



Legislation Text

File #: O-38-21, Version: 1

Illicit Discharges and Connections - Stormwater - For the purpose of regulating the contribution of pollutants to the City separate storm sewer system (MS4) by stormwater discharges by any user; prohibiting illicit connections and discharges to the City separate storm sewer system (MS4); establishing legal authority for the City to carry out all inspection, surveillance and monitoring procedures; providing definitions; providing for enforcement of violations; providing an appeal process; and generally relating to illicit discharge and connections.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 38-21

**Introduced by: Mayor Buckley
Co-sponsored by:**

**Referred to
Economic Matters Committee**

AN ORDINANCE concerning

Illicit Discharges and Connections - Stormwater

FOR the purpose regulating the contribution of pollutants to the City separate storm sewer system (MS4) by stormwater discharges by any user; prohibiting illicit connections and discharges to the City separate storm sewer system (MS4); establishing legal authority for the City to carry out all inspection, surveillance and monitoring procedures; providing definitions; providing for enforcement of violations; providing an appeal process; and generally relating to illicit discharge and connections.

BY adding the following portions to the Code of the City of Annapolis, 2022 Edition

17.07.010
17.07.020
17.07.030
17.07.040
17.07.050
17.07.060
17.07.070
17.07.080
17.07.090
17.07.100
17.07.110

17.07.120
17.07.130
17.07.140
17.07.150
17.07.160
17.07.170
17.07.180
17.07.190
17.07.200
17.07.210

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

TITLE 17 - BUILDINGS AND CONSTRUCTION
CHAPTER 17.07 - ILLICIT DISCHARGE AND CONNECTION STORMWATER

SECTION 17.07.010 - PURPOSE - INTENT.

THE PURPOSE OF THIS CHAPTER IS TO PROVIDE FOR THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF ANNAPOLIS THROUGH THE REGULATION OF NON-STORMWATER DISCHARGES TO THE CITY’S SEPARATE STORM SEWER SYSTEM (MS4) TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY FEDERAL, STATE, AND LOCAL LAWS. THIS CHAPTER ESTABLISHES METHODS FOR CONTROLLING THE INTRODUCTION OF POLLUTANTS INTO THE CITY’S SEPARATE STORM SEWER SYSTEM (MS4) IN ORDER TO COMPLY WITH REQUIREMENTS OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT PROCESS. THE OBJECTIVES OF THIS CHAPTER ARE:

- A. TO REGULATE THE CONTRIBUTION OF POLLUTANTS TO THE CITY SEPARATE STORM SEWER SYSTEM (MS4) BY STORMWATER DISCHARGES BY ANY USER.
- B. TO PROHIBIT ILLICIT CONNECTIONS AND DISCHARGES TO THE CITY SEPARATE STORM SEWER SYSTEM (MS4).
- C. TO ESTABLISH LEGAL AUTHORITY FOR THE CITY OF ANNAPOLIS TO CARRY OUT ALL INSPECTION, SURVEILLANCE AND MONITORING PROCEDURES NECESSARY TO ENSURE COMPLIANCE WITH THIS CHAPTER.

SECTION 17.07.020 - DEFINITIONS.

FOR THE PURPOSES OF THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS ASCRIBED TO THEM AS FOLLOWS:

- A. “AUTHORIZED ENFORCEMENT AGENCY” MEANS EMPLOYEES OR DESIGNEES OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS.
- B. “BEST MANAGEMENT PRACTICES (BMPS)” MEANS SCHEDULES OF ACTIVITIES, PROHIBITIONS OF PRACTICES, GENERAL GOOD HOUSEKEEPING 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.

