

ARTICLE XVI. PROHIBITION OF POLLUTION OF THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

Sec. 55-201. General provisions.

(a) This article sets forth uniform requirements for users of the City of Corpus Christi's Municipal Separate Storm Sewer System (MS4), and enables the city to comply with all applicable federal and state laws, including the Cleaning Water Act (33 U.S.C. 1251 et seq.). The objectives of this article are:

- (1) To prevent the introduction of pollutants into the MS4 and the waters of the United States through the city's MS4;
- (2) To protect storm water management personnel who may be affected by pollutants in the MS4 in the course of their employment and to protect the general public;
- (3) To enable the city to comply with its NPDES permit conditions and any other federal or state laws applicable to the MS4.

(b) This article applies to all users of the MS4.

(c) This article authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires industrial user reporting.

(d) In this article the following rules of construction apply:

May is permissive or discretionary.

May not prohibits.

Must establishes a mandatory condition.

Shall is mandatory.

(Ord. No. 22881, § 1, 3-25-1997)

Sec. 55-202. Definitions.

As used in this chapter [article]:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Business facility means a location within the City of Corpus Christi at which commercial, industrial, or professional activities are conducted.

Code enforcement official means an employee designated by the city manager to make application for administrative and criminal search warrants under authority of the Texas Code of Criminal Procedure, Article 18.05, as such warrants may be necessary to enforce any provision of the Code of Ordinances of the City of Corpus Christi or other municipal ordinance duly promulgated.

Discharge means to blow, conduct, deposit, drain, dump, emit, empty, leak, place, pour, pump, release, run, seep, spill, throw, or cause or allow a substance or material to be blown, conducted, deposited, drained, dumped, emptied, emitted, entered, leaked, placed, poured, pumped, released, run, seeped, spilled or thrown into the MS4, including placement of a substance or material at a location where it will be blown or washed by a flow of water or another fluid into the MS4.

Municipal separate storm sewer system (MS4) means a system of conveyances (including storm drains,

gutters, ditches, manmade channels, impoundments, roads with drainage systems, municipal streets, catch basins, curbs, storm sewer manholes, pumping or treatment facilities, private drains, and any other drainage devices) designed or used for collecting and conveying of storm water and surface water drainage to the bays and natural tributaries, which is not part of a publicly owned treatment works (POTW), as defined at 40 CFR 122.2, that is owned or operated by the City of Corpus Christi or a utility organized by the city. The MS4 includes any other publicly or privately owned structures or improvements that drain into or connect with the system owned or operated by the city that is located within the incorporated limits or [of] the city or within five thousand (5,000) feet of the city limits, unless it is under the jurisdiction and control of any state agency that regulates water quality or water pollution.

Storm water means any flow occurring during, following, or resulting from any form of natural precipitation, including snowmelt.

Superintendent means the storm water superintendent, a person designated by the city manager to supervise the operation of the MS4, or a representative designated by the storm water superintendent.

U.S.C. means the United States Code.

(Ord. No. 22881, § 1, 3-25-1997)

Sec. 55-203. Prohibited discharges into the MS4.

(a) No person may intentionally discharge into the municipal storm sewer system grass clippings, leaf litter and animal wastes in massed quantities (e.g., dumping of bags of collected leaves and grass clippings in the system). It shall be a defense to prosecution that these wastes occurred naturally or from normal landscape maintenance (e.g., leaves falling from trees, grass clippings left on lawns). Intentionally sweeping or blowing grass clippings into the streets or gutters is prohibited.

(b) Swimming pool water shall not be a prohibited discharge, provided that the discharge has been tested using a method approved by the director of public health to assure that it will not contain a harmful level of chlorine or other pollutants when it reaches streams, lakes or bays.

(c) Except as otherwise provided in subsections (a) and (b), no person may discharge the following into the municipal separate storm sewer system:

(1) An illicit discharge (e.g. a discharge of other than storm water), including artesian well water, cooling water (including contact and non-contact cooling water and treated and untreated cooling water), ground water, subsurface drainage, industrial wastewater, water from a well;

[However the following discharges may be put into the municipal separate storm sewer system--a discharge under a valid national pollution discharge elimination system (NPDES) permit, a discharge resulting from fire fighting activities, a discharge resulting from washing an automobile at a residence or at a charitable car wash, a discharge of potable water, a discharge of any surface waters (including water from diverted stream flows, uncontaminated rising ground water, water from foundation drains, crawl space pumps and footing drains, water from springs, and flows from riparian habitats and wetlands), a discharge resulting from flushing a water supply line, a discharge of street wash water, a nonpoint source discharge from agricultural activities (including return flows from irrigated agriculture), or condensate from cooling systems].

