

## CHAPTER 15-05 VIOLATIONS AND ENFORCEMENT

- 15-05-010. Notification of Spills.**
- 15-05-020. Inspections.**
- 15-05-030. Testing and Monitoring.**
- 15-05-035. Cumulative and Escalating Enforcement.**
- 15-05-040. Removal of Obstruction.**
- 15-05-050. Stop Work Order; Revocation of Permit.**
- 15-05-060. Order Compliance.**
- 15-05-070. Violation and Penalty.**

### **15-05-010. Notification of Spills.**

(a) All persons in charge of a project, development, or facility or responsible for emergency response for a project, development or facility are responsible to train personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the City upon becoming aware of any suspected, confirmed or unconfirmed release of material, pollutants or waste that creates a risk of discharge into the City's storm drain system.

(b) As soon as any person in charge of a project, development, or facility or responsible for emergency response for a project, development or facility has knowledge of any release of materials as described in Subsection (a), such person shall take all necessary steps to ensure the containment and clean up of such release and shall immediately notify the City Public Works Director of the occurrence (no later than the next business day).

(c) The notification requirements of this Section are in addition to any other notification requirements set forth in federal, state or local regulations and/or laws.

### **15-05-020. Inspections.**

Whenever the Public Works Director determines it is necessary to make an inspection to enforce any of the provisions of this Title, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this Title, the Public Works Director and/or official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the official by this Title; provided that: (1) if such building or premises is occupied, he or she first shall present proper credentials and request entry; and (2) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

### **15-05-030. Testing and Monitoring.**

(a) Whenever the Public Works Director or his or her designee determines that any person engaged in any activity and/or owning or operating any facility may cause or contribute to stormwater pollution or illicit discharges to the City's storm drain system, the Public Works Director or his or her designee may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the Public Works Director or his or her designee may recommend. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order.

(b) In the event the owner or operator of a project, development or facility fails to conduct the monitoring and/or analyses and furnish the reports required by the order in the time frames set forth therein, the City may cause such monitoring and/or analyses to occur and assess all costs incurred, including reasonable administrative costs and attorney's fees, to the facility owner or operator. The City may pursue judicial action to enforce the order and recover all costs incurred.

**15-05-035. Cumulative and Escalating Enforcement.**

The provisions of this Chapter are intended to provide the City with a variety of enforcement options to pursue as deemed necessary to ensure compliance with the requirements of this Title, including, but not limited to, civil and criminal remedies and penalties. All of the remedies and enforcement provisions of this Title and as otherwise provided by law are intended to be cumulative. Escalating enforcement and/or fees and penalties may be pursued by the City depending upon the severity of the violation and/or the recalcitrance of the violator.

**15-05-040. Removal of Obstruction.**

In addition to any penalties which may be imposed pursuant to this Title, the City may do the following:

(a) Remove any of the obstructions and any pipelines or other devices installed in violation of the provisions of this Title;

(b) Give written notice to persons in violation of the provisions of this Title requiring the removal of offending installations from natural channels or other storm drainage facilities. Notices may be personally served or may be mailed to violators by registered mail provided that a copy is also posted on offending installations for a period of ten (10) days. If such installations are not removed within ten (10) days after notice is given, the City may effect removal at the expense of the person in violation and may recover its costs and expenses therefor; and/or

(c) Bring an action for the abatement of the nuisance caused by the offending installation, and/or for the recovery of the City's costs and expenses incurred in removing the offending installation pursuant to Subsections (a) or (b), above.

**15-05-050. Stop-Work Order; Revocation of Permit.**

In the event that any person holding a Stormwater Permit pursuant to this Title fails to complete the work required under the Permit, fails to comply with all the requirements, conditions and terms of the Permit, or violates the terms of the Permit the City may suspend or revoke the Stormwater Permit and/or the applicable site development permit and issue a stop work order as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition. The City may also authorize completion of all necessary temporary or permanent erosion control or stabilization measures, including use of bond. The Permittee shall be liable to the City for all costs and expenses that may be incurred or expended by the City in bringing the property into compliance with the requirements of the Permit and any collection costs, including legal fees, incurred by the City. The City may recover these costs through appropriate legal action.

**15-05-060. Order Compliance.**

Whenever the City finds that a person or entity has violated a prohibition or failed to meet a requirement of this Title, the authorized enforcement official 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 stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

**15-05-070. Violation and Penalty.**

(a) **Violation.** Any person who violates any provision of this Title shall be guilty of a class B misdemeanor and shall be subject to fines as provided in *Utah Code Ann. § 76-3-301*, as amended, and/or imprisonment as provided in *Utah Code Ann. § 76-3-204*, as amended.

(b) **Civil Penalties.** The City may impose civil penalties for any violation of this Title in accordance with applicable Ordinances regarding the same.

(c) **Damages.** If, as the result of the violation of any provision of this Title, the City or any other party suffers damage and is required to make repairs to and/or replace any materials, the cost of the repair or replacement shall be borne by the party in violation, in addition to any criminal fines and/or penalties.

(d) **Nuisance.** In addition to the penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Title shall be considered a threat to the public health, safety, welfare and the environment, and may be declared and deemed a nuisance by the Public Works Director, or his or her designee, and may be abated and/or restored by the City in accordance with nuisance procedures.

(e) **Other Relief.** This Section shall not limit the authority of any court of competent jurisdiction to impose any other sanction or order any other relief as may be appropriate and lawful under local, State or Federal law.

(f) **Separate Offense.** Each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense.