



## Public Works Committee

# AGENDA

Monday, July 22, 2024  
4:00 pm

Council Chambers  
Dallas City Hall  
187 SE Court St  
Dallas, OR 97338

### **COMMITTEE**

**Micah Jantz, Chair**  
**Nancy Adams**  
**Kim Fitzgerald**  
**Michael Schilling**  
**Debbie Virden**

This meeting is electronically streamed and recorded via the City of Dallas YouTube Channel:  
<https://www.dallasor.gov/community/page/dallasyoutube>

- A. Roll Call**
- B. Approve May 28, 2024 Meeting Minutes p.2**
- C. Illicit Discharge Ordinance p.4**
- D. Adjournment**

**MEETING MINUTES**

**Dallas Public Works Committee  
Tuesday, May 28, 2024**

1 Committee Chair Micah Jantz called the Public Works Committee meeting to order on Tuesday,  
2 May 28, 2024, at 4:09 pm.

3 **ROLL CALL**

4 **Council Members Present:** Councilor Nancy Adams, Councilor Micah Jantz, Councilor Mi-  
5 chael Schilling and Councilor Debbie Virden

6 **Council Members Excused:** Councilor Kim Fitzgerald

7 **Also Present:** City Manager Brian Latta, Assistant City Manager Emily Gagner, Public Works  
8 Director Gary Marks, Finance Director Cecilia Ward, City Attorney Lane Shetterly and City Re-  
9 corder Kim Herring.

10 **APPROVAL OF March 25, 2024 MEETING MINUTES**

11 It was moved by Councilor Schilling and seconded by Councilor Adams to approve the March  
12 25, 2024 minutes as presented. The vote was taken and passed with a vote of 4-0.

13 **System Development Charges**

14 Mr. Latta presented the staff report regarding increasing the System Development Charges  
15 (SDC). In the past, the SDCs were adjusted on a regular basis, however, the Street SDC has been  
16 at the current rate since 2018 and the other SDCs have remained at the current rates since 2014.  
17 Mr. Latta presented options to increase the SDCs over time or to do a one-time adjustment. Two  
18 indexes could be used to determine an annual increase if that is what the committee would like.  
19 The Engineering News-Record is a national publication that created and maintains two indexes  
20 that are widely accepted and used in the construction industry. City staff recommends the com-  
21 mittee consider an adjustment to the SDCs, based on one of these two indices. They are: 1) Con-  
22 struction Cost Index; and, 2) Building Cost Index. Councilor Schilling moved and Councilor Ad-  
23 ams seconded to direct the City Attorney to prepare a resolution for the City Council that: 1) an-  
24 nually applies the construction cost index to each system development charge fee; and, 2) makes  
25 a one-time cost index adjustment to each system development charge category, using the con-  
26 struction cost index consistent with Table 5 below.

27 Table 5: Recommended One Time Cost Adjustment

	Parks	Sanitary Sewer	Storm Water	Transportation	Water
Current Fee	\$2,343.00	\$4,136.00	\$957.00	\$3,231.00	\$4,046.00
Proposed Fee	\$3,736.57	\$6,596.02	\$1,381.52	\$4,235.14	\$6,452.49

28 The vote was taken and the motion passed with a vote of 4-0.

29 **Illicit Discharge Ordinance**

30 Elizabeth Sagmiller, E&S Consulting, presented a brief review of the proposed ordinance that is  
31 required by DEQ to be adopted between October 1, 2024 and September 30, 2025. This item will  
32 return to the committee in July once the Enforcement Response Plan is drafted.

1 **Public Works Reorganization**

2 Gary Marks presented a staff report regarding the reorganization of the Public Works Depart-  
3 ment with a goal of improving the department's ability to keep up with growing infrastructure,  
4 maintenance and service needs.

