

City Code Chapter 31

Stormwater Utility

Article 1. General Conditions, §§ 31-1--31-7

Article 1. General Conditions

Sec. 31-1. Purpose.

- (1) The municipal storm sewer system shall be operated as a public utility pursuant to Minnesota Statutes, Section 444.075. The utility revenues will be derived subject to the provisions of this Chapter and Minnesota Statutes. (Ord. No. 608, 12-13-94; Code of 2001)
- (2) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- (3) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (4) To establish legal authority to carry out all inspection, surveillance, enforcement, and monitoring procedures necessary to ensure compliance with this Article.
- (5) This Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 103B and 462, Minnesota Rules, Parts 6120.2500-6120.3900 and 7050.0210; Minnesota Rules Chapters 8410, 8420. (Ord. No. 831)

Sec. 31-2. Definitions.

The definitions of this Section shall apply when these words and phrases are used in this Chapter.

(1) *Stormwater Utility Rate.* The rate for the Stormwater Utility is the rate developed for each land classification pursuant to City regulations. This utility rate shall be established by ordinance. (Ord. No 751, 11-13-2007)

(2) *Stormwater Utility Fee.* The fee for the Stormwater Utility is the charge developed for each parcel and is equal to the Stormwater Utility rate multiplied by the parcel area, in acres. In the case of the single and two family residential land classification, a standard lot size of 1/3 acre will be used to calculate the stormwater utility fee regardless of the actual lot size.

(3) *Stormwater Utility Budget.* The Stormwater Utility budget is the estimated annual expenditures for planning, reconstruction, and maintenance, and meeting all State and Federal laws, rules and regulations, pertaining to storm water management of the City's storm sewer system. This budget shall be established during the annual budgeting process by the City Council. (Ord. No. 608, 12-13-94; Code of 2001, Ord 763 6-24-2008.)

Sec. 31-3. Fees and Rates.

Stormwater fees shall be established by ordinance. The following steps will be taken to determine the fee to be charged each property: (Ord. No 751, 11-13-2007)

(1) The depth of runoff for a one year rainfall event (a two inch rainfall), shall be as determined by the U.S. Department of Agriculture Soil Conservation Service guidelines for soil types common to New Brighton. A curve number (CN), based on the percentage of impervious surface, shall be chosen for each land classification. The depth of runoff for each land classification shall be calculated using the following equation from the Soil Conservation Service, Technical Release No. 55:

$$Q = \frac{(P - 0.2S)^2}{P + 0.8S}$$

Where: Q =Depth of runoff in inches S =1000/CN - 10, dimensionless P =2 inches

The next table represents the runoff depths, in inches, for each land classification from the previous calculations:

Classification	Description	Runoff Depths
1	Parks, Cemeteries, Golf Courses	0.08
2	Single and Two Family Residences	0.28
3	Schools	0.28
4	Townhouses and Mobile Home Parks	0.36
5	Churches	0.47
6	Apartments, Condominiums, Senior Housing, Nursing Homes	0.55
7	Commercial, Industrial, Warehouses	0.98
8	Unimproved Vacants	0.06

(2) The depth of runoff due to development for each land classification shall be calculated by subtracting the depth of runoff calculated in Section 31-3(1) for unimproved vacant land.

(3) The total area for each land classification from the table in Section 31-3(1) shall then be calculated.

(4) The volume of runoff for each land classification shall be calculated using the depth of runoff due to development from Section 31-3(2) and multiplying it by the area for each land classification found in Section 31-3(3).

(5) The total volume of runoff due to development for the entire City shall be calculated by summing the results from Section 31-3(4).

(6) The annual revenue to be provided to the Stormwater Utility by each land classification then shall be calculated by dividing the volume of runoff due to development for each land classification found in Section 31-3(4) by the total runoff due to development for the entire City from Section 31-3(5) and multiplying this result by the Stormwater Utility budget.

(7) The Stormwater Utility rates shall be calculated by using the annual revenue for each land classification from Section 31-3(6) and dividing it by the total area for each land classification from Section 31-3(3).

(8) The Stormwater Utility fee shall be calculated by multiplying the parcel's lot size, in acres, by the Stormwater Utility rate from Section 31-3(7). In the case of the single and two family residential land classification, a standard lot size of 1/3 acre will be used to calculate the fee, regardless of actual lot size. (Ord. No. 608, 12-13-94; Code of 2001)

Sec. 31-4. Adjustment of Fees.

Fees may be adjusted in accordance with the conditions cited in this Section. In the case of an adjustment under Section 31-4 (3-6) the property owner shall provide the information required to justify an adjustment. The adjustments allowable in Section 31-4 (3-5) will not be made to single and two family residential parcels. The adjustments allowable in section 31-4(6) will be made only to single and two family residential parcels.

The City shall review parcels with adjustments once every five years. The review shall consist of an inspection to ensure that the site conditions still exist to meet the requirements of the fee adjustment. Property owners who refuse a site inspection or do not maintain the site conditions to meet the requirements of the fee adjustment shall have the fee adjustments removed. (Ord. 763 6-24-2008)

(1) **Budget.** The estimated expenditures for the management of storm runoff will be revised at a frequency and procedure consistent with the sanitary sewer and water utilities.

(2) **Change in Land Classification.** Changes in land classification of existing parcels.

(3) **Parcel Runoff.** Parcel runoff is significantly different from the land classification standard. Where the unit runoff generated by a parcel differs from the amount for that land classification by more than twenty percent, the City may adjust the parcel's fee in accordance with the following procedure:

A. Property owner applies for reduction and supplies the City with the following information:

1. Site Plan.
2. Lot Size.
- 3 Total area of impervious surface.

B. City determines the difference in parcel unit runoff to land classification standard unit runoff.

C. Percent credit = $\frac{\text{Difference from Step B}}{\text{Land classification standard unit runoff}}$

(4) **Stormwater Detention / Infiltration.** An adjustment of up to 25 percent will be made for those parcels with onsite measures that limit outflow peak events according to the conditions cited in this Subsection.

A. A ten percent credit for parcels that limit peak outflow rates during a five year rainfall event to rates comparable to the rates from an unimproved vacant property of the same size.

B. An additional fifteen percent credit will be given to parcels that limit peak outflow rate during a 100-year rainfall event to rates comparable to the rates from an unimproved vacant property of the same size. (Ord 763 6-24-2008)

(5) Wet Ponding Credit. An adjustment of up to 25 percent will be made to the Stormwater Utility fee of a parcel for onsite measures that are owned and maintained by the applicant that effectively reduce the amount of sediments/nutrients that enter the system. It is the responsibility of the applicant to prove that the wet pond in question meets the following design criteria:

- A. The volume of the permanent pool (“dead storage”) shall be greater than the runoff volume generated from a 2.5 inch rainfall event over the pond tributary area.
 - B. To promote settling and provide space for sediment accumulation, the average depth (volume/area) of the permanent pool shall be at least three feet with a maximum depth of ten feet.
 - C. The pond shall be wedge shaped, narrowest at the inlet and widest at the outlet. A minimum length to width ratio of 3:1 should be used. The distance between storm sewer outfalls and the pond outlet shall be maximized to prevent short-circuiting.
 - D. The pond shall have some type of facility to retain oils and floatable debris. This facility will be maintained by the applicant.
 - E. An emergency overflow structure or stabilized spillway shall be provided to accommodate discharges during a storm event with greater than a 2.5 inch rainfall.
 - F. The side slopes shall not exceed three feet horizontal to one foot vertical for purposes of stability. (Ord. No. 608, 12-13-94; Code of 2001)
 - G. The pond shall have a minimum of a 15 foot vegetative buffer around all of its edge. The vegetative buffer shall not contain any weeds deemed a public nuisance in Section 17. The vegetative buffer shall consist of native plants listed in one of the following documents:
 1. *BlueThumb Plant List* by Rice Creek Watershed Districts
 2. *The Minnesota Stormwater Manual Appendix E: Minnesota Plant List and Application* by Minnesota Pollution Control Agency
 3. *Restoring & Managing Native Wetland & Upland Vegetation* by Minnesota Board of Water and Soil Resources & Minnesota Department of Transportation
 4. *Seeding Manual* by Minnesota Department of Transportation
- (Ord 763 6-24-2008)

(6) Raingarden Credit. An adjustment of 25 percent will be made to the Stormwater Utility fee of a parcel for one or more gardens that are 100 square feet in size and are owned and maintained by the applicant that effectively reduce the amount of runoff and nutrients that enter the system. It is the responsibility of the applicant to prove that the garden in question meets the following design criteria:

- A. The garden shall be at least 10 feet away from any building.
- B. The garden shall not be located in area of the yard with slopes greater than 12 percent.
- C. The garden shall be located in a depression between 4 to 10 inches deep or have a berm 4 to 10 inches high on the down slope side.
- D. The water in the garden shall infiltrate within 48 hours after a rain event.
- E. The garden shall not contain any weeds deemed a public nuisance in Section 17.
- F. The garden shall consist of native plants listed in one of the following documents:

1. *BlueThumb Plant List* by Rice Creek Watershed Districts
2. *The Minnesota Stormwater Manual Appendix E: Minnesota Plant List and Application* by Minnesota Pollution Control Agency
3. *Restoring & Managing Native Wetland & Upland Vegetation* by Minnesota Board of Water and Soil Resources & Minnesota Department of Transportation
4. *Seeding Manual* by Minnesota Department of Transportation.
(Ord No 763 6-24-2008)

Sec. 31-5. Exemptions.

The following land classifications shall be exempt from any fees:

- (1) Public right-of-way.
- (2) Land that is owned by the City.
- (3) Unimproved vacant land. (Ord. No. 608, 12-13-94; Code of 2001)

Sec. 31-6. Appeal of Fee.

The property owner or a person responsible for paying the Stormwater Utility fee may request in writing to the City's administrative authority that the fee be recomputed when they believe that the fee may be incorrect. If the fee is adjusted, reimbursement for the adjustment will be provided for a period of one year from the date of the request.

If the person making the appeal does not agree with the decision of the administrative authority, the decision may be appealed to the City Council. (Ord. No. 608, 12-13-94; Code of 2001)

Sec. 31-7. Delinquent Accounts.

The terms of Section 30-63 shall apply for non-payment of fees and charges required by this Chapter. (Ord. No. 608, 12-13-94; Code fo 2001)

Article 2. Connections and Discharges to the Storm Water System.

Sec. 31-8 Definitions. The definitions of this Section apply when those words and phrases are used in this Article.

- (1) Authorized Enforcement Officer. The City Manager or the City Manager's designee, who is authorized to enforce this Article.
- (2) Best Management Practices (BMPs). 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.

- (3) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (4) Construction Activity. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (5) Hazardous Materials. Any material, including any substance, waste, or combination thereof, that, 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.
- (6) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 31-13.
- (7) Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water 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 Officer; or

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by the Authorized Enforcement Officer.
- (8) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (9) MS4. The municipal separate storm sewer system.
- (10) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by EPA (or by a State under authority

delegated pursuant to 33 USC § 1342(b)) 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.

- (11) Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.
- (12) 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.
- (13) Pollutant. Anything that causes or contributes to pollution. 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, 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.
- (14) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (15) Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal 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.
- (16) Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (17) Stormwater Pollution Prevention Plan. A document that describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (18) Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Sec. 31-9. Applicability. This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an Authorized Enforcement Officer.

Sec. 31-10. Responsibility for Administration. The City Manager or the City Manager's designee shall administer, implement, and enforce the provisions of this Article.

Sec. 31-11. Severability. The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article 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 Article.

Sec. 31-12. Ultimate Responsibility. The standards set forth herein and promulgated pursuant to this Article are minimum standards. Therefore this Article does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Sec. 31-13. Discharge Prohibitions.

- (1) Prohibition of Illegal Discharges.
 - A. No person shall discharge or cause to be discharged into the municipal storm drain system or 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 storm water.
 - B. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as follows:
 - (i) The following discharges are exempt from discharge prohibitions established by this section provided they meet all other requirements of law: water line flushing or other potable water sources; landscape irrigation or lawn watering; 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; air conditioning condensation; springs; natural riparian habitat or wetland flows; swimming pools (if dechlorinated - typically less than one PPM chlorine); the

application of fertilizers to gardens, trees, bushes, or turf; the application of salt to walkways, parking lots and streets for safety purposes (but not the storage of salt uncovered); composting of leaves and organic materials on turf or garden areas; discharges resulting from fire fighting activities; mowing grass (as long as clippings are not discharged to the adjacent roadway); and any other water source not containing Pollutants.