- C. "CLEAN WATER ACT" MEANS THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251 ET SEQ.), AND ANY SUBSEQUENT AMENDMENTS THERETO.
- D. "CONSTRUCTION" MEANS ANY ACTIVITY ON A SITE WHICH IN ANY WAY ALTERS ITS PHYSICAL CHARACTER AND THAT IS SUBJECT TO NPDES CONSTRUCTION PERMITS. NPDES STORMWATER PHASE II PERMITS WILL BE REQUIRED FOR CONSTRUCTION PROJECTS RESULTING IN LAND DISTURBANCE OF 1 ACRE OR MORE. SUCH ACTIVITY INCLUDES BUT IS NOT LIMITED TO CLEARING AND GRUBBING, GRADING, EXCAVATING, AND DEMOLITION.
- E. "CONVEYANCE" MEANS ANY STRUCTURAL PROCESS FOR TRANSFERRING STORMWATER BETWEEN AT LEAST TWO (2) POINTS, INCLUDING PIPING, DITCHES, SWALES, CURBS, GUTTERS, CATCH BASINS, CHANNELS, STORM DRAINS, AND ROADWAYS.
- F. "DIRECT ILLEGAL DISCHARGE" INCLUDES WASTEWATER, PIPING DIRECTLY CONNECTED FROM A PREMISES TO THE STORM DRAINAGE SYSTEM, MATERIALS (E.G. USED MOTOR OIL) THAT HAVE BEEN DUMPED ILLEGALLY INTO A CATCH BASIN FOR THE STORM DRAINAGE SYSTEM; OR A CROSS CONNECTION BETWEEN THE CITY SANITARY SEWER AND STORM DRAINAGE SYSTEM.
- G. "FIELD CORRECTION NOTICE" MEANS A CITY ISSUED NOTICE IDENTIFYING AREAS OF A CONSTRUCTION SITE OR A PREMISES REQUIRING CORRECTIVE ACTION. THIS NOTICE WILL EXPLICITLY STATE THE ISSUES IN NEED OF REMEDY AND THE ALLOTTED TIME THE PREMISES MUST CORRECT THOSE IDENTIFIED ISSUES.
- HG. "EPA" MEANS THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.
- HI. "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.
- I. "ILLEGAL DISCHARGE" MEANS ANY DIRECT OR INDIRECT NON-STORMWATER DISCHARGE TO THE STORM DRAINAGE SYSTEM, EXCEPT AS EXEMPTED IN SECTION 17.07.060 OF THIS CHAPTER.
- KJ. "ILLICIT CONNECTION" MEANS 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-STORMWATER DISCHARGE INCLUDING SEWAGE, PROCESS WASTEWATER, AND WASH WATER (EXCEPT AS PERMITTED IN SECTION 17.07.060) 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 THE 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 THE AUTHORIZED

ENFORCEMENT AGENCY.

- L. “INDIRECT ILLEGAL DISCHARGE” INCLUDES A DAMAGED SANITARY SEWER LINE LEAKING INTO THE STORM DRAINAGE SYSTEM, OR A FAILING SEPTIC SYSTEM THAT IS EITHER LEAKING INTO THE STORM DRAINAGE SYSTEM OR CAUSING SURFACE DISCHARGE INTO THE STORM DRAINAGE SYSTEM.
- MK. “INDUSTRIAL ACTIVITY” MEANS ACTIVITIES SUBJECT TO NPDES INDUSTRIAL PERMITS AS DEFINED IN 40 C.F.R., SECTION 122.26 (B)(14), AS MAY BE AMENDED.
- NL. “NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT” MEANS A PERMIT ISSUED BY THE EPA, OR BY A STATE UNDER AUTHORITY DELEGATED PURSUANT TO 33 USC § 1342(B), AS MAY BE AMENDED, 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.
- OM. “NON-STORMWATER DISCHARGE” MEANS ANY DISCHARGE TO THE STORM DRAIN SYSTEM THAT IS NOT COMPOSED ENTIRELY OF STORMWATER.
- PN. “OUTFALL” MEANS A POINT SOURCE WHERE THE STORM DRAINAGE SYSTEM COLLECTION DISCHARGES FROM A PIPE, DITCH, OR OTHER DISCRETE CONVEYANCE DIRECTLY OR INDIRECTLY TO WATERS OF THE STATE OF MARYLAND OR TO ANOTHER NON-CITY STORM DRAINAGE SYSTEM.
- QO. “PERSON” MEANS ANY INDIVIDUAL, ASSOCIATION, ORGANIZATION, PARTNERSHIP, FIRM, CORPORATION OR OTHER ENTITY RECOGNIZED BY LAW AND ACTING AS EITHER THE OWNER OF THE PREMISES OR AS THE OWNER'S AGENT.
- RP. “POLLUTANT” MEANS ANYTHING THAT CAUSES OR CONTRIBUTES TO POLLUTION. POLLUTANTS MAY INCLUDE, BUT ARE NOT LIMITED TO: PAINTS, VARNISHES, AND SOLVENTS, COAL TAR PAVEMENT PRODUCTS, OIL AND OTHER AUTOMOTIVE FLUIDS; NON-HAZARDOUS LIQUID AND SOLID WASTES AND YARD WASTES; REFUSE, RUBBISH, GARBAGE, LITTER, OR OTHER DISCARDED OR ABANDONED OBJECTS, ~~ORDINANCES~~, 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.
- Q. “POLLUTION” MEANS THE CONTAMINATION OR OTHER ALTERATION OF THE PHYSICAL, CHEMICAL, OR BIOLOGICAL PROPERTIES OF ANY WATERS OF THE CITY, INCLUDING CHANGE IN TEMPERATURE, TASTE, COLOR, TURBIDITY, OR ODOR OF THE WATERS, OR THE DISCHARGE OR DEPOSIT OF ANY ORGANIC MATTER, HARMFUL ORGANISMS, LIQUID, GASEOUS, SOLID, RADIOACTIVE, OR OTHER SUBSTANCE INTO ANY WATERS OF THE CITY THAT WILL RENDER THE WATERS HARMFUL, DETRIMENTAL, OR INJURIOUS TO:
- (a) PUBLIC HEALTH, SAFETY OR WELFARE;
 - (b) DOMESTIC, COMMERCIAL, INDUSTRIAL, AGRICULTURAL, RECREATIONAL, OR OTHER LEGITIMATE BENEFICIAL USES; OR
 - (c) LIVESTOCK, WILD ANIMALS, BIRDS, FISH, OR OTHER AQUATIC LIFE.
- SR. “PREMISES” MEANS ANY BUILDING, FACILITY, LOT, ALLEY, PARCEL OF LAND, OR PORTION OF LAND WHETHER IMPROVED OR UNIMPROVED INCLUDING ADJACENT SIDEWALKS AND PARKING STRIPS.
- S. “RECEIVING WATERS” MEANS ANY PERENNIAL, INTERMITTENT, OR EPHEMERAL STREAMS OR TIDAL OR NON-TIDAL WETLAND SYSTEM, OR OTHER WATER RESOURCE