5 **ADJOURNMENT:** 4:42 pm


Respectfully Submitted,

*Kim Herring*  
City Recorder

DRAFT



## PUBLIC WORKS COMMITTEE STAFF REPORT

**MEETING DATE:** July 22, 2024  
**AGENDA ITEM NO.** C  
**TOPIC:** Illicit Discharge Ordinance  
**PREPARED BY:** Elizabeth Sagmiller, E & S Consulting, Gary Marks, Public Works Director.  
**APPROVED BY:**  City Manager  
**ATTACHMENTS:** Attachment A: Illicit Discharge Ordinance  
Attachment B: Draft Enforcement Response Plan

### **RECOMMENDED ACTION:**

Recommend the City Council adopt the Illicit Discharge Ordinance.

### **BACKGROUND:**

During the May 28<sup>th</sup> Public Works Committee meeting consultant Elizabeth Sagmiller and city staff presented a draft Illicit Discharge Ordinance. The committee reviewed the ordinance and made no significant changes. After additional review by staff and legal counsel, final technical changes were made to the final version, which accompanies this report as **Attachment A**. Staff are seeking additional input from the committee on the final draft of the proposed ordinance.

As a designated DEQ Management Agency (DMA) the city is responsible to adopt an illicit discharge ordinance that prohibits discharge of non-stormwater into the stormwater drainage system. The city is also required to apply appropriate enforcement procedures and actions that ensure compliance.

A draft Illicit Discharge Enforcement Response Plan for the ordinance accompanies this report as **Attachment B**. The plan was developed to meet TMDL requirements for maintaining a procedure or system to document all complaints or reports of illicit discharge into and from the stormwater drainage system. As is the case with operational documents of this kind, staff expects revision will take place during annual review. Public Works personnel are planning to elevate internal training associated with TMDL compliance for the remainder of the calendar year.

***We are a welcoming, safe and livable community dedicated to people and business***

**SUMMARY TIMELINE:**

March 25, 2024 – Consultant introduced the topic of an illicit discharge ordinance and shared a presentation on this topic with the Public Works Committee.

May 28, 2024 – Consultant and City staff presented the draft illicit discharge ordinance with the Public Works Committee and solicited feedback from committee members.

July 22, 2024 – Consultant and City staff will present the final draft of the illicit discharge ordinance and enforcement response plan to the committee for review and feedback.

**FISCAL IMPACT:**

None.

**RECOMMENDED MOTION:**

I move to recommend the City Council adopt the Illicit Discharge Ordinance in compliance with DEQ requirements.

**ATTACHMENTS:**

Attachment A: Illicit Discharge Ordinance

Attachment B: Draft Illicit Discharge Enforcement Response Plan

ORDINANCE NO. \_\_\_\_\_

An ordinance relating to illegal stormwater discharges and illicit stormwater connections; and adding new provisions to Chapter 6 of the Dallas City Code.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following provisions are adopted and added to and made a part of Chapter 6 of the Dallas City Code:

**Section 6.358. Purpose and Intent.** The purpose of this ordinance is to provide for the health, safety, and general welfare of the residents of the City of Dallas, through the regulation of non-Stormwater discharges to the Storm Drain System to the maximum extent practicable, as required by federal and state law. This ordinance establishes methods for controlling the introduction of Pollutants into the Storm Drain System in order to comply with requirements of the Oregon Department of Environmental Quality Total Maximum Daily Load (TMDL) Program, the National Pollutant Discharge Elimination System (NPDES) permit, and any other state or federal regulatory programs that can be applied to Stormwater. The objectives of this ordinance are:

1. To regulate the contribution of Pollutants to the Storm Drain System by Stormwater discharges by any user;
2. To prohibit Illicit Connections and Illegal Discharges to the Storm Drain System; and
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, Pollution, nor unauthorized discharge of Pollutants.

**Section 6.360. Definitions.** The following definitions shall apply to this ordinance:

Best Management Practices. 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, Stormwater conveyance systems or other devices intended to manage Stormwater. Best Management Practices 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.

City Manager. The City Manager of the City of Dallas or the City Manager's designee.

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

Construction Activity. Any construction-related ground disturbing activities, whether or not a permit is required. Such activities include but are not limited to, clearing and grubbing, grading, excavating, and demolition.

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.

Illegal Discharge. Any direct or indirect non-Stormwater discharge to the Storm Drain System, except as provided in section 6.372.