- (ii) Discharges specified in writing by the Authorized Enforcement Officer as being necessary to protect public health and safety are allowable.
- (iii) Any discharge is allowable if approved in writing by the Authorized Enforcement Officer as being a reasonable, incidental and customary use of real property that, when considered by itself or in combination with other similar discharges, will not have a significant effect on surface waters. The Authorized Enforcement Officer may impose such conditions on any such approval as the Authorized Enforcement Officer deems necessary to so restrict such discharges that they will not have a significant effect on surface waters.
- (iv) Dye testing is an allowable discharge, but requires a verbal notification to the Authorized Enforcement Officer prior to the time of the test.
- (v) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection 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 storm drain system.

(2) Prohibition of Illicit Connections.

- A. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- B. 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.

- C. A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 31-14. Suspension of MS4 Access.

- (1) Suspension Due to Illicit Discharges in Emergency Situations

The Authorized Enforcement Officer may, without prior notice, suspend MS4 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 MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Officer may take such steps as are deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

- (2) Suspension Due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Authorized Enforcement Officer will notify a violator of the proposed termination of its MS4 access. The violator may petition the Authorized Enforcement Officer 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 Authorized Enforcement Officer.

Sec. 31-15. Industrial or Construction Activity Discharges. Any person subject to an industrial or construction activity NPDES storm water 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 Authorized Enforcement Officer prior to the allowing of discharges to the MS4.

Sec. 31-16. Monitoring of Discharges.

- (1) Applicability.

This Section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

- (2) Access to Facilities.

- A. The Authorized Enforcement Officer shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Officer.
- B. Facility operators shall allow the Authorized Enforcement Officer 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 storm water, and the performance of any additional duties as defined by state and federal law.
- C. The Authorized Enforcement Officer shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Authorized Enforcement Officer to conduct monitoring and/or sampling of the facility's storm water discharge.
- D. The Authorized Enforcement Officer has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times 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.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Authorized Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- F. Unreasonable delays in allowing the Authorized Enforcement Officer access to a permitted facility is a violation of a storm water discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Authorized Enforcement Officer reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.
- G. If the Authorized Enforcement Officer has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of

this Article, 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 Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Authorized Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 31-17. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices. The Authorized Enforcement Officer will adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Sec. 31-18. Watercourse Protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property 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 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.

Sec. 31-19. Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said 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 said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Authorized Enforcement Officer 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 Officer within three business days of the phone notice. 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 years.

Sec. 31-20. Enforcement.

Notice of Violation.

Whenever the Authorized Enforcement Officer finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Authorized Enforcement Officer may order compliance by written notice of violation to the responsible person. 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 storm water pollution or contamination hazards and the restoration of any affected property; and
- e. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set a deadline within which such remediation or restoration must be completed. Said notice shall further advise 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.

Sec. 31-21. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the Authorized Enforcement Officer. The notice of appeal must be received within ten days from the date of the Notice of Violation. Hearing on the appeal before the City Council shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the City Council shall be final.

Sec. 31-22. 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 days of the decision of the municipal authority upholding the decision of the Authorized Enforcement Officer, then representatives of the Authorized Enforcement Officer

may 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.

Sec. 31-23. Cost of Abatement of the Violation. Within thirty (30) days after abatement of the violation, 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 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority 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 section shall become liable to the City by reason of such violation.

Sec. 31-24. Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Officer 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.

Sec. 31-25. 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 Article 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.

Sec. 31-26. Criminal Prosecution. Any person that has violated or continues to violate this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty as a misdemeanor.

Sec. 31-27. Remedies Not Exclusive. The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Authorized Enforcement Officer to seek cumulative remedies. (Ord. No. 765 6-24-2008.)

Editor's Notes
Chapter 31
Stormwater Utility

Introduction. The main purpose of this Chapter is to regulate the City's Stormwater Utility.

General Comments. As with all other parts of the codification, the language in this Chapter has been simplified and made gender neutral.

Section 31-1, Purpose. To simplify the purpose, the assignment of the utility to the public works department was not included.

Section 31-2, Definitions. Reference to "quarterly" deleted to simplify the definitions of rate and fee.

Section 31-4, Adjustment of fees. To more clearly designate the responsible party, the word "property owner" is substituted for "resident".

Sections 31-7 and 31-8, Delinquency and certification. The terms for non-payment are the same for the water, sewer, and stormwater utilities. To avoid repetition, the terms for non-payment are cited here by reference as Section 30-63, Water Utility.

September, 1997

Margaret A. Egan
Finance Director/
City Clerk