IDENTIFIED BY THE AUTHORIZED ENFORCEMENT AGENCY.

- T. "STORM DRAINAGE SYSTEM" MEANS THE CITY-OWNED SEPARATE STORM SEWER SYSTEM (MS4), AND RELATED FACILITIES, BY WHICH STORMWATER IS COLLECTED OR CONVEYED, INCLUDING BUT NOT LIMITED TO ANY ROADS WITH DRAINAGE SYSTEMS, CITY 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.
- U. "STORMWATER" MEANS ANY SURFACE FLOW, RUNOFF, AND DRAINAGE CONSISTING ENTIRELY OF WATER FROM ANY FORM OF NATURAL PRECIPITATION, AND RESULTING FROM SUCH PRECIPITATION.
- V. "STORMWATER POLLUTION PREVENTION PLAN" MEANS A DOCUMENT THAT DESCRIBES THE BEST MANAGEMENT PRACTICES AND ACTIVITIES TO BE IMPLEMENTED BY A PERSON TO IDENTIFY SOURCES OF POLLUTION OR CONTAMINATION AT A SITE AND THE ACTIONS TO ELIMINATE OR REDUCE POLLUTANT DISCHARGES TO STORMWATER, STORMWATER CONVEYANCE SYSTEMS, OR RECEIVING WATERS TO THE MAXIMUM EXTENT PRACTICABLE.
- W. "WASTEWATER" MEANS ANY WATER OR OTHER LIQUID, OTHER THAN UNCONTAMINATED STORMWATER, DISCHARGED FROM A PREMISES.

SECTION 17.07.030 - APPLICABILITY.

THIS CHAPTER SHALL APPLY TO ALL WATER ENTERING THE STORM DRAIN SYSTEM GENERATED ON ANY DEVELOPED AND UNDEVELOPED LANDS UNLESS EXPLICITLY EXEMPTED BY THE AUTHORIZED ENFORCEMENT AGENCY.

SECTION 17.07.040 - RESPONSIBILITY FOR ADMINISTRATION.

THE AUTHORIZED ENFORCEMENT AGENCY SHALL ADMINISTER, IMPLEMENT, AND ENFORCE THE PROVISIONS OF THIS CHAPTER.

SECTION 17.07.050 - 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 WITH THIS CHAPTER WILL ENSURE THAT THERE WILL BE NO CONTAMINATION, POLLUTION, NOR UNAUTHORIZED DISCHARGE OF POLLUTANTS.

SECTION 17.07.060 - DISCHARGE PROHIBITIONS.