(2) An illegal discharge (e.g., a discharge of any substance that is prohibited from being discharged into the waters of the United States or the State of Texas, or a tributary to those waters, by any federal or state law);

(3) A direct discharge of a pesticide or fertilizer;

(4) A pollutant or wastewater, other than storm water or a discharge that is not classified as an illicit discharge in subsections (b) and (c)(1) of this section, that is prohibited from being discharged into the publicly owned treatment works (POTW) by section 55-141(a) of this chapter; or

(5) Solid wastes, including animal wastes (including an animal carcass, animal parts or scrap,

excrement, grease of animal origin, offal, paunch manure and urine), ashes or clinkers, construction/demolition materials, dirt or other fill material, debris, floatable, garbage, heavy brush, household appliance, household hazardous waste (any hazardous waste from chemicals or other substances utilized for residential or housekeeping purposes, including, but not be limited to, bleaches, drain cleaners, paint, paint thinners, and solvents), industrial or commercial wastes, medical wastes refuse, sewage, used motor vehicle fluids (including motor oils, anti-freeze and solutions containing anti-freeze, brake fluids, transmission fluids, and other lubricants that have been drained from or any excess materials remaining after servicing a vehicle or piece of equipment), yard waste (including grass clippings, weeds, leaves, mulch, trees and shrub limbs, or other plant material).

(d) Over spray and small amounts of runoff from irrigation of vegetation that pools in a gutter or on a road surface, but does not flow in a steady stream into any manhole or catch basin, is not considered an illicit discharge into the municipal separate storm sewage system.

(e) A person may raise as a defense to prosecution for a violation of subsections (c) and (d) of this section that the illicit discharge was uncontaminated. An illicit discharge is considered uncontaminated if the quality of the water is equal to or better than the quality of the first natural body of water into which a portion of the municipal separate storm sewage system flows (receiving waters), including the Cayo del Oso, Corpus Christi Bay, Nueces Bay, Nueces River, Oso Creek, or Upper Laguna Madre. The results of the last water quality test of the receiving waters published by the superintendent with the city secretary will constitute prima facie evidence of the quality of the receiving waters.

(f) Nothing in this article prevents the placement of solid wastes scheduled for pickup at a location designated by the director of solid waste services.

(g) Runoff from any effort to remove graffiti from buildings or other structures is not considered an illicit discharge into the municipal separate storm sewage system.

(h) Nothing in this section prohibits any activities relating to the construction, maintenance, or operation of the municipal separate storm sewage system.

(i) Notwithstanding subsection (c) of this section, a person may discharge any substance or material specified, if at the time of discharge, the discharge of the substance or material was authorized by a valid permit from the Texas Natural Resource Commission or United States Environmental Protection Agency and the discharge was in compliance with all requirements contained in the permit.

(Ord. No. 22583, § 1, 5-28-1996; Ord. No. 22881, § 1, 3-25-1997)

Editor's note: Formerly § 55-201.

Sec. 55-204. Removal of improper discharges from and repair of damage to MS4.

(a) Any person who discharges any substance or article into the MS4 in violation of section 55-203 of this article shall promptly remove the substance or article from the MS4, take all measures necessary to reduce or eliminate any harmful effects for any substance or article that cannot be removed, repair any damages caused to the MS4 by the substance or article, and compensate the city for any additional expenses it was caused to incur as a result of the illegal or illicit discharge.

(b) If the person who discharged the substance or article into the MS4 fails to remove the substance or article within ten (10) days after receiving notice as provided in section 342.006(b) of the Health and Safety Code, the superintendent may have the substance or article removed from the MS4 and any damages to the MS4 repaired at the expense of the person who discharged the substance or article.

(c) The superintendent may remove any substance or article from the MS4 without notice to person who discharged the substance or article into the MS4, when directed to do so by the federal or state on scene coordinator, under the Act; the Comprehensive Environmental Response, Compensation, and Liability Act or 1980, as amended; the Oil Spill Prevention and Response Act; or Texas Oil and Hazardous Substances Spill Prevention and Control Act. The person who discharged the substance or article is liable for all costs incurred

by the city as a result of the discharge.