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 Storm Drain System, including but not limited to any conveyances that allow 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 the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

2. 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 City of Dallas or another authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) and 40 CFR 122.26(a)(9)(i)(D). Industrial activities are referenced under Oregon's 1200-Z permit.

Municipal Separate Storm Sewer System. Public facilities by which Stormwater is collected or conveyed, including but not limited to roads, highways, or municipal streets with drainage systems, curbs, gutters, inlets, catch basins, piped storm drains, structural Stormwater controls, detention or retention basins, ditches, swales,

infiltration facilities, outfalls, reservoirs, natural and man-made or altered drainage channels, and all appurtenances thereof.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the Environmental Protection Agency, or by the State of Oregon 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.

Non-Stormwater Discharge. Any discharge to the Storm Drain System that is not composed entirely of Stormwater.

Ordinary High Water Line. The line on the bank or shore to which the high water ordinarily rises annually in season.

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 of the foregoing, such that the 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.

Pollution. Such contamination or other alteration of the physical, chemical, or biological properties of any Waters of the State, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid gaseous, solid, radioactive, or other substance into any Waters of the State that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

Premises. Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including but not limited to adjacent sidewalks, landscaped features, Stormwater facilities, and parking strips.

Regulated Program. Any Stormwater program that the Oregon Department of Environmental Quality (DEQ) administers through the Federal National Pollutant



Discharge Elimination System (NPDES), or the Total Maximum Daily Load (TMDL) Program. The definition also applies to the DEQ administered UIC Program, which is regulated through the Federal Safe Drinking Water Act.

Responsible Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on behalf of the owner.

Storm Drain System. Private or publicly-owned facilities by which Stormwater 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. "Storm Drain System" includes the Municipal Separate Storm Sewer System.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

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.

UIC. Underground injection control device. A UIC is a subsurface distribution system for Stormwater, usually an assemblage of perforated pipes, drain tiles, or other mechanisms intended to distribute fluids below the surface of the ground.

Waters of the State. Lakes, bays, ponds impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction, or as currently defined by the U.S. Environmental Protection Agency.

Waterway. A body of water (whether natural or man-made) that periodically or continuously contains Waters of the State and has a definite bed and banks that serve to confine the water.

**Section 6.362. Applicability.** This ordinance shall apply to all water and all other fluids, substances and materials entering the Storm Drain System generated on any developed and undeveloped lots and parcels of real property within the City of Dallas unless explicitly exempted by this ordinance or an authorized enforcement agency.

**Section 6.364. Responsibility for Administration.** The City Manager, or the City Manager's designee, shall administer, implement, and enforce the provisions of this ordinance.

**Section 6.366. Severability.** The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance 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 ordinance.

**Section 6.368. Regulatory Consistency.** This Ordinance shall be construed to the fullest extent possible to assure consistency with the requirements of the Clean Water Act, Federal Safe Drinking Water Act, Oregon Revised Statutes, Oregon Administrative Rules and the Oregon Department of Environmental Quality and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

**Section 6.370. Prohibition of Illegal Discharges.** Except as provided in section 6.372, no person shall discharge or cause to be discharged into the Storm Drain System, or any Waterways in the city, any water, fluid, substances or materials, including but not limited to Pollutants and waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards. Discharges prohibited by this section include, but are not limited to, the following:

1. Septic, sewage, and dumping or disposal of liquids or materials other than Stormwater into the Storm Drain System;
2. Discharges of washwater resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
3. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including, but not limited to, motor vehicles, cement-related equipment, and port-a-potty servicing;
4. Discharges of washwater from mobile operations, such as mobile automobile or truck washing, steam cleaning, power washing, and carpet cleaning, and similar operations;

5. Discharges of washwater from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, or residential areas, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, and similar facilities where detergents are used and spills or leaks of toxic or Hazardous Materials have occurred, unless all spilled material has been removed;

6. Discharges of runoff from material storage areas, which contain chemicals, fuels, grease, oil, or other Hazardous Materials from material storage areas;

7. Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;

8. Discharges of sediment, unhardened concrete, pet waste, vegetation clippings, or other landscape or construction-related wastes;

9. Discharges of trash, paints, stains, resins, or other household hazardous wastes; and

10. Discharges of food-related wastes including, but not limited to, grease, restaurant kitchen mat and trash bin washwater.