- A. **PROHIBITION OF ILLEGAL DISCHARGES.** A PERSON SHALL NOT DISCHARGE OR CAUSE TO BE DISCHARGED INTO THE STORM DRAIN SYSTEM OR CITY WATERCOURSES ANY MATERIALS, INCLUDING BUT NOT LIMITED TO POLLUTANTS OR WATERS CONTAINING ANY POLLUTANTS THAT CAUSE OR CONTRIBUTE TO A VIOLATION OF APPLICABLE WATER QUALITY STANDARDS, OTHER THAN STORMWATER. THE COMMENCEMENT, CONDUCT, OR CONTINUANCE OF ANY ILLEGAL DISCHARGE TO THE STORM DRAIN SYSTEM IS PROHIBITED EXCEPT AS DESCRIBED AS FOLLOWS:

1. THE FOLLOWING DISCHARGES ARE EXEMPT FROM DISCHARGE PROHIBITIONS ESTABLISHED BY THIS CHAPTER: WATER LINE FLUSHING OR OTHER POTABLE WATER SOURCES, LANDSCAPE IRRIGATION OR LAWN WATERING THAT IS COMPLIANT WITH ALL APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, DIVERTED STREAM FLOWS, RISING GROUND WATER, GROUND WATER INFILTRATION TO STORM DRAINS, UNCONTAMINATED PUMPED GROUND WATER, FOUNDATION OR FOOTING DRAINS (NOT INCLUDING ACTIVE GROUNDWATER DEWATERING SYSTEMS), CRAWL SPACE PUMPS, EPA WASHING OF VEHICLES, NATURAL RIPARIAN HABITAT OR WET-LAND FLOWS, SWIMMING POOLS (IF DECHLORINATED - TYPICALLY LESS THAN ONE PPM CHLORINE), FIRE FIGHTING ACTIVITIES, AND ANY OTHER WATER SOURCE NOT CONTAINING POLLUTANTS. SUCH DISCHARGES SHALL ONLY BE EXEMPTED IF THEY OTHERWISE COMPLY, AS APPLICABLE, WITH CHAPTER 17.08 AND OTHER CITY CODE PROVISIONS REGULATING STORMWATER OR THE ENVIRONMENTS, AND ANY APPLICABLE FEDERAL OR STATE PESTICIDE REGULATIONS.
2. DISCHARGES SPECIFIED IN WRITING BY THE AUTHORIZED ENFORCEMENT AGENCY AS BEING NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY.
3. DYE TESTING IS AN ALLOWABLE DISCHARGE, BUT REQUIRES PRIOR WRITTEN PERMISSION FROM THE AUTHORIZED ENFORCEMENT AGENCY PRIOR TO THE TIME OF THE TEST.
4. THE PROHIBITION SHALL NOT APPLY TO ANY NON-STORMWATER DISCHARGE PERMITTED UNDER AN NPDES PERMIT, WAIVER, OR WASTE DISCHARGE ORDER ISSUED TO THE DISCHARGER AND ADMINISTERED 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 AND REGULATIONS, AND PROVIDED THAT WRITTEN APPROVAL HAS BEEN GRANTED BY THE EPA FOR ANY DISCHARGE TO THE STORM DRAIN SYSTEM.

B. PROHIBITION OF ILLICIT CONNECTIONS.

1. THE CONSTRUCTION, USE, MAINTENANCE, OR CONTINUED EXISTENCE OF ILLICIT CONNECTIONS TO THE STORM DRAIN SYSTEM IS PROHIBITED.
2. THIS PROHIBITION EXPRESSLY 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.
3. A PERSON IS CONSIDERED TO BE IN VIOLATION OF THIS CHAPTER IF THE PERSON CONNECTS A LINE CONVEYING SEWAGE TO THE STORM DRAIN SYSTEM, OR ALLOWS SUCH A CONNECTION TO CONTINUE.

SECTION 17.07.070 - SUSPENSION OF STORM DRAIN SYSTEM ACCESS.

- A. SUSPENSION DUE TO ILLICIT DISCHARGES IN EMERGENCY SITUATIONS.** THE AUTHORIZED ENFORCEMENT AGENCY MAY, WITHOUT PRIOR NOTICE, SUSPEND STORM DRAIN SYSTEM DISCHARGE ACCESS TO A PERSON 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 THE STORM DRAIN SYSTEM OR WATERS OF THE UNITED STATES. IF THE VIOLATOR 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 THE STORM DRAIN SYSTEM OR WATERS OF THE UNITED STATES, OR TO MINIMIZE DANGER TO PERSONS.

- B. SUSPENSION DUE TO THE DETECTION OF ILLICIT DISCHARGE.** A PERSON DISCHARGING TO THE STORM DRAIN SYSTEM IN VIOLATION OF THIS CHAPTER MAY HAVE THEIR STORM DRAIN SYSTEM ACCESS TERMINATED IF SUCH TERMINATION WOULD ABATE OR REDUCE AN ILLICIT DISCHARGE, AND SUCH TERMINATION WOULD NOT CAUSE OR HAVE THE SUBSTANTIAL POTENTIAL TO CAUSE FLOODING OR FLOOD-RELATED EROSION, ALL AS DETERMINED IN THE AUTHORIZED ENFORCEMENT AGENCY'S DISCRETION. THE AUTHORIZED ENFORCEMENT AGENCY WILL NOTIFY A VIOLATOR OF THE PROPOSED TERMINATION OF ITS STORM DRAIN SYSTEM ACCESS. THE VIOLATOR MAY PETITION THE DIRECTOR OF THE AUTHORIZED ENFORCEMENT AGENCY FOR A RECONSIDERATION AND HEARING.
- C. OFFENSE.** A PERSON COMMITS AN OFFENSE UNDER THIS CHAPTER IF THE PERSON REINSTATES STORM DRAIN SYSTEM ACCESS TO A PREMISES TERMINATED PURSUANT TO THIS SECTION, WITHOUT THE PRIOR APPROVAL OF THE AUTHORIZED ENFORCEMENT AGENCY.

