

CHAPTER 13

Municipal Utilities

Article 1 Illicit Discharge Control

Division 1 Administrative Provisions

- Sec. 13-1-10 Title
- Sec. 13-1-20 Purpose and intent
- Sec. 13-1-30 Definitions
- Sec. 13-1-40 Applicability
- Sec. 13-1-50 Responsibility for administration
- Sec. 13-1-60 Severability
- Sec. 13-1-70 Regulatory consistency
- Sec. 13-1-80 Ultimate responsibility of discharger
- Sec. 13-1-90 Administrative regulations authorized

Division 2 Discharge Requirements and Regulations

- Sec. 13-1-210 Prohibition of illicit discharges
- Sec. 13-1-220 Prohibition of illicit connections
- Sec. 13-1-230 Waste disposal prohibitions
- Sec. 13-1-240 Discharges in violation of NPDES stormwater discharge permit
- Sec. 13-1-250 Requirement to prevent, control and reduce storm water pollutants
- Sec. 13-1-260 Requirement to eliminate illicit discharges
- Sec. 13-1-270 Requirement to eliminate or secure approval for illicit connections
- Sec. 13-1-280 Watercourse protection
- Sec. 13-1-290 Requirement to remediate
- Sec. 13-1-300 Requirement to monitor and analyze
- Sec. 13-1-310 Notification of spills

Division 3 Inspection, Monitoring and Enforcement

- Sec. 13-1-410 Authority to inspect
- Sec. 13-1-420 Authority to sample and test
- Sec. 13-1-430 Violations
- Sec. 13-1-440 Violation a continuing offense
- Sec. 13-1-450 Acts potentially resulting in violation of Federal Clean Water Act

Division 4 Abatement

- Sec. 13-1-510 Methods of violation abatement
- Sec. 13-1-520 Summary abatement of violation
- Sec. 13-1-530 Judicial enforcement
- Sec. 13-1-540 Notice and demand for abatement
- Sec. 13-1-550 Costs and expenses as lien against property
- Sec. 13-1-560 Review of costs and expenses of abatement
- Sec. 13-1-570 Certain defenses not available
- Sec. 13-1-580 Right of entry
- Sec. 13-1-590 Right of entry for abatement

ARTICLE 1

Illicit Discharge Control

Division 1 Administrative Provisions

Sec. 13-1-10. Title.

This Article shall be known as the *Illicit Discharge Control Ordinance* of the City and may be so cited. (Ord. 2004-O-27 §1-9.4.101)

Sec. 13-1-20. Purpose and intent.

The purpose and intent of this Article is to ensure the health, safety and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) and applicable state law, by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting nonstormwater discharges to the storm drain system. (Ord. 2004-O-27 §1-9.4.102)

Sec. 13-1-30. Definitions.

As used in this Article, the following words or phrases are defined as follows:

Best Management Practices (also *BMP* or *BMPs*) means activities, practices and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. *Best Management Practices* are described in documents available from the Public Works Department. *BMPs* imposed as a condition of approval of a land use application or a building permit, or included in a contract associated with land development, shall be enforceable obligations; otherwise, *BMPs* are recommended guidelines for activities, practices and procedures and do not constitute requirements under this Article. The City may amend, supplement or modify any provision of the *BMPs* without need for amendment of this Article. The *BMPs* are available for public inspection during normal business hours at the offices of the City.

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments of the Act.

Construction activity means activities subject to NPDES construction permits. These activities include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

Enforcement Official means an authorized official of the City or person acting on behalf of the City commissioned or charged with the authority to monitor, oversee, regulate, supervise or enforce the provisions of this Article.

Hazardous materials means 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.

Illicit connection means either of the following:

a. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system, including but not limited to any conveyances which allow any nonstormwater 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 a government agency; or

b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and which has been formally approved by the City.

Note: *Illicit connection* is synonymous with illegal connection.

Illicit discharge means any direct or indirect nonstormwater discharge to the storm drain system, except as such discharge may be exempted by this Article.

Note: *Illicit discharge* is synonymous with illegal discharge.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permits means general, group and individual stormwater discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act.

Nonstormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

NPDES means the National Pollutant Discharge Elimination System.

Person means any individual, company, agency, entity, property owner or tenant.

Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles 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 (including but not limited to sediments, slurries and concrete rinsates); and noxious or offensive matter of any kind.

Pollution means the human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

Premises mean any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Public Works Director means the chief administrative official responsible for public works, or his or her designee.

Storm drain system means publicly owned facilities operated by the City 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, ditches, swales, berms, pumping facilities, retention and detention basins, natural and human-made or human-altered drainage channels, reservoirs and other drainage structures that are located within the City and are not part of a publicly owned treatment works as defined at 40 C.F.R. § 122.2.

Stormwater means any surface flow, runoff and drainage consisting entirely of water from rain storm events.

Waters of the United States means surface watercourses and water bodies as defined at 40 C.F.R. § 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons. (Ord. 2004-O-27 §1-9.4.103; Ord. 2007-O-14 §1)

Sec. 13-1-40. Applicability.

This Article shall apply to all property within the City, including any lands annexed to or otherwise incorporated. (Ord. 2004-O-27 §1-9.4.104)

Sec. 13-1-50. Responsibility for administration.

The Public Works Director shall administer, implement and enforce the provisions of this Article. Any powers granted or duties imposed upon the Public Works Director may be delegated in writing by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City. (Ord. 2004-O-27 §1-9.4.105)

Sec. 13-1-60. 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. (Ord. 2004-O-27 §1-9.4.106)

Sec. 13-1-70. Regulatory consistency.

This Article shall be construed to assure consistency with the requirements of the Clean Water Act, as amended or supplemented, or any applicable implementing regulations. (Ord. 2004-O-27 §1-9.4.107)

Sec. 13-1-80. Ultimate responsibility of discharger.

The standards set forth in this Article are minimum standards generally applicable to all property and all activities within the City. This Article does not intend or imply that compliance by any person or any development will ensure that there will be no contamination, pollution or unauthorized discharge of pollutants into waters of the United States caused by such person or development. This Article shall not create or impose liability on the part of the City, or any agent or employee thereof, for any damages that result from any discharger's reliance on this Article or any administrative decision lawfully made in the implementation of this Article. (Ord. 2004-O-27 §1-9.4.108)

Sec. 13-1-90. Administrative regulations authorized.

The City Manager is authorized to promulgate administrative regulations and forms in order to implement the provisions of this Article. Administrative regulations shall be collected and maintained in a book or other compilation available for public inspection during normal business hours at the primary offices of the City. No administrative regulation shall conflict with a specific requirement of this Article. (Ord. 2004-O-27 §1-9.4.109)

Division 2
Discharge Requirements and Regulations

Sec. 13-1-210. Prohibition of illicit discharges.

(a) It is unlawful for any person to discharge, cause to be discharged or to permit 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 stormwater.

(b) The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited, except as described as follows:

(1) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the United States when properly managed to ensure that no potential pollutants are present; and, therefore, they shall not be considered illicit discharges unless determined to cause a violation of the provisions of the Clean Water Act, or this Article:

- a. Potable water line flushing;
- b. Uncontaminated pumped groundwater and other discharges from potable water sources;
- c. Landscape irrigation and lawn watering;
- d. Diverted stream flows;
- e. Rising groundwater;
- f. Groundwater infiltration to the storm drain system;
- g. Uncontaminated foundation and footing drains;

- h. Uncontaminated water from crawl space pumps;
- i. Air-conditioning condensation;
- j. Natural springs;
- k. Individual residential car washing;
- l. Flows from naturally existing riparian habitats and wetlands;
- m. Dechlorinated swimming pool discharges;
- n. Waters produced during street washing; and
- o. Flows from fire-fighting activities and training by governmental or quasi-governmental agencies.

(2) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered by the State 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 by the City for any discharge to the storm drain system.

(c) The City may exempt in writing any other nonstormwater discharges that are found by the City to not be a source of pollutants to the storm drain system or waters of the United States. (Ord. 2004-O-27 §1-9.4.201; Ord. 2007-O-14 §1)

Sec. 13-1-220. Prohibition of illicit connections.