**Section 6.372. Allowable Non-Stormwater Discharges.**

Section 6.370 does not apply to the following non-Stormwater discharges; provided, if any of the following allowable non-Stormwater discharges are or become a significant source of Pollutants, the City shall prohibit that discharge or require implementation of appropriate Best Management Practices to reduce the discharge of Pollutants associated with the source before discharge to the Storm Drain System:

1. Emergency firefighting activities.
2. Uncontaminated water line flushing.
3. Landscape irrigation; provided, that for areas owned or operated by the City, landscape irrigation will be considered allowable only if pesticides and fertilizers are applied in accordance with the manufacturer's instructions.
4. Diverted stream flows.
5. Uncontaminated groundwater infiltration, as defined at 40 CFR § 35.2005(20), to separate storm sewers.
6. Rising groundwaters.

7. Uncontaminated pumped ground water.
8. Potable water sources, including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs.
9. Start-up flushing of groundwater wells.
10. Foundation, footing and crawlspace drains, where flows are not contaminated.
11. Uncontaminated air conditioning or compressor condensate.
12. Irrigation water.
13. Springs.
14. Lawn watering.
15. Individual residential car washing.
16. Charity car washing, provided that chemicals, soaps, detergents, steam or heated water are not used, and washing is restricted to the outside of the vehicle, no engines, transmissions or undercarriages.
17. Flows from riparian habitats and wetlands.
18. Dechlorinated swimming pool discharges including hot tubs; provided that heated water must be cooled for at least 12 hours prior to discharge.
19. Fire hydrant flushing.
20. Street and pavement washwaters, provided that chemicals, soaps, detergents, steam or heated water are not used.
21. Routine external building wash-down, provided, that chemicals, soaps, detergents, steam or heated water are not used.
22. Water associated with dye testing activity.
23. Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465.
24. Any Non-Stormwater Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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.

25. Any other water source not containing Pollutants.

**Section 6.374. Prohibition of Illicit Connection. (a)**

1. The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drain System is prohibited.

2. The prohibition in subsection 1 expressly includes, without limitation, Illicit Connections made prior to the effective date of this ordinance, regardless whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Storm Drain System, or allows such a connection to continue.

**Section 6.376. Suspension of Access to the Municipal Separate Storm Sewer System.**

The City Manager may, without prior notice, suspend discharge access into the Municipal Separate Storm Sewer System 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 Municipal Separate Storm Sewer System or Waters of the State. If a person fails to comply with a suspension order issued under this section, the City Manager may take such steps as deemed necessary to prevent or minimize damage to the Municipal Separate Storm Sewer System or Waters of the State, or to minimize danger to persons. Any person discharging to the Municipal Separate Storm Sewer System in violation of this ordinance may have their Municipal Separate Storm Sewer System access terminated if such termination would abate or reduce an illicit discharge. The City Manager must notify a violator of the proposed termination of its Municipal Separate Storm Sewer System access. The violator may petition the City Manager, for reconsideration of a suspension order issued under this section. A person commits a violation if the person reinstates access to the Municipal Separate Storm Sewer System from Premises terminated pursuant to this Section, without the prior approval of the City Manager.

**Section 6.378. Waste Disposal Prohibitions.** No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street alley sidewalk, component of the storm drainage system, UICs or Waters of the State, any refuse, rubbish, garbage, litter, yard debris or other discarded or abandoned objects, articles, and accumulations. This section does not apply to wastes and recyclable materials deposited in proper waste and recycling receptacles and placed in authorized areas for the purpose of waste and recycling collection.

**Section 6.380. Industrial or Construction Activity.** 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 a NPDES Stormwater discharge permit may be required in a form acceptable to the City prior to the allowing of discharges to the Storm Drain System.

