

CHAPTER 57 ILLICIT DISCHARGES AND CONNECTIONS

§ 57.01 PURPOSE AND INTENT

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Town through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by Federal and State law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 and the waters of the State of Indiana per the Clean Water Act and the Indiana Department of Environmental Management's (IDEM) National Pollutant Discharge Elimination System (NPDES) permit process, as well as the requirements of the MS4 General Permit (MS4GP). The objectives of this chapter are:

- (A) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- (B) To prohibit illicit connections and discharges to the MS4.
- (C) To establish legal authority to conduct all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter.

§ 57.02 DEFINITIONS

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCIDENTAL DISCHARGE. A discharge prohibited by this chapter which occurs by chance and without planning or consideration prior to occurrence.

BEST MANAGEMENT PRACTICES (BMPs). Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of stormwater run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques and other management practices.

CLEAN WATER ACT (CWA). The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

COMBINED SEWER. A sewer intended to receive both wastewater and stormwater or surface water.

CONSTRUCTION ACTIVITIES. Activities subject to the NPDES Construction Stormwater General Permit (CSGP) and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONVEYANCE. Any structural process for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.

DRY WEATHER SCREENING. Field observations and field screening monitoring done to determine if there are sources of illicit discharges into the MS4. Dry weather is defined as a period where there has not been precipitation for three days.

FLOATABLE. Any liquid or solid that, due to its physical characteristics, will float on the surface of water. For the purposes of this chapter, the term does not include naturally occurring floatables, such as leaves or tree limbs.

GROUND WATER. Accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state. The term does not include manmade underground storage or conveyance structures for stormwater.

HAZARDOUS MATERIALS. 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.

IDEM. Refers to the Indiana Department of Environmental Management.

ILLEGAL DISCHARGE. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 57.08 (B).

ILLICIT CONNECTIONS. Either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.
- (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the Town.

ILLICIT DISCHARGE. Any discharge to an MS4 conveyance that is not composed entirely of stormwater, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include, but are not limited to, sanitary wastewater, septic tank effluent, commercial car wash wastewater, oil spills or disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, pollutant run-off, and household hazardous wastes. Exempted activities are identified in Section 57.08 (B).

INDUSTRIAL ACTIVITIES. Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b) (14).

MAXIMUM EXTENT PRACTICABLE. A performance standard or requirement within a permit to reduce the discharge of pollutants from a MS4 to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, which is achieved through planning and implementation of specific measures that are identified in the Stormwater Quality Management Plan.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basin, curbs, gutters, ditches, manmade channels, or storm drains, which are:

- (1) Owned or operated by a: (i) federal, state, city, town, county, district, association or other public body (created by or pursuant to state law) having jurisdiction over stormwater, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or (ii) privately owned stormwater utility, hospital, university, or college having jurisdiction over stormwater that discharges into water of the state;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Not a combined sewer; and
- (4) Not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the USEPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) or IDEM 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.

NON-STORMWATER DISCHARGE. Any discharge to the MS4 that is not composed entirely of stormwater.

NUISANCE. No person shall erect, construct, cause, permit, keep or maintain within the Town limits, anything whatsoever which is injurious to the public health or safety, or offensive to the senses of inhabitant. The existence of any of the above is declared to be a nuisance and shall be regulated as set forth in Chapter 93.

OUTFALL. A point source discharge via a conveyance of stormwater run-off into a receiving stream or other body of water.

PERSON. Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

POINT SOURCE. A discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, or discrete fissure.

POLLUTANT. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into

water. **POLLUTANTS** may include, but are not limited to: paints, varnishes, and solvents; 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; sediments; animal wastes; wastes and residues that result from constructing a building or structure; concrete washout liquids; and noxious or offensive matter of any kind.

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

RECEIVING WATERS. A waterbody that receives a discharge from an outfall.

RUNOFF. The portion of precipitation that flows from a drainage area on to the land surface, in open channels or in stormwater conveyance systems.

SANITARY SEWER. A sewer which carries sanitary and industrial wastes, and to which stormwater, surface water and ground water are not intentionally admitted.

SPILL. Any unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

ILLICIT DISCHARGE STOP WORK ORDER. A legal notice requiring persons to immediately suspend all work and operations.

