

CHAPTER 158

ILLCIT DISCHARGE TO STORM SEWER SYSTEM

158.01 Purpose

158.02 Illicit Discharges Prohibited

158.03 Illicit Connections Prohibited

158.04 Industrial Discharges

158.05 Illicit Discharge Detection and Reporting; Cost Recovery

158.06 Suspension of Access to the City's Storm Sewer System

158.07 Watercourse Protection

158.08 Enforcement

158.09 Appeal

158.01 PURPOSE. The City of Robins meets certain demographic and environmental impact criteria that makes it subject to the U.S. EPA's National Pollutant Discharge Elimination System (NPDES) permit program (Program) administered by the Iowa Department of Natural Resources (IDNR). As such the City is required to obtain, and has obtained, a Municipal Separate Storm Sewer System (MS4) Permit, which is on file at the office of the City Clerk and is available for public inspection during regular office hours. In accordance with the City's MS4 Permit, the following regulations are hereby adopted by the City.

158.02 ILLICIT DISCHARGES PROHIBITED.

1. For purposes of this chapter, a "responsible party" is one or more persons that control or are in possession of or own property. Responsible parties shall be jointly and severally responsible for compliance with this chapter and jointly and severally liable for any illicit discharge from the property controlled, possessed or owned. For purposes of this chapter, "property" includes but is not limited to real estate, fixtures, facilities and premises of any kind located upon, under or above the real estate.
2. Nothing in this chapter shall be deemed to relieve a responsible party subject to an IDNR-issued industrial discharge permit or any other federal, state or City permit, statute, ordinance or rule from any obligation imposed by such permit, statute, ordinance or rule if any such obligation is greater than any obligation imposed by this chapter.
3. Any discharge into the City's storm sewer system prohibited by the City's MS4 Permit, the terms of which are hereby incorporated by reference, shall be deemed an illicit discharge in violation of this chapter.
4. Sediment pollution originating from excessive erosion rates on a construction site or sediment pollution entering a municipal storm sewer

that causes a water quality violation as determined by the DNR shall be deemed an illicit discharge in violation of this chapter.

158.03 ILLICIT CONNECTIONS PROHIBITED.

1. For purposes of this chapter, an “illicit connection” to the City’s storm sewer system is any physical connection or other topographical or other condition, natural or artificial, which is not specifically authorized by ordinance or written rule of the City, which causes or facilitates, directly or indirectly, an illicit discharge.
2. The construction, use, maintenance or continued existence of any illicit connection shall constitute a violation of this chapter.
3. 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.

158.04 INDUSTRIAL DISCHARGES.

1. Any responsible party subject to an industrial NPDES discharge permit issued by the IDNR shall comply with all provisions of such permit.
2. Proof of compliance with said permit may be required in a form acceptable to the enforcement officer, prior to discharges to the storm sewer system, authorized by said permit.

158.05 ILLICIT DISCHARGE DETECTION AND REPORTING; COST RECOVERY.

1. All detection activities permitted under this chapter shall be conducted by the Building Inspector, hereinbefore and after referred to as the “enforcement officer.”
2. The City shall not be responsible for the direct or indirect consequences to persons or property of an illicit discharge, or circumstances which may cause an illicit discharge, undetected by the City.
3. Every responsible party has an absolute duty to monitor conditions on property owned or controlled by them, to prevent all illicit discharges, and to report to the enforcement officer illicit discharges which the responsible party knows or should have known to have occurred. Failure to comply with any provision of this chapter is a violation of this chapter.
 - A. Notwithstanding other requirements of law, as soon as any responsible party has information of any known or suspected illicit discharge, the responsible party shall immediately take all necessary

steps to ensure the discovery, containment, and cleanup of such discharge at the responsible party's sole cost.

B. If the illicit discharge consists of hazardous materials, the responsible party shall also immediately notify emergency response agencies of the occurrence via emergency dispatch services.

