter.
- (2) "Industrial waste." Liquid or other waste resulting from any process of industry, manufacturer, trade or business or from the development of any natural resources.

(3) "Other wastes." Discarded brush, sawdust, shaving, leaves, lawn clippings, animal waste, used or previously applied lime, garbage, trash, refuse, used newspaper, paper products, plastic containers or metal containers, ashes, offal, discarded tar, discarded paint, discarded or uncontained solvents, used, discarded or spilled petroleum products, antifreeze, motor vehicle fluids, used or discarded gas tanks or chemicals, or any other used, uncontained, unpackaged, or disposed of materials which may discharge to or otherwise enter the stormwater system.

(4) "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

(5) "Restaurant." An establishment or facility where food is prepared and sold.

(6) "Runoff." The water resulting from precipitation that is not absorbed by the soil.

(7) "Sanitary sewer." A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.

(8) "Sanitary wastewater." Wastewater from toilets, sinks and other plumbing fixtures.

(9) "Sewage." Human wastes carried by water from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present; or any substance discharged from a sanitary sewer collection system.

(10) "Sinkhole." (a) A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two (2) feet deep, or

(b) A hole, fissure or other opening in the ground, often underlain with limestone, dolomite or other rock formation that provides for and is being designated as a natural conduit for the passage of stormwater.

(11) "Stormwater." Rainfall or ice melt that is not absorbed by the ground.

(12) "Stormwater system." The system of roadside drainage, curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and manmade, located within the city which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by the City of Maryville or any other person.

(13) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(14) "Pollutant hotspot." An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess

of those typically found in stormwater. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-604. Prohibitions.** (1) No person shall:

(a) Connect or allow to be connected any sanitary sewer to the stormwater system, including any sanitary sewer connected to the stormwater system as of the date of adoption of this chapter, or

(b) Cause or allow an illicit discharge to the stormwater system, or any component thereof, or onto driveways, sidewalks, streets, parking lots, sinkholes, creek banks, or other areas draining to the stormwater system. Illicit discharges include, but are not limited to:

(i) Sewage discharges except as deemed unavoidable due to collection system operation maintenance and extreme weather events;

(ii) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, or carpet cleaning;

(iii) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals at the point of entry of an enclosed stormwater system or stream, or discharges of pool or fountain filter backwash water;

(iv) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, or port-a-potty servicing;

(v) Discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, or outdoor eating or drinking areas;

(vi) Discharges of heated water from commercial or industrial operations;

(vii) Discharges of dyes without proper permission;

(viii) Discharges of laundry waste water;

(ix) Known discharges from leaking water or sewer lines remaining uncorrected for seven (7) days;

(x) Discharges or discarding of animal fecal waste or dead animals;

(xi) Discarding of vehicles equipment or vehicle parts;

(xii) Discarding lawn clippings, leaves or branches;

(xiii) Discarding trash or debris into containers or areas not intended for the purpose of trash/debris disposal;

(xiv) Discarding or applying herbicides, pesticides, fertilizers or other chemicals;

(xv) Discharges of runoff from materials storage areas where chemicals, fuels, grease, oils, or other hazardous materials are stored;

(xvi) Discharges from the following land uses, areas or activities that are identified herein as pollutant hotspots:

(A) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: gas stations, automotive dealerships, automotive repair shops, and car wash facilities;

(B) Any property containing more than four hundred (400) parking spaces, or one hundred twenty thousand (120,000) square feet of impervious area;

(C) Recycling and/or salvage yard facilities;

(D) Restaurants, grocery stores and other food service facilities;

(E) Commercial facilities with outside animal housing areas, including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(F) Construction areas;

(G) Other producers of pollutants identified by the director of engineering and public works or his/her designee by information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(2) Subject to the provisions of subsection (3), the following discharges shall not be in violation of this chapter:

(a) Water line flushing;

(b) Landscape irrigation;

(c) Diverted stream flows or rising groundwater;