STORMWATER. Water resulting from rain, melting or melted snow, hail, or sleet. Stormwater can soak into the soil (infiltrate), be held on the surface and evaporate, or runoff and end up in nearby streams, rivers, or other water bodies (surface water).

STORMWATER POLLUTION PREVENTION PLAN. A written document that addresses stormwater runoff, identifies potential sources of pollution, and outlines specific management activities designed to minimize the introduction of pollutants into stormwater.

USEPA. Refers to the United States Environmental Protection Agency.

WASTEWATER. A liquid or water carrying industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated.

WATERCOURSE, WATERWAY. A natural or manmade channel through which water flows; includes legal drains, creeks, ditches, swales, streams, and other open channels.

WATER QUALITY. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATERS OF THE UNITED STATES or STATE. A term used in federal regulations that defines all water bodies regulated as waters of the U.S. as defined in 33 U.S.C. 1251 (40 CFR 120).

§ 57.03 APPLICABILITY

This chapter shall apply to anything entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the Development Services Department.

§ 57.04 RESPONSIBILITY FOR ADMINISTRATION

The Town shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Development Services Department may be delegated in writing by the Town to persons or entities acting in the beneficial interest of or in the employ of the Town.

§ 57.05 AUTHORITY

The Town has the authority to inspect the interior and exterior of all buildings and structures, properties and construction sites; present Illicit Discharge Stop Work Orders; suspend utility service; assess and issue notices of violations and enforcement actions to persons in violation of the Town's ordinances; and any other activities associated with the compliance of this ordinance and applicable Federal, State and other Local statutes. Specifically, Town employees or representatives have the authority to implement all applicable requirements of the ordinance and to assess fines.

§ 57.06 SEVERABILITY

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

§ 57.07 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 will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 57.08 INTERPRETATION

Words and phrases in this subchapter shall be construed according to their common and accepted meanings, except that words and phrases defined in § 57.02, shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this chapter, but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

§ 57.09 DISCHARGE PROHIBITIONS

- (A) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the MS4, waterbodies, or watercourses, directly or indirectly, any materials, including but not limited to pollutants, wastewater 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 MS4 is prohibited.
- (B) *Exempted Stormwater Discharges.* The following categories of exempted stormwater discharges or flows are not considered illicit discharges unless the Development Services Department identifies them as significant contributors of pollutants to the MS4:
- (1) Water line or hydrant flushing.
 - (2) Emergency water main breaks
 - (3) Emergency utility repairs
 - (4) Landscape and lawn irrigation without chemical additives.
 - (5) Diverted stream flows.
 - (6) Rising ground waters.
 - (7) Uncontaminated ground water infiltration.
 - (8) Uncontaminated pumped ground water.
 - (9) Discharges from potable water sources.
 - (10) Uncontaminated foundation drains.
 - (11) Uncontaminated condensation from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids.
 - (12) Springs.
 - (13) Uncontaminated water from crawl space pumps.
 - (14) Uncontaminated footing drains.
 - (15) Individual residential car washing.
 - (16) Flows from riparian habitats and wetlands.
 - (17) Dechlorinated/debrominated residential swimming pool discharges or water line disinfection (less than one part per million of chlorine) and free of pollutants.
 - (18) Discharges from firefighting activities.
 - (19) Other water sources not containing pollutants.
 - (20) Pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used.
 - (21) Discharges specified in writing by the Town as being necessary to protect public health and safety.
 - (22) Dye testing is an allowable discharge, but requires a verbal notification to the Development Services Department prior to the time of the test.
 - (23) External building wash down without detergents.
 - (24) The prohibition shall not apply to any exempted stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal or State agency, 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 for any discharge to the MS4.

- (C) *Prohibition of illicit connections.*
- (1) The construction, use, maintenance, or continued existence of illicit connections to the MS4 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 in violation of this chapter if the person connects a line conveying wastewater to the MS4 or allows such a connection to continue.
 - (4) All connections shall also be compliant with Chapter 52 – Sewer and Sewer Rates.

§ 57.10 SUSPENSION OF MS4 ACCESS

- (A) *Suspension due to illicit discharges in emergency situations.* The Development Services Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waterways. If the violator fails to comply with a suspension order issued in an emergency, the Town may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waterways, or to minimize danger to persons.
- (B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Town.