(a) Unless expressly approved by the City, it is prohibited and shall be unlawful to cause, permit, allow, construct, use or maintain a connection to the storm drain system.

(b) The prohibition stated in Subsection (a) above shall include, without limitation, connections made in the past, regardless of whether such connection was permissible under law or practices applicable or prevailing at the time of connection. (Ord. 2004-O-27 §1-9.4.202)

Sec. 13-1-230. Waste disposal prohibitions.

It is prohibited and shall be unlawful for any person to 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 drain system or water of the United States, any refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles, goods, items and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition. (Ord. 2004-O-27 §1-9.4.203)

Sec. 13-1-240. Discharges in violation of NPDES stormwater discharge permit.

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 the permit may be required in a form acceptable to the Public Works Director prior to or as a condition of any City approval of a land use application, permit or certification, including but not limited to a subdivision map, site plan, development plan, rezoning, building permit or certificate of occupancy. (Ord. 2004-O-27 §1-9.4.204)

Sec. 13-1-250. Requirement to prevent, control and reduce stormwater pollutants.

(a) Authorization to adopt and impose Best Management Practices. The City is authorized to adopt, amend, modify and repeal requirements identifying Best Management Practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. Where Best Management Practices requirements are imposed as a condition of land use approval or a building permit, or are imposed by contract, every person undertaking such activity or operation, or owning or operating such facility, shall comply with such requirements.

(b) Compliance by new development and redevelopment. The City may impose conditions and requirements or specifically reference one (1) or more BMPs on any land use approval, building permit or contract deemed necessary to ensure compliance of the development or redevelopment with this Article. The failure of the City to expressly or explicitly impose conditions or requirements upon such approval or permit or to specifically reference the requirements of this Article with such approval or permit shall not be construed as or deemed a waiver of any requirement imposed by this Article. (Ord. 2004-O-27 §1-9.4.205)

Sec. 13-1-260. Requirement to eliminate illicit discharges.

Notwithstanding any other provision of this Article to the contrary, the Public Works Director may require by written notice that any person responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illicit discharges. (Ord. 2004-O-27 §1-9.4.206)

Sec. 13-1-270. Requirement to eliminate or secure approval for illicit connections.

(a) The Public Works Director may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Article to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of the initial ordinance codified herein.

(b) If, subsequent to eliminating a connection found to be in violation of this Article, the responsible person can demonstrate that an illicit discharge will no longer occur, said person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense. (Ord. 2004-O-27 §1-9.4.207; Ord. 2007-O-14 §1)

Sec. 13-1-280. 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 reasonably 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. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within his or her property lines in order to protect against erosion and degradation of the watercourse originating or contributed from his or her property. (Ord. 2004-O-27 §1-9.4.208)

Sec. 13-1-290. Requirement to remediate.

Whenever the Public Works Director finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the storm drain system or water of the United States, the Public Works Director may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of this Article. (Ord. 2004-O-27 §1-9.4.209)

Sec. 13-1-300. Requirement to monitor and analyze.

The Public Works Director may require by written notice that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, illicit discharges and/or nonstormwater discharges to the storm drain system or waters of the United States, to undertake at said person's expense such monitoring and analyses and furnish such reports to the City as deemed necessary to determine compliance with this Article. (Ord. 2004-O-27 §1-9.4.210)

Sec. 13-1-310. 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 which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the storm drain system or waters of the United States from a facility, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of a hazardous material, said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (e.g., a 911 emergency service call). In the event of a release of nonhazardous materials, said person shall notify the Public Works Department in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Public Works Department within three (3) 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 onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (Ord. 2004-O-27 §1-9.4.211)

Division 3
Inspection, Monitoring and Enforcement

Sec. 13-1-410. Authority to inspect.

Whenever necessary to make an inspection to enforce any provision of this Article, or whenever the Public Works Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the Public Works Director may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 2004-O-27 §1-9.4.301)

Sec. 13-1-420. Authority to sample and test.

During any inspection as provided herein, the Public Works Director may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. (Ord. 2004-O-27 §1-9.4.302)

Sec. 13-1-430. Violations.

