

Chapter 7.14 ILLICIT DISCHARGES

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7.14.010 Purpose.

The purpose of this chapter is to prevent pollutants and nonstormwater from entering the city of Kent municipal separate storm sewer system (the “MS4”) and waters of the state to the maximum extent practicable as required by federal and state law. This chapter establishes the minimum methods required for controlling pollutants and preventing their entry into the MS4 and waters of the state 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 MS4 and waters of the state;
- B. To prohibit illicit connections and discharges to the MS4 and waters of the state;
- C. To establish inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter;
- D. To mitigate impacts to water quality as a result of increased runoff due to urbanization, correct or mitigate existing water quality problems related to stormwater, and to help restore

and maintain the chemical, physical, and biological integrity of the city's waters for the protection of beneficial uses, including salmonid habitat and aquifer recharge; and

E. To establish the reasonable use of best management practices (BMPs) to prevent pollutants and nonstormwater from entering the MS4 and waters of the state.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.020 Definitions.

As used in this chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section, unless a different meaning is plainly required.

A. *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 the MS4 or waters of the state. BMPs also include treatment practices, structural methods, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs are determined by reference to standard industry practice or applicable state, county, and local government design and pollution prevention manuals.

B. *Clean Water Act (CWA)* means the federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), and any subsequent amendments thereto.

C. *Construction activity* means land-disturbing operations including clearing, grading or excavation which disturbs the surface of the land. Such activities may include road construction, construction of residential houses, office buildings, or industrial buildings, and demolition activity.

D. *Director* means the city of Kent public works director, or his or her designee.

E. *Groundwater* means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

F. *Hazardous material* 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.

G. *Hyperchlorinated* means water that contains more than ten (10) mg/liter chlorine. Disinfection of water mains and appurtenances requires a chlorine residual of ten (10) mg/liter at the end of the disinfection period.

H. *Illicit connections* means any conveyance that is connected to the MS4 or waters of the state without a permit, excluding roof drains and foundation drains. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets. Illicit connections include, but are not limited to, any conveyances that allow any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the MS4 or waters of the state; any connections from indoor drains and sinks, regardless of whether such drain or connection was previously allowed or approved by an authorized enforcement agency; or any drain or conveyance connected from a commercial or industrial land use to the MS4 or waters of the state that has not been documented in plans, maps, or equivalent records and approved by the city or another agency of government duly authorized to give such approvals.

I. *Illicit discharge* means any direct or indirect nonstormwater discharge, not expressly allowed by this code, to the MS4, waters of the state, or any other location within the city where the discharge has a reasonable likelihood of being washed into the MS4 or waters of the state.

J. *Industrial activity* means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

K. *Municipal separate storm sewer system (MS4)* means a conveyance, or system of conveyances; including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, flow controls, treatment facilities, or storm drains:

1. Owned or operated by a state, city, town, county, district, port, or other public body created by or pursuant to state law having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the state;
2. Designed or used for collecting or conveying stormwater;
3. That is not a combined sewer; and
4. That is not part of a publicly owned treatment works ("POTW") as defined at 40 CFR 122.2.

L. *National Pollutant Discharge Elimination System (NPDES)* means the national program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits; and imposing and enforcing pretreatment requirements; under sections 307, 402, 318, and 405 of the federal CWA for the discharge of pollutants to surface waters of the state. These permits are referred to as NPDES permits, and in the state of Washington are administered by the Washington State Department of Ecology.

M. *Nonstormwater discharge* means any discharge to the MS4 or waters of the state that is not composed entirely of stormwater.

N. *Owner/operator* means any of the following: a person or entity with an ownership interest in the premises, a person or entity who occupies or has control over the premises, or a person or entity who participates in any activity on the premises that is regulated by this chapter.

O. *Person* means any individual, firm, business, association, partnership, corporation, or other legal entity, public or private, however organized. Because “person” shall include both human and nonhuman entities, any of the following pronouns may be used to describe a person: he, she, or it.

P. *Person responsible for the violation* means any of the following: a person who has titled ownership or legal control of the premises that is subject to the regulation; an occupant or other person in control of the premises that is subject to the regulation; a developer, builder, business operator, or owner who is developing, building, or operating a business on the premises that is subject to the regulation; or any person who created, caused, or has allowed the violation to occur on the premises.