§ 57.11 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

§ 57.12 MONITORING OF DISCHARGES

- (A) *Inspection and monitoring.* The Town has the authority to periodically inspect any portion of the MS4, whether publicly or privately owned, to detect and eliminate illicit connections and discharges into the MS4. The inspection may include dry weather screening of discharges from outfalls connected to the MS4 to determine if prohibited flows are being conveyed into the MS4. It could also include spot testing of waters contained in the MS4 itself to detect the introduction of pollutants into the MS4 by means other than a defined outfall, such as dumping or contaminated sheet runoff.
- (B) *Access to facilities and properties.*
- (1) The Town or representative thereof shall be permitted to enter and inspect properties and facilities subject to regulation under this chapter as often as may be necessary to

determine compliance with this chapter. If a discharger has security measures in place which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town.

- (2) Facility operators and property owners shall allow the Town 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 an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by State and Federal law.
- (3) The Town shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Town to conduct monitoring and/or sampling of a stormwater discharge.
- (4) The Town has the right to require the discharger to install monitoring equipment, as necessary. The sampling and monitoring equipment shall always be maintained in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to a facility or property to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Town and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the Town access to a facility or property is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility commits an offense if the person denies the Town reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
- (7) If the Town has been refused access to any part of the premises from which stormwater is discharged, and he/she 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 and/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 Town may seek issuance of a search warrant from any court of competent jurisdiction.

§ 57.13 REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The Town will require best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the MS4 or waterways.

- (A) The owner or operator of a property or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses using these structural and non-structural BMPs.
- (B) Further, any person responsible for a property or premise, 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 MS4.

- (C) These BMPs shall be incorporated into a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of a NPDES permit.

§ 57.14 STORAGE OF HAZARDOUS AND TOXIC MATERIAL

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on a property must include adequate protection and/or containment to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

§ 57.15 NOTIFICATION OF SPILLS

- (A) Any person who operates, controls, or maintains a facility, premises, or property from which a spill occurs is responsible for notifying emergency response agencies and taking all necessary steps to ensure the discovery, containment, and cleanup of such release. This section is in addition to the procedures and requirements identified in the Indiana Spill Rule, 327 IAC 2-6.1.
- (B) Any discharger who accidentally discharges into the MS4 or a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Town concerning the discharge.
- (C) In the event of a spill, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. The Development Services Department shall also be notified within 1 hour of becoming aware of the spill. Notifications in person or by phone shall be confirmed by written report filed with the Town and IDEM within five (5) days of the spill. The written report shall specify:
 - (1) Composition of the discharge;
 - (2) date and time of discharge;
 - (3) cause of discharge;
 - (4) discharge location; please include site specific map with address and zip code;
 - (5) description of area affected, mention square feet or cubic feet;
 - (6) estimated volume of the discharge;
 - (7) amount recovered;
 - (8) containment and cleanup activities (with dates);
 - (9) disposal of recovered material;
 - (10) the name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter;
 - (11) do you have a contingency plan; if so, was it implemented;
 - (12) list preventive measures to eliminate recurrence;
 - (13) respondent's signature and position with company; and

- (14) the Incident Number in correspondence.
- (D) This requirement does not relieve discharger from notifying other entities as required by State or Federal regulations.
- (E) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment 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 (3) years.
- (F) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs, or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section and the Indiana Spill Rule (327 IAC 2-6.1). This requirement does not relieve discharger from notifying other entities as required by state or federal regulations.

§ 57.16 ILLICIT DISCHARGE STOP WORK ORDER

- (A) *Issuance*
- (1) If conditions exist such that any work activity must be stopped immediately to cease an illicit discharge, the Town issues a verbal order to stop work to the responsible person.
 - (2) After a verbal order is issued, the Town immediately notifies the person of the condition.
 - (3) The Town initiates a written "Illicit Discharge Stop Work Order" by providing detailed information to the person. The order states the reason for the order, the conditions under which the cited work will be permitted to resume, and the name and contact information of the official issuing the order.
 - (4) Any person who continues to engage in any work after having been served with an Illicit Discharge Stop Work Order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be provided a Notice of Violation and potentially be assessed penalties.
 - (5) Violators receiving an Illicit Discharge Stop Work Order are required to respond to the Town within two (2) business days of the issued notice to receive instructions on how to rescind the order.
 - (6) The Town may impose penalties in accordance with this ordinance.
- (B) *Appeal.* Any person receiving an Illicit Discharge Stop Work Order may appeal the determination. The notice of appeal must be filed with the Town within ten (10) days from the date of the notice. Hearing on the appeal before the Town Council shall take place within thirty (30) days from the date of its receipt of the notice of appeal. The decision of the Town Council shall be final.