SECTION 17.07.080 - INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

A PERSON SUBJECT TO AN INDUSTRIAL OR CONSTRUCTION ACTIVITY NPDES STORMWATER DISCHARGE PERMIT SHALL COMPLY WITH ALL PROVISIONS OF THE APPROVED PERMIT. PROOF OF COMPLIANCE WITH THE APPROVED PERMIT MAY BE REQUIRED TO BE SUBMITTED TO THE CITY IN A FORM ACCEPTABLE TO THE AUTHORIZED ENFORCEMENT AGENCY PRIOR TO THE ALLOWING OF DISCHARGES TO THE STORM DRAIN SYSTEM.

SECTION 17.07.090 - MONITORING OF DISCHARGES.

- A. APPLICABILITY.** THIS SECTION APPLIES TO ALL FACILITIES THAT HAVE STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY, INCLUDING CONSTRUCTION ACTIVITY.
- B. ACCESS TO PREMISES.**
1. THE AUTHORIZED ENFORCEMENT AGENCY SHALL BE ALLOWED TO ENTER AND INSPECT ANY PREMISES SUBJECT TO REGULATION UNDER THIS CHAPTER AS OFTEN AS IT DEEMS NECESSARY TO DETERMINE COMPLIANCE WITH THIS CHAPTER. IF A PERSON HAS SECURITY MEASURES IN FORCE THAT REQUIRE PROPER IDENTIFICATION AND CLEARANCE BEFORE ENTRY INTO ITS PREMISES, THAT PERSON SHALL MAKE THE NECESSARY ARRANGEMENTS TO ALLOW ACCESS TO REPRESENTATIVES OF THE AUTHORIZED ENFORCEMENT AGENCY IN ACCORDANCE WITH THIS SECTION.
 2. THE OWNER OF THE PREMISES, OR THE OWNER'S AGENT, SHALL ALLOW THE AUTHORIZED ENFORCEMENT AGENCY 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 NPDES PERMIT TO DISCHARGE STORMWATER, AND THE PERFORMANCE OF ANY ADDITIONAL

DUTIES AS DEFINED BY FEDERAL, STATE, OR LOCAL LAW.

3. THE AUTHORIZED ENFORCEMENT AGENCY SHALL BE ALLOWED TO SET UP ON ANY PERMITTED PREMISES SUCH DEVICES AS IT DEEMS NECESSARY TO CONDUCT MONITORING AND SAMPLING OF THE FACILITY'S STORMWATER DISCHARGE.
4. THE AUTHORIZED ENFORCMENT AGENCY HAS THE RIGHT TO REQUIRE THE OWNER OF THE PREMISES TO INSTALL MONITORING EQUIPMENT AS NECESSARY. THE OWNER, AT ITS OWN EXPENSE, SHALL MAINTAIN THE SAMPLING AND MONITORING EQUIPMENT ON THE PREMISES AT ALL TIMES IN A SAFE AND PROPER OPERATING CONDITION. THE OWNER IS RESPONSIBLE FOR CALIBRATING ALL DEVICES USED TO MEASURE STORMWATER FLOW AND QUALITY TO ENSURE THEIR ACCURACY AND SHALL IMMEDIATELY PROVIDE ALL CALIBRATION REPORTS TO THE CITY.
5. ANY TEMPORARY OR PERMANENT OBSTRUCTION TO SAFE AND EASY ACCESS TO A PREMISES TO BE INSPECTED OR SAMPLED SHALL BE PROMPTLY REMOVED BY THE OWNER, OR THE OWNER'S AGENT, AT THE WRITTEN OR ORAL REQUEST OF THE AUTHORIZED ENFORCMENT AGENCY AND SHALL NOT BE REPLACED. THE COSTS OF CLEARING SUCH ACCESS SHALL BE BORNE BY THE OWNER OF THE PREMISES.
6. UNREASONABLE DELAYS IN ALLOWING THE AUTHORIZED ENFORCMENT AGENCY ACCESS TO A PERMITTED PREMISES IS A VIOLATION OF A NPDES STORMWATER DISCHARGE PERMIT AND OF THIS CHAPTER. A PERSON WHO IS THE OWNER OR OPERATOR OF A PREMISES WITH A NPDES PERMIT TO DISCHARGE STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY COMMITS AN OFFENSE IF THAT PERSON DENIES THE AUTHORIZED ENFORCEMENT AGENCY REASONABLE ACCESS TO THE PERMITTED PREMISES FOR THE PURPOSE OF CONDUCTING ANY ACTIVITY AUTHORIZED OR REQUIRED BY THIS CHAPTER.
7. IF THE AUTHORIZED ENFORCEMENT AGENCY HAS BEEN REFUSED ACCESS TO ANY PART OF THE PREMISES FROM WHICH STORMWATER IS DISCHARGED, AND THE AUTHORIZED ENFORCEMENT AGENCY IS ABLE TO DEMONSTRATE PROBABLE CAUSE TO BELIEVE THAT THERE MAY BE A VIOLATION OF THIS CHAPTER, OR THAT THERE IS A NEED TO INSPECT 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 AUTHORIZED ENFORCEMENT AGENCY MAY SEEK ISSUANCE OF A SEARCH WARRANT FROM ANY COURT OF COMPETENT JURISDICTION.