(d) Infiltration of uncontaminated groundwater (as defined by federal regulations) to separate storm drains;

(e) Pumping of uncontaminated groundwater;

(f) Discharges from potable water sources, foundation drains, uncontaminated air conditioning condensation, irrigation waters, springs, water from crawl space pumps, or footing drains;

(g) Lawn watering;

(h) Individual noncommercial car washing on residential properties; or car washing of less than (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose;

(i) Flows from riparian habitats and wetlands;

(j) Dechlorinated swimming pool discharges;

(k) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges;

- (l) Street deicing for public safety;
- (m) Any activity authorized by a valid NPDES permit; and
- (n) Any flows resulting from firefighting.

(3) If the director of engineering and public works or his/her designee finds that any of the activities listed in subsection (2) above are found to cause or may cause sewage or industrial wastes or other wastes to be discharged into the stormwater system, the director of engineering and public works or his/her designee shall notify the person performing such activity and shall order that such activities be stopped or conducted in such manner as to avoid improper discharge into the stormwater system. Failure to comply with such order shall be a violation of this section. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-605. Notification of spills and illicit discharges.** As soon as any person has knowledge of any illicit discharge to the stormwater system in violation of this chapter, such person shall immediately notify the City of Maryville Stormwater Department by telephone of the discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system involved in such discharge then such person shall also take immediate action to ensure the containment and clean-up of such discharge and shall confirm such telephone notification with a written report to the stormwater department within three (3) calendar days. At a minimum, the written report for any illicit discharge shall include:

- (1) Date and time of discharge.
- (2) Location of the discharge.
- (3) Material or substance discharged.
- (4) Duration and rate of flow.
- (5) Total volume discharged.
- (6) Total volume recovered.
- (7) Cause or reason of the discharge.
- (8) Remediation or containment action taken.
- (9) Material Safety Data Sheets (MSDS) for the discharged material.
- (10) Action taken to prevent further discharges.
- (11) Description of any environmental impact. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-606. Requirements for monitoring.** The stormwater department may require any person engaging in any activity or owning any property, building or facility (including but not limited to at site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic detailed reports of discharges and/or illicit discharges. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-607. Right of entry.** The director of engineering and public works or his/her designee may enter upon the property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or to the stormwater system stream or natural drainageway during all reasonable hours to monitor, to remove foreign objects or blockages, or to inspect for compliance with the provisions of this chapter. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-608. Notice of violation.** Whenever the director of engineering and public works or his/her designee determines that a violation of any provision of this section has occurred, the director of engineering and public works or his/her designee may issue a notice of violation to the property owner, utility, facility operator, lessee, contractor, permittee or equipment operator of the site of the discharge. The notice of violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where violation has occurred;
- (3) List the violation;
- (4) State the action required;
- (5) Provide a deadline for compliance or to stop work. (as added by Ord. #2008-15, March 2008)

**19-609. Penalties.** (1) Any person violating the provisions of this section shall be guilty of a misdemeanor and punished as provided in the general penalty clause of the city code. Each day of a continuing violation of this chapter shall constitute a separate offense.

(2) Any person violating the provisions of this chapter may further be assessed by the director of engineering and public works or his/her designee a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each violation. Each day of violation shall constitute a separate offense.

- (3) In assessing a civil penalty, the municipality may consider:
  - (a) The harm done to the public health or the environment;
  - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
  - (c) The economic benefit gained by the violator;
  - (d) The amount of effort put forth by the violator to remedy this violation;
  - (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations, if any; and
  - (g) The equities of the situation that outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty set forth in subsection (2) above, the city may recover all damages proximately caused by the violator to the municipality, including, but not limited to, reasonable expenses incurred in investigating violations and enforcing violations of this chapter.

(5) The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or in equity, shall be no defense to such actions.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(7) Any civil penalty assessed by the city may be appealed to Blount County Circuit Court. (as added by Ord. #2008-15, March 2008)