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. A violation of or failure to comply with any of the requirements of this Article may be prosecuted in any court having jurisdiction, including the Municipal Court, and violations shall be subject to Section 1-4-10 of this Code. Upon conviction or plea of nolo contendere to a violation of this Article, the minimum penalty for each violation shall be not less than five hundred dollars (\$500.00) unless the act constituting the violation is found by the court to be intentional, in which case such minimum penalty for each violation shall be not less than one thousand dollars (\$1,000.00). (Ord. 2004-O-27 §1-9.4.303; Ord. 2007-O-14 §1)

Sec. 13-1-440. Violation a continuing offense.

Each calendar day that a violation exists shall be a separate offense and violation of this Article. (Ord. 2004-O-27 §1-9.4.304)

Sec. 13-1-450. Acts potentially resulting in violation of Federal Clean Water Act.

Any person who violates any provision of this Article or any provision of any requirement issued pursuant to this Article may also be in violation of the Clean Water Act and may be subject to the sanctions of those acts, including civil and criminal penalties. Any enforcement action authorized under this Article shall also include written notice to the violator of such potential liability. (Ord. 2004-O-27 §1-9.4.305)

Division 4
Abatement

Sec. 13-1-510. Methods of violation abatement.

(a) In order to abate a violation declared in accordance with this Article, the City may elect to pursue any one (1) or more of the following methods of abatement:

- (1) Pursue summary abatement pursuant to Section 13-1-520 below;
- (2) Initiate an action for judicial enforcement in the Municipal Court or an Arapahoe County court pursuant to Section 13-1-530 below; or
- (3) Cause abatement or removal by means of notice and demand, together with either legal judicial enforcement or City abatement pursuant to Section 13-1-540 below.

(b) Unless otherwise directed by the City Manager following consultation with the City Attorney, the City's customary method of enforcement shall be by judicial enforcement pursuant to Section 13-1-530 below.

(c) No remedy provided in this Article shall be exclusive. All remedies shall be cumulative and available concurrently. The taking of any action authorized by this Article or any other provision of this Code, including charge or conviction of violation of this Article, shall not preclude or prevent the taking of other action to abate any violation. Any application of this Article that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 2004-O-27 §1-9.4.401)

Sec. 13-1-520. Summary abatement of violation.

(a) The City Manager may authorize the immediate and summary abatement of any violation declared in accordance with this Article where the following criteria or circumstances are determined by the City Manager to exist:

- (1) The Enforcement Official certifies in writing to the City Manager that a condition, activity or circumstance exists upon property located within the City which constitutes a violation as identified and described in this Article. Such written certification should, when possible, include photographs, illustrations and other evidence to describe the scope and extent of the violation;
- (2) The Enforcement Official certifies in writing to the City Manager that the violation presents an immediate and imminent danger to the public health, safety or welfare; and
- (3) The delay associated with abatement of the violation by another method as provided in this Article will potentially result in harm or damage to person, property, wildlife or wildlife habitat from the violation.

(b) Following the City Manager's determination as required in Subsection (a) above, the City Manager may authorize abatement of all or a portion of the violation as the City Manager deems necessary to remedy the violation and to resolve the immediate and imminent danger to the public health, safety or welfare resulting from the violation. When summary abatement is authorized by the

City Manager, prior notice of such abatement action to the owner, agent or occupant of the property is not required.

(c) Following abatement, the City Manager shall deliver to the owner a written description of the circumstances resulting in the abatement or other action, together with an itemized invoice or other detailed statement of the cost and expenses incurred by the City in abating the violation and demand for payment within twenty (20) days of the owner's receipt of the invoice or statement.

(d) Within twenty (20) days following the owner's receipt of the City Manager's invoice or statement of costs and expenses, the owner shall deliver to the City Manager payment in full for the costs and expenses. Failure to timely pay an invoice or statement of costs and expense shall constitute a violation of this Code, which shall be subject to the penalties provided by Section 1-4-10 of this Code. The City may, at its discretion and only where such costs and expenses exceed one hundred fifty dollars (\$150.00), assess the costs and expenses of abatement as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments, to the extent such priority is not precluded by law. (Ord. 2004-O-27 §1-9.4.402)

Sec. 13-1-530. Judicial enforcement.