SECTION 17.07.100 - REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

THE AUTHORIZED ENFORCEMENT AGENCY WILL ADOPT REQUIREMENTS IDENTIFYING BEST MANAGEMENT PRACTICES FOR ANY ACTIVITY, OPERATION, OR PREMISES WHICH MAY CAUSE OR CONTRIBUTE TO POLLUTION OR CONTAMINATION OF STORMWATER, THE STORM DRAIN SYSTEM, OR WATERS OF THE UNITED STATES. THE OWNER OR OPERATOR OF A COMMERCIAL OR INDUSTRIAL PREMISES SHALL PROVIDE, AT THEIR OWN EXPENSE, REASONABLE PROTECTION FROM ACCIDENTAL DISCHARGE OF PROHIBITED MATERIALS OR OTHER WASTES INTO THE STORM DRAIN SYSTEM OR WATERCOURSES THROUGH THE USE OF THESE ADOPTED STRUCTURAL AND NON-STRUCTURAL BMPs. FURTHER, ANY PERSON RESPONSIBLE FOR A PREMISES, WHICH IS, OR MAY BE, THE SOURCE OF AN ILLICIT DISCHARGE, MAY BE REQUIRED TO IMPLEMENT, AT SAID PERSON'S EXPENSE, ADDITIONAL

STRUCTURAL AND NON-STRUCTURAL BMPS TO PREVENT THE FURTHER DISCHARGE OF POLLUTANTS TO THE STORM DRAIN SYSTEM. COMPLIANCE WITH ALL TERMS AND CONDITIONS OF A VALID NPDES PERMIT AUTHORIZING THE DISCHARGE OF STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY, TO THE EXTENT PRACTICABLE, SHALL BE DEEMED COMPLIANT WITH THE PROVISIONS OF THIS SECTION. THESE BMPS SHALL BE PART OF A STORMWATER POLLUTION PREVENTION PLAN AS NECESSARY FOR COMPLIANCE WITH REQUIREMENTS OF THE NPDES PERMIT.

SECTION 17.07.110. - WATERCOURSE PROTECTION.

EVERY PERSON OWNING A PREMISES THROUGH WHICH A WATERCOURSE PASSES, OR SUCH PERSON'S AGENT, TENANT, OR LESSEE, SHALL KEEP AND MAINTAIN THAT PART OF THE WATERCOURSE WITHIN THE PREMISES 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 SUCH OWNER'S AGENT, TENANT, 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.

SECTION 17.07.120 - NOTIFICATION OF SPILLS.

NOTWITHSTANDING ANY OTHER REQUIREMENTS OF LAW, AS SOON AS A PERSON RESPONSIBLE FOR A PREMISES OR OPERATION, OR RESPONSIBLE FOR EMERGENCY RESPONSE FOR A PREMISES 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 STORMWATER, THE STORM DRAIN SYSTEM, OR WATER OF THE UNITED STATES, THAT 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, THAT PERSON SHALL IMMEDIATELY NOTIFY THE ANNAPOLIS FIRE DEPARTMENT OF THE OCCURRENCE VIA EMERGENCY DISPATCH SERVICES. IN THE EVENT OF A RELEASE OF NON-HAZARDOUS MATERIALS, THAT PERSON SHALL NOTIFY THE AUTHORIZED ENFORCEMENT AGENCY 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 AUTHORIZED ENFORCEMENT AGENCY WITHIN THREE BUSINESS DAYS OF THE IN PERSON OR PHONE NOTICE. IF THE DISCHARGE OF PROHIBITED MATERIALS EMANATES FROM A COMMERCIAL OR INDUSTRIAL PREMISES, THE OWNER, OR THE OWNER'S AGENT, 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.