Q. *Pollutant* means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous materials 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.

R. *Premises* means any real property or interest in real property and any improvement upon real property.

S. *RCW* means the state Revised Code of Washington. It is the compilation of all permanent

state laws, as currently enacted or as subsequently amended or recodified.

T. *Sanitary sewage* means domestic and commercial wastewater including flushed toilet water, water from dishwashers, clothes washing machines, and any other used water that generally is disposed of down interior household drains.

U. *Sanitary sewer system* means a conveyance, or system of conveyances, that is designed to convey domestic and commercial wastewater.

V. *Stormwater system* means facilities through which stormwater is collected, conveyed, or treated, including but not limited to inlets, conveyance pipes, pumping facilities, retention and detention basins, bioinfiltration facilities, drainage channels, and other drainage structures.

W. *Stormwater* means any surface flow, runoff, and drainage consisting of water from any form of natural precipitation, and resulting from such precipitation.

X. *Stormwater pollution prevention plan* means a document that describes the BMPs and activities to be implemented by an owner/operator to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to stormwater, the MS4, and/or waters of the state.

Y. *Waters of the state* means those waters as defined as “waters of the United States” in 40 CFR 122.2, within the geographic boundaries of the state of Washington, and those “waters of the state” as defined in Chapter 90.48 RCW, which includes lakes, rivers, ponds, streams, inland waters, groundwater, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

Z. *Water quality standards* means Surface Water Quality Standards – Chapter 173-201A of the Washington Administrative Code (WAC), Ground Water Quality Standards – Chapter 173-200 WAC, and Sediment Management Standards – Chapter 173-204 WAC.

AA. *Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from any premises.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.030 Applicability.

This chapter shall apply to all owners/operators as defined herein.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.040 Entry onto premises.

With the consent of the owner/operator of any premises, through permissions granted in a stormwater facility maintenance covenant, or pursuant to a lawfully issued warrant, the director may enter any premises at any reasonable time to perform the duties imposed by this chapter. No consent, warrant, or permission is required to enter those areas open to the public generally or to which no reasonable expectation of privacy exists.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.050 Prohibited discharges.

A. No person shall discharge, cause an illicit discharge, or fail to utilize reasonable BMPs to protect against a potential or accidental discharge of nonstormwater or other material not expressly allowed by this code, including but not limited to pollutants or waters containing any pollutants, to enter into the MS4 or waters of the state that may reasonably cause or contribute to a violation of applicable water quality standards as herein defined.

B. Prohibited discharges include but are not limited to the following list of common substances that are illicit discharges when discharged to the MS4 or waters of the state:

1. Solid waste, trash or debris;
2. Human and animal waste;
3. Petroleum products in quantities that produce a visible sheen, including but not limited to oil, gasoline, grease, fuel, oil, and heating oil;
4. Antifreeze and other automotive products;
5. Flammable or explosive materials;
6. Radioactive material;
7. Construction materials;
8. Batteries;
9. Acids, alkalis, or bases;
10. Paints, stains, resins, lacquers, or varnishes;
11. Metals in excess of naturally occurring amounts, whether in liquid or solid form;

12. Solvents and degreasers;
13. Drain cleaners: commercial and household cleaning materials;
14. Pesticides, herbicides, or fertilizers;
15. Ink;
16. Steam-cleaning waste;
17. Laundry waste, soap, detergent, and ammonia;
18. Domestic or sanitary sewage;
19. Animal carcasses;
20. Food and food waste including fats, oils, and grease (FOG);
21. Recreational vehicle waste;
22. Swimming pool or spa filter backwash;
23. Chlorine, bromine, or other disinfectants;
24. Heated water;
25. Yard waste, dirt, sand, and gravel;
26. Bark and other fibrous materials;
27. Collected lawn clippings, leaves, or branches;
28. Silt, sediment, concrete, cement, or gravel;
29. Dyes, except as permitted by KCC [7.14.060](#);
30. Chemicals not normally found in uncontaminated water;
31. Chlorinated swimming pool or hot tub water except as permitted by KCC [7.14.070](#);
32. Discharges from potable water sources which may include but are not limited to: water line flushing, hyperchlorinated water line flushing, fire hydrant flushing, and pipeline hydrostatic test water, except as permitted by KCC [7.14.070](#);
33. Any other process-associated discharge except as otherwise allowed in this chapter;

or

34. Any hazardous material or waste not listed above.

C. Any person who violates this section may be liable, jointly or severally, in accordance with KCC [7.14.150](#) and [7.14.160](#). The city may pursue enforcement action against any person responsible for the violation.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.060 Allowable discharges.