(a) The City Manager may initiate a civil action or criminal prosecution for the judicial enforcement of this Article against any violation declared in accordance with this Article at any time. Judicial enforcement shall also be available to abate a violation declared in accordance with this Article following efforts to abate the violation through the delivery of a notice and demand. The City Manager shall endeavor to advise and consult with the City Council regarding the violation prior to commencing judicial enforcement.

(b) If the City Manager elects to initiate judicial enforcement in the Municipal Court or an Arapahoe County court, no prior notice regarding the violation or abatement need be provided to the defendant other than service of a summons and/or complaint in accordance with the applicable court rules.

(c) Upon a finding of a violation of any provision of this Article by any defendant, the court shall impose the following minimum penalty, unless the City, through the City Attorney or Prosecutor, requests or consents to a lesser or different penalty:

(1) Enjoin or otherwise order the defendant to fully abate and remedy the violation within a specified and reasonable period of time not to exceed ten (10) days following the entry of the court's order.

(2) Fine the defendant for each violation an amount not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00) for the first violation; not less than six hundred dollars (\$600.00) nor more than one thousand dollars (\$1000.00) for the second violation; and not less than seven hundred fifty dollars (\$750.00) nor more than one thousand dollars (\$1000.00) for the third and each subsequent violation for the same violation. No portion of any minimum fine may be suspended or held in abeyance by the court.

(3) Order the defendant to forthwith pay restitution to the City for the actual costs or loss caused to the City by the violations, including but not limited to administrative expenses, costs to protect the public from the violation, court costs and attorney fees.

(4) Authorize the City to assess any unpaid costs and expenses for abatement imposed by the court in Paragraph (3) above as a lien against the owner's property, and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments to the extent such priority is not precluded by law.

(d) In addition to the minimum penalty required by this Section, the court shall be authorized to:

(1) Permanently enjoin the defendant from further engaging in the use of the property in a manner that would constitute a violation;

(2) Find the defendant in contempt of court and assess a penalty as specified by the court, including a fine and/or imprisonment for failure to abide by, comply with or conform to any court order or injunction; and/or

(3) Impose any other penalty authorized by law. (Ord. 2004-O-27 §1-9.4.403)

Sec. 13-1-540. Notice and demand for abatement.

(a) Where the Enforcement Official has reason to believe that a violation declared in accordance with this Article may exist upon property within the City, the Enforcement Official may seek abatement of the violation in accordance with the following procedures:

(1) Personal contact. The Enforcement Official shall first attempt to personally contact the owner or occupant of the property (by personal visit, by telephone or by letter) in an effort to seek voluntary abatement of the violation. The Enforcement Official shall provide to the owner or occupant a reasonable time, and in no event less than seventy-two (72) hours, to voluntarily abate the violation.

(2) Written description. Where the violation remains unabated following personal contact with the owner or occupant, the Enforcement Official shall prepare a written description of the condition, activity or circumstance that is believed to constitute a violation as described in this Article. Such written certification should, whenever possible, include photographs, illustrations and other evidence to describe the scope and extent of the violation.

(3) Notice and demand. The Enforcement Official shall prepare a written notice titled "Notice and Demand for Violation Abatement" (notice and demand). Such notice and demand shall substantially conform to the following content requirements:

a. A written description of the condition, activity or circumstance that constitutes a violation of this Article.

b. A statement that the condition, activity or circumstance constitutes a violation, together with a citation to the specific provision of this Article that declares such condition, activity or circumstance to be a violation and unlawful.

c. A copy of this Article, as it may be amended.

d. A demand that the violation be abated on or before a specified time and date. The time and date shall be established by the Enforcement Official based upon the severity of the violation, the degree of potential harm or risk of damage to property or person, the extent of mobilization or construction necessary to abate the violation, and other factors relevant to the time necessary to abate the violation. Such date and time shall not be less than twenty-four (24) hours.

e. A statement that, if the violation is not abated on or before the date and time stated in the notice and demand, the City may at its option pursue an action to enforce this Article in an appropriate court and/or abate the violation. Such statement may also inform the addressee of the potential fines and other penalties that may be imposed upon a finding by a court that a violation exists on the property. Such statement may also inform the addressee that the cost and expense of abatement incurred by the City will be assessed as a lien against the owner's property and that the City may certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property.

f. Any other information as determined by the Enforcement Official to enable the addressee to properly address the abatement of the violation and to contact the Enforcement Official.