SECTION 17.07.130 - ENFORCEMENT.

A. **NOTICE OF VIOLATION.** WHENEVER THE AUTHORIZED ENFORCEMENT AGENCY FINDS THAT A PERSON HAS VIOLATED A PROHIBITION OR FAILED TO MEET A REQUIREMENT OF THIS CHAPTER, THE AUTHORIZED ENFORCEMENT AGENCY MAY ORDER COMPLIANCE BY WRITTEN NOTICE OF VIOLATION TO THE RESPONSIBLE PERSON. SUCH NOTICE MAY REQUIRE WITHOUT LIMITATION:

1. THE PERFORMANCE OF MONITORING, ANALYSES, AND REPORTING;
2. THE ELIMINATION OF ILLICIT CONNECTIONS OR DISCHARGES;
3. THAT VIOLATING DISCHARGES, PRACTICES, OR OPERATIONS SHALL CEASE AND DESIST;
4. THE ABATEMENT OR REMEDIATION OF STORMWATER POLLUTION OR CONTAMINATION HAZARDS AND THE RESTORATION OF ANY AFFECTED PROPERTY;
5. PAYMENT OF A FINE TO COVER ADMINISTRATIVE AND REMEDIATION COSTS; AND
6. THE IMPLEMENTATION OF SOURCE CONTROL OR TREATMENT BMPS.

B. ABATEMENT AND/OR RESTORATION. IF ABATEMENT OF A VIOLATION AND/OR RESTORATION OF AFFECTED PROPERTY IS REQUIRED, THE NOTICE SHALL SET FORTH A DEADLINE WITHIN WHICH SUCH ABATEMENT OR RESTORATION MUST BE COMPLETED. SAID NOTICE SHALL FURTHER ADVISE THAT, SHOULD THE VIOLATOR FAIL TO ABATE OR RESTORE WITHIN THE ESTABLISHED DEADLINE, THE WORK WILL BE DONE BY A DESIGNATED GOVERNMENTAL AGENCY OR A CONTRACTOR AND THE EXPENSE THEREOF SHALL BE CHARGED TO THE VIOLATOR.

C. FINES AND PENALTIES. A PERSON WHO VIOLATES THIS CHAPTER MAY BE SUBJECT TO PENALTIES AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

SECTION 17.07.140 - APPEAL OF NOTICE OF VIOLATION.

ANY PERSON WHO RECEIVES A NOTICE OF VIOLATION MAY APPEAL THAT VIOLATION BY SUBMITTING A WRITTEN NOTICE OF APPEAL TO THE CITY MANAGER WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF VIOLATION. A HEARING ON THE APPEAL BEFORE THE CITY MANAGER OR HIS OR HER DESIGNEE SHALL TAKE PLACE WITHIN 15 DAYS FROM THE DATE OF RECEIPT OF THE NOTICE OF APPEAL. THE DECISION OF THE CITY MANAGER OR HIS OR HER DESIGNEE SHALL BE FINAL.

SECTION 17.07.150 - ENFORCEMENT MEASURES AFTER APPEAL.

IF THE VIOLATION HAS NOT BEEN CORRECTED PURSUANT TO THE REQUIREMENTS SET FORTH IN THE NOTICE OF VIOLATION, OR, IN THE EVENT OF AN APPEAL, WITHIN 15 DAYS OF THE DECISION OF THE CITY MANAGER OR HIS OR HER DESIGNEE UPHOLDING THE DECISION OF THE AUTHORIZED ENFORCEMENT AGENCY, THEN REPRESENTATIVES OF THE AUTHORIZED ENFORCEMENT AGENCY SHALL ENTER UPON THE SUBJECT PRIVATE PREMISES AND ARE AUTHORIZED TO TAKE ANY AND ALL MEASURES NECESSARY TO ABATE THE VIOLATION AND RESTORE THE PREMISES. IT SHALL BE UNLAWFUL FOR A PERSON, OWNER, AGENT, OR PERSON IN POSSESSION OF A PREMISES TO REFUSE TO ALLOW THE AUTHORIZED ENFORCEMENT AGENCY OR ITS DESIGNATED CONTRACTOR TO ENTER UPON THE PREMISES FOR THE PURPOSES SET FORTH HEREIN.