**Section 6.382. Monitoring of Discharges.**

1. Applicability. This section applies to all facilities that have Stormwater discharges associated with Industrial Activity, including Construction Activity.

2. Access to Facilities.

a. An employee or agent of the City designated by the City Manager shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

b. The City shall have the right to install on any permitted facility such devices as the city deems necessary to conduct monitoring or sampling of the facility's Stormwater discharge.

c. The City shall have the right to require the discharger to install monitoring equipment as the city deems necessary, at the cost and expense of the discharger or other Responsible Person. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger or other Responsible Person at its own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.

d. Unreasonable delays in allowing the authorized City personnel access to a permitted facility is a violation of any Stormwater discharge permit and of this ordinance.

**Section 6.384. Requirement to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices.** The owner or operator of a commercial or industrial establishment shall, at their own expense, through the implementation of appropriate structural and nonstructural Best Management Practices, provide reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drain System or Waterways. 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 the person's expense, additional structural and non-structural Best Management Practices to prevent the further discharge of Pollutants to the Storm Drain System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

**Section 6.386. Waterway Protection.** Every person who owns or occupies property through which a Waterway passes, , shall keep and maintain that part of the Waterway within or on the person's property free of trash, debris, excessive invasive vegetation, and other obstacles that would pollute, or contaminate water through the Waterway. In addition, the owner or lessee of such property shall maintain existing privately owned structures within or adjacent to a Waterway, so that such structures will not become a hazard to the use, function, or physical integrity of the Waterway. The owner, lessee or Responsible Person shall not remove bank vegetation that will result in bare slopes subject to erosion. Removal of invasive vegetation may be allowed by the City upon submittal of a plan for removal and replanting that is reviewed and approved by the City. The City may impose reasonable conditions upon such approval.

**Section 6.388. 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 into the Storm Drain System, or Waters of the State, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release the owner, operator or other Responsible Person shall immediately notify emergency response agencies of the occurrence. Notifications in person or by phone shall be confirmed by written notice addressed and mailed or hand-delivered to the city within three business days of the phone or in-person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment, or other Responsible Person, shall also retain onsite a written record of the discharge and the actions taken to abate the discharge and prevent

its recurrence. Such records shall be retained for at least three years from the date of the discharge.

**Section 6.390. Authority to Inspect.** Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the City Manager has cause to believe that there exists, or potentially exists, in or upon any Premises any condition that constitutes a violation of this Ordinance, the City Manager may enter such Premises at all times to inspect the same and to inspect and copy records related to Stormwater compliance. In the event the owner, occupant or other Responsible Person refuses entry after a request to enter and inspect has been made, the City may seek an administrative warrant for such entry from the Dallas Municipal Court pursuant to Dallas City Code Section 2.880 through 2.888 or other assistance from any court of competent jurisdiction in obtaining such entry.

**Section 6.392. Enforcement.**

1. Notice of Violation and Order. Whenever the City of Dallas finds that a person has violated a provision or failed to meet a requirement of this Ordinance, the City Manager may order compliance by written Notice of Violation and Order to the owner, occupant or other 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 an administrative fee to cover administrative and remediation costs; and
  - f. The implementation of source control or treatment Best Management Practices.
- If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

2. The notice shall further provide that, should the owner, occupant or other Responsible Person fail to abate the discharge and remediate or restore all affected property, as required, within the established deadline, the City may abate the violation in the manner of the abatement of a nuisance provided under Sections 5.618 and 5.620,



in which event the owner, occupant or other Responsible Person shall be jointly responsible for the cost of such abatement in the manner of Section 5.616.

3. Duty to Follow Enforcement Plan. The City shall follow a written process for enforcement through the escalating steps listed in the City of Dallas Enforcement Response Plan.

4. Enforcement under this section is in addition to, and not in lieu of, any other remedies available to the City or penalties for violation of this ordinance.

### **Section 6.394. Appeal of Notice of Violation and Order.**

1. Any person receiving a Notice of Violation and Order under Section 6.392, above, may appeal the determination of the City Manager. The notice of appeal must be received at the office of the City Manager within 10 days from the date of the Notice of Violation and Order. Upon receipt of a Notice of Appeal, the City Manager will offer to meet with the person that filed the Notice of Appeal and the person's representative, and receive written evidence and argument in support of the appeal. The City Manager shall conduct an informal review and investigation of the violation and render a decision in writing.