C. If the illicit discharge 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.

D. A report of an illicit discharge shall be made in person or by phone, facsimile, or email to the enforcement officer immediately but in any event within twenty-four hours of the illicit discharge; notifications in person or by phone shall be confirmed by written notice addressed and mailed or emailed to the enforcement officer within twenty-four hours of the personal or phone notice.

4. Any person or entity shall also report to the City any illicit discharge or circumstances which such person or entity reasonably believes pose a risk of an illicit discharge.

5. Upon receiving a report pursuant to the previous subsections, or otherwise coming into possession of information indicating an actual or imminent illicit discharge, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide to the responsible party, and any third party reporter, a written report of the conditions which may cause or which have already caused an illicit discharge. The responsible party shall immediately commence corrective action or remediation and shall complete such corrective action or remediation within twenty-four hours.

6. The enforcement officer shall be permitted to enter and inspect all parts of the property subject to regulation under this chapter, and to install monitoring and/or sampling equipment as often as is necessary, to determine compliance with this chapter. The responsible party shall make the necessary arrangements to allow access by the enforcement officer, including providing for any required security clearance and removing any temporary or permanent obstructions to safe and easy access to property to be inspected.

A. Any unreasonable delay in allowing the enforcement officer access to a property, or any tampering with sampling or monitoring devices installed shall constitute a violation of this chapter.

B. If the enforcement officer has been refused access to any part of the property where an illicit discharge is occurring, suspected or

imminent, the officer may seek issuance of a search warrant from any court of competent jurisdiction.

7. If it is determined that an illicit discharge is imminent or has occurred, the actual administrative costs incurred by the City in the enforcement of this chapter shall be recovered from the responsible party. This shall include all costs associated with monitoring and testing suspected illicit discharges. The enforcement officer shall submit an invoice to the responsible party reflecting the actual costs and wages and expenses incurred by the City for the enforcement activities undertaken. Failure to pay charges invoiced under this chapter within thirty (30) days of billing shall constitute a violation of this chapter.

158.06 SUSPENSION OF ACCESS TO THE CITY'S STORM SEWER SYSTEM.

1. **Emergency Suspension.** The enforcement officer may, without prior notice, suspend storm sewer system access to a property when such emergency suspension is necessary to stop an ongoing or imminent illicit discharge. If the responsible party fails to immediately comply with an emergency suspension order, the enforcement officer shall take such steps as deemed necessary to prevent or minimize the illicit discharge. All costs of such action shall be recovered from the responsible party for the property identified as the source of the illicit discharge.

2. **Non-Emergency Suspension.** If the enforcement officer detects or is informed of circumstances which could cause an illicit discharge but such illicit discharge is not ongoing or imminent, and if the suspension of storm sewer system access would reasonably be expected to prevent or reduce the potential illicit discharge, the enforcement officer shall notify the responsible party of the proposed suspension of storm sewer system access and the time and date of such suspension. Notice to one responsible party for the property shall be sufficient notice to all. Remediation of the circumstances shall avoid a violation of this chapter provided that no illicit discharge occurs. Any physical action to reinstate storm sewer system access to property subject to such order shall be deemed a violation of this chapter unless a court order of relief is first obtained. An order of suspension shall not preclude charging the responsible party with a municipal infraction as provided hereinafter or taking any other enforcement action permitted by statute or ordinance.

158.07 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 below the elevation of the 100 year flood free of trash, debris, grass clippings or other organic wastes and

other obstacles that would pollute, contaminate, or significantly alter the quality of water flowing 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.

158.08 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.
2. Violation of any provision of this chapter may also be enforced as a municipal infraction pursuant to the City's municipal infraction chapter.
3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

158.09 APPEAL.

1. Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the City Council pursuant to the following rules:
 - A. The appeal must be filed in writing with the City Clerk within five business days of the decision or enforcement action.
 - B. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.
 - C. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.
 - D. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail, and shall give public notice in accordance with Chapter 21, Iowa Code, of the date, time and place for the regular or special meeting of the City Council at which the hearing

on the appeal shall occur. The hearing shall be scheduled for a date not less than four nor more than twenty days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

2. The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.