SECTION 17.07.160 - COST OF ABATEMENT OF THE VIOLATION.

WITHIN 30 DAYS AFTER ABATEMENT OF THE VIOLATION, THE OWNER OF THE PREMISES WILL RECEIVE WRITTEN NOTICE OF THE COST OF ABATEMENT, INCLUDING ADMINISTRATIVE COSTS. THE OWNER MAY FILE A WRITTEN PROTEST WITH THE CITY MANAGER OBJECTING TO

THE AMOUNT OF THE ASSESSMENT WITHIN 15 DAYS OF THE DATE OF THE NOTICE. IF THE AMOUNT DUE IS NOT PAID WITHIN A TIMELY MANNER AS DETERMINED BY THE DECISION OF THE CITY MANAGER OR BY THE EXPIRATION OF THE TIME IN WHICH TO FILE A PROTEST, THE OUTSTANDING COSTS SHALL BECOME A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY OF THE PREMISES AND SHALL CONSTITUTE A LIEN ON THE PREMISES. A PERSON VIOLATING ANY OF THE PROVISIONS OF THIS CHAPTER SHALL BECOME LIABLE TO THE CITY BY REASON OF SUCH VIOLATION. THE LIABILITY SHALL BE PAID IN NOT MORE THAN 12 EQUAL PAYMENTS. INTEREST AT THE RATE SPECIFIED IN THE FEES SCHEDULE SHALL BE ASSESSED ON THE BALANCE BEGINNING ON THE FIRST DAY FOLLOWING DISCOVERY OF THE VIOLATION.

SECTION 17.07.170 - INJUNCTIVE RELIEF.

IT SHALL BE UNLAWFUL FOR A 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 CITY MAY PETITION FOR A PRELIMINARY OR PERMANENT INJUNCTION RESTRAINING THE PERSON FROM ACTIVITIES THAT WOULD CREATE FURTHER VIOLATIONS OR COMPELLING THE PERSON TO PERFORM ABATEMENT OR REMEDIATION OF THE VIOLATION.

SECTION 17.07.180 - COMPENSATORY ACTION.

IN LIEU OF OR IN ADDITION TO ENFORCEMENT PROCEEDINGS, PENALTIES, AND REMEDIES AUTHORIZED BY THIS CHAPTER, THE ENFORCEMENT AGENCY MAY IMPOSE UPON A VIOLATOR ALTERNATIVE COMPENSATORY ACTIONS, SUCH AS STORM DRAIN STENCILING, ATTENDANCE AT COMPLIANCE WORKSHOPS, CREEK CLEANUP, OR SIMILAR REMEDIAL ACTIVITIES.

SECTION 17.07.190 - VIOLATIONS DEEMED A PUBLIC NUISANCE.

IN ADDITION TO THE ENFORCEMENT PROCESSES AND PENALTIES PROVIDED IN THIS CHAPTER, 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, AND MAY BE SUMMARILY ABATED OR RESTORED AT THE VIOLATOR'S EXPENSE, AND A CIVIL ACTION TO ABATE, ENJOIN, OR OTHERWISE COMPEL THE CESSATION OF SUCH NUISANCE MAY BE TAKEN.

SECTION 17.07.200 - CRIMINAL PROSECUTION.

- A. A PERSON THAT HAS VIOLATED OR CONTINUES TO VIOLATE THIS CHAPTER SHALL BE LIABLE TO CRIMINAL PROSECUTION TO THE FULLEST EXTENT OF THE LAW, AND SHALL BE SUBJECT TO PENALTIES AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. THE CITY OF ANNAPOLIS MAY RECOVER ALL ATTORNEYS' FEES, COURT COSTS, AND OTHER EXPENSES ASSOCIATED WITH ENFORCEMENT OF THIS CHAPTER, INCLUDING SAMPLING AND MONITORING EXPENSES.

- B. A USER WHO KNOWINGLY OR WILFULLY MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICATION IN AN APPLICATION, RECORD, PLAN, OR OTHER

DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THE PROVISIONS OF THIS CHAPTER, OR WHO FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD REQUIRED UNDER THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND SUBJECT TO PENALTIES AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

SECTION 17.07.210 - REMEDIES NOT EXCLUSIVE.

THE REMEDIES LISTED IN THIS CHAPTER ARE NOT EXCLUSIVE OF ANY OTHER REMEDIES AVAILABLE UNDER ANY APPLICABLE FEDERAL, STATE, OR LOCAL LAW AND IT IS WITHIN THE DISCRETION OF THE CITY OF ANNAPOLIS TO SEEK CUMULATIVE REMEDIES.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

Explanation:

UPPERCASE indicates matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.