2. The person who appealed the Notice of Violation and Order may, within 10 days after the mailing of the City Manager's decision, appeal the City Manager's decision in writing to the council. The appeal shall state:

- a. The name and address of the appellant;
- b. The nature of the determination being appealed;
- c. The reason the determination is incorrect; and
- d. What the correct determination of the appeal should be.

3. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

4. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.

5. An appellant who fails to appeal the City Manager’s decision within the time permitted waives objections, and the right to appeal and the matter shall be deemed conclusively determined.

6. The city council may, by resolution, establish a fee for an appeal under this section, which must be paid when the appeal is filed.

**Section 6.396. Violations.**

1. A violation of or failure to comply with any of the requirements of this Ordinance shall constitute a civil infraction punishable as follows:

\$350 per day for the first offense.

\$500 per day for the second offense (within a 2-year period).

\$750 per day for the third offense (within a 2-year period).

2. There shall be an additional penalty of \$200 per day if there is any discharge of Hazardous Materials in any amount.

3. There shall be an additional penalty of \$500 per day if the discharge is fully or partially intentional.

4. The imposition of a penalty under this section does not relieve a person of the duty to abate the nuisance or comply with a Notice of Violation and Order issued under Section 6.392.

**Section 6.398. Compensatory Action.** In addition to enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City may impose upon a violator alternative compensatory or compliance actions, including, but not limited to, storm drain stenciling, attendance at compliance workshops, and Waterway cleanup.

**Section 6.399. Remedies Not Exclusive.** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

Read for the first time:

Read for the second time:

Passed by the City Council:

Approved by the Mayor:

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KENNETH L. WOODS, JR., MAYOR

ATTEST:

APPROVED AS TO FORM:

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BRIAN LATTA,  
CITY MANAGER

---

LANE P. SHETTERLY,  
CITY ATTORNEY



**Draft**  
**Illicit Discharge**  
**Enforcement Response Plan**  
**July 2024**

Public Works Committee Meeting  
Monday, July 22, 2024  
Page 20 of 26

This document was developed to provide instructions for City of Dallas personnel on the process for enforcement actions for the Illicit Discharge Ordinance. These instructions are consistent with the requirements of the City's approved TMDL Implementation Plan.

***If evidence is discovered of a potential illicit discharge through facility inspection, routine MS4 work, annual dry weather Inspection, public report, or through any other source, the City of Dallas will implement this plan to investigate and eliminate the discharge.***

### **Purpose**

The City of Dallas Enforcement Response Plan was developed to address the response and reporting requirement of the Willamette Basin TMDL Program. According to the 2019 document, the City of Dallas “*must prohibit non-stormwater discharges into the stormwater conveyance system through enforcement of an ordinance or other legal mechanism, including appropriate enforcement procedures and actions to ensure compliance. The ordinance or other regulatory mechanism The IDDE program must also maintain a procedure or system to document all complaints or reports of illicit discharges into and from the stormwater conveyance system. The DMA must track implementation of the IDDE program requirements. In each TMDL Annual Report, the DMA must assess their progress towards implementation of the program.*”

### **Introduction**

This plan includes a basic 4 step process for enforcement of the ordinance. It is important to remember that many residents will be unfamiliar with the ordinance, and a warning to stop the action without consequences is very important. The intent is to educate so that there is no penalty. Make certain you are familiar with the ordinance and are prepared to answer any questions. Repeat behavior does occur, however very few actions will actually go to the written violation stage.

Consistency is the key to a program that everyone understands. You must fill out records as required in order to make certain that everyone is being treated equitably. Familiarize yourself with the attached form.

**At minimum, annual training will be held for staff. This document will be reviewed and revised each year with additional trainings for additions or changes to the program.**

## **Response Process Description**

**Step 1. Verbal Warning** – A verbal warning is suitable for a first time incident where the purpose is to educate in order to change the behavior. Utilize resources such as the website or printed material so the resident clearly understands the issue. Record the incident as described on the attached Incident Response Sheet.

*If the behavior continues, or if this is a more significant violation then:*

**Step 2. Written Warning** – The written warning will state the needed corrections and specify a timeframe for necessary corrections. Record the incident as described on the attached Incident Response Sheet.

*If the behavior continues, the corrections aren't adequate, the timeline isn't met, they have previous warnings/history, or the activity is covered under another permit (e.g. 1200-C) then:*

**Step 3. Written Notice of Violation** – Issue a written violation. A written violation shall be issued for repeat offenders, intentional dumping, or dumping of a hazardous substance. The violation shall clearly state the required remedial actions, compliance schedule, penalties, penalties assessed if timelines are not met, and timeline for appeal.

Issue a **STOP WORK** order.

**Step 4.** Notify Supervisor or Project Leader to make certain that the City Manager and Public Works Director are aware of the situation and the agreed upon process forward.

*Only allow work to continue when all issues have been remedied.*

## **Recordkeeping Requirements**

Fill out the attached form, or an approved alternate, and submit to Supervisor or staff member as directed.

The Public Works Department for the City maintains records of all investigations and enforcement of suspected and known illicit discharges necessary to comply with tracking system requirements in the TMDL Implementation Plan. Other records, such as field notes, photographs, field analytical results, correspondence, and enforcement documents are maintained by the Public Works personnel. Complete and comprehensive recordkeeping is a requirement of this program.

## REFERENCES

*From Ordinance:*

### **Violation**

1. A violation of or failure to comply with any of the requirements of this Ordinance shall constitute a civil infraction punishable as follows:

\$350 per day for the first offense.

\$500 per day for the second offense (within a 2-year period).

\$750 per day for the third offense (within a 2-year period).

2. There shall be an additional penalty of \$200 per day if there is any discharge of Hazardous Materials in any amount.

3. There shall be an additional penalty of \$500 per day if the discharge is fully or partially intentional.

4. The imposition of a penalty under this section does not relieve a person of the duty to abate the nuisance or comply with a Notice of Violation and Order issued under Section 6.392.

### **Authority to Inspect**

Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the City Manager has cause to believe that there exists, or potentially exists, in or upon any Premises any condition that constitutes a violation of this Ordinance, the City Manager may enter such Premises at all times to inspect the same and to inspect and copy records related to Stormwater compliance. In the event the owner, occupant or other Responsible Person refuses entry after a request to enter and inspect has been made, the City may seek an administrative warrant for such entry from the Dallas Municipal Court pursuant to Dallas City Code Section 2.880 through 2.888 or other assistance from any court of competent jurisdiction in obtaining such entry.

**Potential Outcomes for Violators to be Approved by City Manager**

*The City remedies the discharge or conducts cleanup, and bills the violator.*

*Property lien*

*Suspension of Water or Sewer Service*

*Compensatory action*



## Illicit Discharge Incident Tracking Sheet

<b>Incident ID:</b>			
<b>Responder (staff name):</b>			
Suspected offender:		Date:	
Time responded:		Time /Date incident closed:	
How was issue resolved:			
<b>Reporter Information:</b>			
Time call received:		Incident date:	
Caller contact information:			
<b>Incident Location</b> (complete one or more below)			
Location description if address is unavailable:			
Address:			
Downstream outfall if available#:			
Closest street address:			
<b>Primary Location Description</b>		<b>Secondary Location Description:</b>	
<input type="checkbox"/> Stream corridor (In or adjacent to stream)	<input type="checkbox"/> Outfall	<input type="checkbox"/> In-stream flow	<input type="checkbox"/> Along banks
<input type="checkbox"/> Upland area (Land not adjacent to stream)	<input type="checkbox"/> Near storm drain	<input type="checkbox"/> Near other water source (storm water pond, wetland, etc.):	
Narrative description of location:			

*Suspected Violator (name, personal or vehicle description, license plate #, etc. Use back for additional notes):*

*Attach additional notes, photographs, incident documentation:*