(4) Delivery of notice and demand. The Enforcement Official shall cause the notice and demand to be distributed in accordance with this Paragraph. Provided that the notice and demand is mailed or posted in substantial conformity with this Paragraph, the failure of the owner, occupant or another person to receive such notice and demand shall not constitute a failure to comply with the requirements of this Section. The Enforcement Official shall cause the notice and demand to be distributed as follows:

a. The notice and demand shall be mailed, by certified U.S. Mail, return receipt requested, to the owner of the property as such owner's name and address appear in the records of the County Assessor; and

b. Either:

1. Where the property includes a residential or commercial structure, the notice and demand shall be mailed, by first class U.S. Mail, addressed to "Occupant" at the address of the property upon which the violation is located; or

2. Where the property is vacant or undeveloped, one (1) sign measuring not smaller than two (2) feet by three (3) feet shall be posted on the property at a conspicuous location visible from a traveled thoroughfare. Such sign shall be titled "Notice and Demand for Violation Abatement" and shall state that the property is subject to City enforcement of this Article, include a brief statement of the violation being abated, and include the words

"Additional information is available at the Citizen Service Center for the City of Centennial during normal business hours," together with the address of the Citizen Service Center and telephone number of the Enforcement Official.

(5) Failure to timely abate following notice and demand. If the owner or occupant shall fail to abate the violation on or before the date and time stated in the notice and demand, the City Manager may:

a. Authorize abatement of all or a portion of the violation as the City Manager deems necessary to remedy the violation. No additional or prior notice of such abatement action to the owner, agent or occupant of the property is required. Following abatement, the City Manager shall deliver to the owner a written description of the action taken to abate the violation, together with an itemized invoice or other detailed statement of the costs and expenses incurred by the City in abating the violation and demand for payment within twenty (20) days of the owner's receipt of the invoice or statement. Within twenty (20) days following the owner's receipt of the City Manager's invoice or statement of costs and expenses, the owner shall deliver to the City Manager payment in full for the costs and expenses. Failure to timely pay an invoice or statement of costs and expense shall constitute a violation of this Code, which shall be subject to the penalties provided by Section 1-4-10 of this Code. The City Manager may, at the City Manager's discretion, assess the costs and expenses of abatement as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments to the extent such priority is not precluded by law.

b. Pursue an action for judicial enforcement as provided by Section 13-1-530 above. (Ord. 2004-O-27 §1-9.4.404)

Sec. 13-1-550. Costs and expenses as lien against property.

(a) Whenever this Article authorizes the City to assess against any person or property the cost and expense of abatement of a violation, such costs and expenses shall include all costs actually incurred by the City and reasonably related to the abatement, including but not limited to an hourly rate for each hour of City staff time employed in administering this Article in the abatement of the violation, attorneys' fees and legal costs, equipment charges, contractors and other service personnel expenses charged to the City, transportation and storage charges, trash disposal charges and fees, insurance, and equipment and services necessary to protect the property and the general public from harm. The City Manager may establish reasonable and uniform charges for property inspection, preparation and delivery of notices, and other administrative tasks customarily undertaken in the administration of this Article.

(b) Whenever this Article authorizes the City to assess against any person or property the cost and expense of abatement of violations, the City shall be authorized to assess any unpaid and delinquent costs and expenses as a lien against the property and to certify the costs and expense to the County Treasurer or other appropriate County official for collection in the same manner as real estate taxes against the property. Each such assessment shall be a lien against each lot or tract of land until paid and shall have priority over other liens except general taxes and prior special assessments to the extent such priority is not precluded by law. (Ord. 2004-O-27 §1-9.4.405)

Sec. 13-1-560. Review of costs and expenses of abatement.