(d) A person is presumed to have discharged a substance or thing into the MS4 if the substance or article contains any writing or other marking indicating that the person is the owner of the thing or has had possession of the thing. However, a person who manufactured or offered the item for sale to the public, which is marked with a trade name, is not presumed to have discharged the item if found in the MS4.

(e) Notwithstanding any other provision of this article, the superintendent may temporarily disconnect any connection with the MS4, in order to prevent the continuing discharge of oil, a hazardous substance, sewage, or any other substance that poses an imminent health or safety threat to the community into the MS4. The person who discharged the substance is liable for all costs incurred by the city under this subsection.

(Ord. No. 22881, § 1, 3-25-1997)

Sec. 55-205. Prohibited connections with MS4.

(a) No person may construct, maintain, or use, or cause or allow to be constructed, maintained or used, any drain from private property into a public street or any drain that connects with the MS4, unless the person has applied for a building or plumbing permit and a permit for the connection is obtained from the superintendent.

(b) Any person in apparent control of any property in the city, who is maintaining any connection, or causing or allowing any connection to be maintained that does not conform with the provisions of this section or any other applicable provision of the city's Code of Ordinances shall be deemed to be maintaining a prohibited connection and, upon notice in writing from the superintendent, must remove the drain the required permits and make any modifications necessary for the drain to conform to the requirements of this section and any other applicable provisions of the city's Code of Ordinances.

(c) Upon receipt of written notice, the person in apparent control of any property in the city has five (5) working days to request a timely meeting with the superintendent. The purpose of the meeting will be to establish a schedule, setting out when the drain will be removed or made to conform with the provisions of this section. In no event may the schedule allow for a time period greater than six (6) months to remove the drain or bring the drain into conformance with this section.

(d) The superintendent is authorized to execute schedules in writing.

(e) A violation of the schedule constitutes a violation of this article, and each day beyond the scheduled time of removal or repair constitutes a separate violation of this article.

(f) For purposes of this article, any person, in whose name a water meter connection is registered for servicing the private property, is presumed to be the person in apparent control of the property. Proof that the property in question has a water meter connection registered in the name of the defendant named in a criminal complaint filed under this article constitutes prima facie evidence to support the presumption that the person in whose name such water connection is registered is the person who permitted or allowed a prohibited connection under this section.

(g) It is a defense to prosecution under this article that the person in apparent control of the property in the city, who is charged with constructing or maintaining a prohibited connection received prior written approval for the drain or the connection to the MS4 from the superintendent or that the drain and the method of construction of such drain was consistent with other provisions of the city's Code of Ordinances in effect prior to the issuance of a notice of such violation of this ordinance.

(h) In the event a person in apparent control of any property in the city, upon receipt of the notice requirement set out in section 55-207(b), fails to remove the drain or make the drain conform in every respect to the requirements of this section and any other applicable provisions of the city's Code of Ordinance, and in addition to any other remedies set out in this article, the city may disconnect the prohibited connection from the MS4 and charge the costs of the disconnection to the person in apparent control of the property from which the prohibited connection originates.

(i) In the event the prohibited connection is deemed a health problem by the director of public health, under

Section 342.007 of the Health and Safety Code, the city may attach a lien on the property from which the prohibited connection originates.

(Ord. No. 22881, § 1, 3-25-1997)

Sec. 55-206. Annual report, NPDES compliance monitoring, inspection, and sampling.

(a) The holder of a NPDES permit shall annually report its federal compliance status to the superintendent on forms provided by the city.

(1) It shall be the duty of every holder of a NPDES permit to notify the city of the existence of such permit by providing the superintendent a copy of the permit upon receipt by the permittee.

(2) Holders of either federal NPDES permits or state NPDES permits, and persons whose facilities connect to the MS4 under written authority of the city, shall report to the superintendent any spill, release, or event for which the holder was required to notify the National Response Center (NRC), TNRCC, or Texas General Land Office (TGLO) within one (1) hour of the report to the NRC, TNRCC, or TGLO.

(3) The superintendent has the authority to demand to see any NPDES permits held by the owner or operator of a business facility. The superintendent may enter a business facility to investigate and make determination whether such business facility is subject to NPDES permitting requirements.

(4) It is a violation of this article if a business facility required to have an NPDES permit operates without a NPDES permit.

(b) The superintendent may enter any business facility during hours in which the business facility is open for business or is operating or is discharging into the MS4 to ascertain whether there is a violation of this article. The owner or operator of a business facility must allow the superintendent ready access to all parts of the business facility for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a business facility has security measures in force that require proper identification and clearance before entry into the business facility, the owner or operator shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and federal agencies are permitted to enter without delay, for the purposes of performing their specific responsibilities.

(2) City, state and federal agencies have the right to set on the business facility any devices necessary to sample and/or meter any discharge or to detect any illegal or illicit discharge into the MS4.

(3) The superintendent may require the owner or operator of a business facility to install monitoring equipment, as necessary. The business facility's sampling and monitoring equipment must be maintained at all times in a safe and proper operating condition by the owner or operator of the business facility at the owner's or operator's expense.

(4) Any temporary or permanent obstruction to safe and easy access to a business facility to be inspected and/or sampled must be promptly removed by the owner or operator at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be born by the owner or occupant.

(5) Unreasonable delays in allowing city personnel access to residence or business facility is a violation of this article.

(6) Hours of operating of the business facility and times during which the facility is discharging into the MS4 are deemed reasonable hours for entry of city, state, or federal inspectors for the purposes of this section.

(Ord. No. 22881, § 1, 3-25-1997)

Sec. 55-207. Penalties.

(a) A violation of any provision of this article is a Class C misdemeanor. A conviction is punishable by a fine as provided in section 1-6 of this Code. Each day of [a] violation continues constitutes a separate offense. Each violation of a separate provision in this article constitutes a separate offense. A culpable mental state is not required to prove an offense under this article.

(b) If the person violating any of the provision of this article is a corporation, the president, vice-president, secretary, or treasurer of the corporation or any manager, agent or employee of the corporation responsible for the management of the property where the violation occurred is severally liable for any penalty.

(c) Failure to appear in response to a citation issued for violation of this chapter is a separate violation of this article.

(Ord. No. 22881, § 1, 3-25-1997)

Editor's note: Formerly numbered § 55-211.

Sec. 55-208. Other enforcement actions authorized.

(a) Upon the written certification by the code enforcement official or superintendent of a violation of any section of this article, the city attorney is authorized to petition any court of competent jurisdiction for an injunction to enjoin the continued violations. This remedy is cumulative of all other enforcement powers granted to the city by the terms of its charter, any ordinance, or by the laws of the state.

(b) In the event the responsibility and maintenance of the MS4 is transferred from the City of Corpus Christi to another public utility, upon the approval of its board, is also authorized to petition any court of competent jurisdiction for an injunction to enjoin the violation of this article upon the written certification of the violation of a provision by an authorized representative of the governing body of such utility.

(Ord. No. 22881, § 1, 3-25-1997)

Editor's note: Formerly numbered § 55-212.

Sec. 55-209. Collection of expenses; lien, suit.

The superintendent shall file a statement of expenses incurred under sections 55-205, 55-207, and 55-212, giving the amount of such expenses, the date on which such work was done and a description of the property upon which such work was done or improvements made with the county clerk of the county. The city has a privileged lien on such lot or real estate upon which such work was done or improvements made to secure the expenditures so made, under § 342.007 of the Texas Health and Safety Code, which lien is second only to tax liens and liens for street improvements, and such amount bears ten (10) per cent interest from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city, and the statement of expenses so made, or a certified copy of the statement, is prima facie proof of the amount expended for such work or improvements.

(Ord. No. 22881, § 1, 3-25-1997)

Editor's note: Formerly numbered § 55-213.

Sec. 55-210. Special warrants.

Under Article 18.05, Texas Code of Criminal Procedure, if the superintendent has been refused access to a

building, facility or residence, or any part thereof, and if such official can demonstrate (1) probable cause to believe that there may be a violation of this article and (2) that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this article, or any permit or order issued under this article, to protect the overall public health safety and welfare of the community, then upon application by the city attorney, through a code enforcement official, the municipal court judge of the city shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the code enforcement official in the company of a uniformed police officer of the city. Hours during business operation or during permittee's discharge to the MS4, if there be a permit, shall be presumed reasonable hours of access. In the case of a suspected unpermitted discharge, or discharge from a domestic source, the municipal court judge shall make determination of reasonable hours for entry. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(Ord. No. 22881, § 1, 3-25-1997)

Editor's note: Formerly numbered § 55-214.

Sec. 55-211. Conflicts with other laws.

Nothing in this article is intended nor shall any part or portion hereof be construed as to conflict with any applicable provisions of the Act, Texas Health and Safety Code, or Texas Water Code.

(Ord. No. 22881, § 1, 3-25-1997)

Editor's note: Formerly numbered § 55-215.

Secs. 55-212--55-219. Reserved.