- (C) *Restart Work*
- (1) Once the person notifies the Town that they are ready to restart the work that had been stopped, the Town shall verify corrective/preventative actions have been completed.
 - (2) The Town indicates the verification of satisfactory completion of corrective/preventative actions, and notifies the person that work is authorized to be resumed.
 - (3) The Town issues the approved restart to the affected persons via a letter or memorandum.

§ 57.17 ENFORCEMENT

- (A) It shall be unlawful for any person to violate or fail to comply with any provision of this chapter. Any person who has violated or continues to violate any provision of this chapter may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
- (B) *Notice of violation.*
- (1) Whenever the Town finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Development Services Department may order compliance by written notice of violation to the responsible person.
 - (2) Such notice may require without limitation:
 - (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of illicit connections or discharges;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of a fine to cover administrative, remediation, response costs and additional fees as deemed necessary; and
 - (f) The implementation of source control or treatment BMPs.
 - (3) Such notice of violation shall contain:
 - (a) The names and addresses of the owner and violator;
 - (b) The address when available, or a description of the building, structure of land upon which the violation has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to bring the illegal activity into compliance with this subchapter and a time schedule for the completion of such remedial action, which may include designating the violation requires immediate action of less than 24 hours;
 - (e) A statement that should the violator fail to remediate 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;
 - (f) A description of the remedial measures, if any, that were necessary to bring the illegal activity into compliance with this chapter that were already taken by

the Town, the cost thereof, and a statement that the violator shall be responsible for the remedial action already taken; and

(g) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is sent.

- (C) If an emergency exists and immediate action is required, the Town may abate or remedy the violation and said notice may be given after said abatement or remediation has occurred. In the event of such emergency, the town may enter onto the subject property and may take all measures necessary to abate the violation. It shall be unlawful for any person to refuse access to the town or designated contractor to enter upon the property for the purposes set forth above.
- (D) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the Development Services Department. The notice of appeal must be filed with the Town within ten (10) days from the date of the notice. Hearing on the appeal before the Town Council shall take place within forty-five (45) days from the date of its receipt of the notice of appeal. The decision of the Town Council shall be final.
- (E) *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 ten (10) days of the decision of the Town Council upholding the decision of the Development Services Department, then representatives of the Town shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- (F) *Cost of abatement of the violation.* After completion of abatement activities, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the Town Council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to the Town by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eight percent (8%) per annum shall be assessed on the balance beginning on the first day following discovery of the violation. If such amount is not timely paid, then the Town may authorize the amount due and unpaid to the Treasurer of Hendricks County to be collected in the same manner as delinquent property taxes.
- (G) *Injunctive relief.* It shall be unlawful for any 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 Town may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

- (H) *Compensatory action.* In lieu of fines, the Town may impose upon a violator alternative compensatory actions and schedule for completion, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc. If the compensatory action is not completed according to the provided schedule, then all fines and penalties will be immediately due from the violator.
- (I) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, 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/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- (J) *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 Town to seek cumulative remedies.

§ 57.18 PENALTIES

- (A) Any person who violates any of the provisions of this chapter may be fined.
- (B) The fines described in the notice of violation may include a civil infraction and is subject to a minimum fine for investigation, inspection and administrative costs and a maximum fine of \$2,500 for a first offense. A maximum of \$7,500 may be assessed for a subsequent offense. Each day such a violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day.
- (C) Any person responsible for the discharge or potential discharge of a prohibited substance into the stormwater drainage system shall be subject to all remedial and punitive enforcement procedures specified in this chapter. In addition to fines, the owner shall be responsible for: a stormwater administrative fee; all costs associated with eliminating the illegal discharge or connection; any emergency response, clean-up, installation of infrastructure, remediation, or disposal fees; and ensuring that all sanitary and stormwater connections originating from the property are in full compliance with the requirements of this ordinance.