(a) Any person subject to an assessment for the costs and expenses of the City's abatement of a violation imposed in accordance with Section 9-1-550 above may request an administrative review of the assessment by the City Council.

(b) A request for an administrative review must be made in writing by the owner and delivered to the City Manager prior to 5:00 p.m. on the date upon which payment of costs and expenses are due. The written request shall describe in detail the specific reasons why the assessment is unreasonable, together with any other written information that the owner asserts demonstrates the unreasonableness of the assessment. Upon the timely submission of a request, the deadline for payment of assessed costs and expenses shall be postponed until the earlier of the City Council's decision following review or such later time as the City Council directs payment to be made following review.

(c) The review shall be for the sole purpose of considering the reasonableness of the assessed costs and expenses. As an administrative matter, no notice or hearing shall be required prior to review of the owner's request by the City Council.

(d) Following review of the City Manager's assessment, the written request for review and any explanation of the City Manager concerning the costs and expenses, the City Council shall either affirm the City Manager's assessment or reduce the assessment upon a finding that the assessment is unreasonable. (Ord. 2004-O-27 §1-9.4.406)

Sec. 13-1-570. Certain defenses not available.

(a) Any person who is the record owner of the premises, location or structure at the time a notice and demand or other order pursuant to this Article is issued and served upon him or her shall be responsible for complying with that order and liable for any costs and expense incurred by the City, notwithstanding the fact that he or she conveys interests in the property to another after such notice or order was issued and delivered.

(b) It shall not be a defense to the determination that a violation exists or to an action to abate a violation that the property is boarded up or otherwise enclosed, or that the violation is not visible by the general public. (Ord. 2004-O-27 §1-9.4.407)

Sec. 13-1-580. Right of entry.

(a) The Enforcement Official is authorized to enter upon private property in the same manner and by the same means as visitors to the property. Such entry will customarily involve reaching the front or primary entrance to the property via the driveway, sidewalk or path. The Enforcement Official shall not enter private property where the owner or person in possession denies consent, except where emergency conditions are believed to exist or a search warrant authorizing entry is obtained.

(b) The Enforcement Official is authorized to enter upon private property for the purpose of delivering, depositing, posting or otherwise providing a notice, advisement or other information necessary to implement or administer the provisions of this Article.

(c) The Enforcement Official is authorized to enter upon all or any portion of private property to ascertain the existence of or the abatement of a violation if:

(1) Emergency conditions dangerous to the public health, safety or welfare are reasonably believed to exist upon such property or upon property which is accessible from the entered property.

(2) The Enforcement Official has obtained a search warrant.

(3) The private property is undeveloped or vacant and is not posted in a manner that would indicate the owner's prohibition of such access.

(4) The Enforcement Official has obtained the consent of a person who purports to be in possession of the property or authorized to consent to entry.

(5) The Enforcement Official, after more than two (2) separate attempts to contact a person in possession by telephone, personal visit or posting or mailing of a request to enter, is unable to make contact to request the consent of the person in possession.

(d) The Municipal Judge shall have the power to issue a search warrant to permit the investigation of a suspected violation upon a showing by the Enforcement Official of either:

(1) Probable cause that a violation exists; or

(2) Upon information and belief made after reasonable investigation, emergency conditions dangerous to the public health, safety or welfare may exist. (Ord. 2004-O-27 §1-9.4.408)

Sec. 13-1-590. Right of entry for abatement.

Whenever the City exercises its right to abate a violation in accordance with this Article, the City shall have the authority to enter upon the property and abate the violation. In abating such violation, the City may go to whatever extent may be necessary to complete the abatement of the violation; and, should it be practicable to salvage any material derived in the abatement, the City may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds from such sale. The proceeds, if any, obtained from the sale of any material salvaged as a result of the City's abatement of a violation shall be deposited to the General Fund of the City and any deficit between the amount so received and the cost of the abatement may be levied as an assessment against the property and collected as any other assessment by the City. Should the proceeds of the sale of such salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the violation was abated. (Ord. 2004-O-27 §1-9.4.409)