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause a violation of water quality standards in the MS4 or waters of the state:

- A. Diverted stream flows;
- B. Rising groundwaters;
- C. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20);
- D. Uncontaminated pumped groundwater;
- E. Foundation drains discharging uncontaminated groundwater or stormwater;
- F. Air conditioning condensation;
- G. Irrigation water from agricultural sources that is commingled with urban stormwater;
- H. Springs;
- I. Water from crawl space pumps discharging clean stormwater only;
- J. Footing drains discharging uncontaminated groundwater or stormwater;
- K. Flows from riparian habitats and wetlands;
- L. Nonstormwater discharges covered by an NPDES permit; or
- M. Discharges from emergency firefighting activities.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.070 Conditional discharges.

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the following stated conditions:

A. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the MS4;

B. Lawn watering and other irrigation runoff shall be minimized;

C. Dechlorinated swimming pool discharges. These discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent resuspension of sediments; or

D. Street and sidewalk wash water, water used to control dust, and routine external building wash down that is unheated and does not use any additives are permitted, if the amount of street wash and dust control water used is minimized.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.080 Illicit connections prohibited.

A. No person shall connect a conveyance system that was not constructed or intended to convey precipitation runoff, or that has been converted from such usage to another use, to the MS4 or waters of the state. The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited. 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.

B. Any person who violates this section may be liable, jointly or severally, in accordance with KCC [7.14.150](#) and [7.14.160](#). The city may pursue enforcement action against any person responsible for the violation.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.090 Suspension of discharge access to MS4.

As permitted by applicable law, the city may suspend MS4 access to an owner/operator when such suspension is necessary to stop an actual or threatened discharge that is or would be prohibited under this chapter.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.100 Inspections.

A. The director may establish inspection programs to ensure compliance with the requirements of this chapter and to accomplish its purposes. Inspection programs may be established on any reasonable basis including, but not limited to, routine inspections, random inspections, or inspections based upon complaints received or concerns of possible code violations. Additionally, inspections may be conducted of businesses or industries with suspicious discharges, a high volume of discharge, or pollutants that appear to be present in the discharge.

B. Inspections may include, but are not limited to, reviewing maintenance and repair records, sampling discharges, and evaluating the condition of the premises' stormwater system and BMPs.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.110 Reinspections.

Should a city inspection discover a violation of this chapter or other applicable federal, state, or local code provision, it shall be the duty of the owner/operator to notify the director that any noted violations have been corrected, and to request a reinspection. It shall be the duty of the owner/operator to provide safe access to and a means for inspection of any corrective work.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.120 Monitoring of discharges.

The city may conduct monitoring and/or sampling of stormwater discharge from any premises, and may recover the costs of so doing from the owner/operator of the premises.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.130 Requirements to prevent, control, and reduce stormwater pollutants by the use of BMPs.

All owners/operators shall provide, at owner/operator expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or waters of the state through the use of structural, nonstructural, and operational BMPs. Further, any owner/operator responsible for premises that are, or may be, the source of an illicit discharge may be required to implement, at owner/operator expense, additional structural, nonstructural, and operational BMPs to prevent illicit discharges to the MS4 or waters of the state.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.140 Industrial or construction activity discharges.

Any owner/operator subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of that permit.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.150 Violations and enforcement.

A. Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.04 KCC for which a monetary penalty may be assessed and abatement may be required as provided therein.

B. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor pursuant to KCC 1.01.140.

(Ord. No. 3916 § 3, 6-2-09; Ord. No. 4127, § 1, 11-4-14)

7.14.160 Joint and several responsibility and liability.

Responsibility for violations of this chapter is joint and several, and the city is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the city required to take action against all persons potentially responsible for a violation.

(Ord. No. 4127, § 1, 11-4-14)