

CITY OF HAGERSTOWN, MARYLAND

AN ORDINANCE TO AMEND THE CODE OF THE  
CITY OF HAGERSTOWN, CHAPTER 213, *STORMWATER MANAGEMENT*  
BY (1) ADDING AND REVISING CERTAIN  
DEFINITIONS APPEARING IN SECTION 213-5; (2) REMOVING CERTAIN PROVISIONS IN  
CHAPTER 213; (3) ADDING ARTICLE XIV, *ILLICIT DISCHARGE*  
SECTIONS 213-38 through 213-55; and  
(4) ADDING ARTICLE XV *SEVERABILITY* Section 213-56

RECITALS

WHEREAS, the Mayor and Council previously adopted Chapter 213, *Stormwater Management* of the City Code in order to protect, maintain, and enhance the public health, safety, and the general welfare by establishing minimum requirements and procedures which control the adverse impacts associated with increased stormwater runoff;

WHEREAS, the Mayor and Council amended the aforesaid Chapter 213 by adding Article XIII *Stormwater Protection Program* Sections 213-30 through 213-37, because of the City's Municipal Separate Storm Sewer Systems ("MS4") Permit required that on or before November 1, 2025, the City must treat at least 20% of the impervious area within the boundaries of the City;

WHEREAS, the City's National Pollution Discharge Elimination System ("NPDES") Permit, which is issued by the Maryland Department of the Environment ("MDE") further requires that the City implement an ordinance which defines and prohibits illicit discharges or connections into the stormwater management system and also provides a mechanism for the City to investigate and stop said discharges or connections;

WHEREAS, the Mayor and Council desire to amend the aforesaid Chapter 213 by (1) adding and revising certain definitions appearing §213-5, as set forth below; (2) removing certain provisions in Chapter 213; (3) adding Article XIV *Illicit Discharge* Sections 213-38 through 213-55; and (4) adding Article XV *Severability* Section 213-56, as set forth below.

WHEREAS, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

**Section 1.** The Code of the City of Hagerstown Chapter 213 *Stormwater Management*, be and is hereby amended as follows:

**CHAPTER 213**  
**STORM WATER MANAGEMENT**

*Revisions/additions:*

**§213-5 Definitions**

This section shall remain as currently drafted, except for the following revisions:

Underlined definitions will replace current §213-5 definitions.

Delete the definition of *Storm Drainage System*.

Add the following definitions:

**BEST MANAGEMENT PRACTICE (BMPs):** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Storm Water, receiving waters, or Storm Water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**CONSTRUCTION ACTIVITY:** Activities which 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.

**ILLICIT DISCHARGE:** Any direct or indirect Non-Storm Water Discharge to the Stormwater Management System, except as exempted in Section 213-43.A of this Chapter.

**ILLICIT CONNECTIONS:** An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the Stormwater Management System including but not limited to any conveyances which allow any Non-Storm Water Discharge including sewage, process wastewater, and wash water to enter the Stormwater Management System and any connections to the Stormwater Management System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency or,
- B. Any drain or conveyance connected from a commercial or industrial land use to the Stormwater Management System which has not been documented in plans, maps, or equivalent records and approved by an Authorized Enforcement Agency.

**INDUSTRIAL ACTIVITY:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** Means municipally-owned facilities where Storm Water is collected and/or conveyed, including, but not limited to, any sidewalks, roads with drainage systems, municipal streets, retention and detention basins, curbs, gutters, inlets, ditches, piped storm drains, pumping facilities, natural and human-made or altered drainage channels, reservoirs, and other drainage structures designed or used for collecting or conveying Storm Water, and that is not used for collecting or conveying sewage.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by the United States Environmental Protection Agency (EPA) (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the Discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**NON-STORM WATER DISCHARGE:** Any Discharge to the Storm Drainage System that is not composed entirely of Storm Water.

**PERSON:** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**ENGINEERING DEPARTMENT:** Employees or designees of the City of Hagerstown Engineering Department who are designated to enforce this Article.

**POLLUTANT:** Anything which 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, Sediments and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**PREMISES:** Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

**SEDIMENT:** Settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.

**STORM WATER:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP):** A document which 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 Storm Water, Storm Water conveyance systems, and/or receiving waters to the maximum extent practicable.

**WASTEWATER:** Any water or other liquid, other than uncontaminated Storm Water, discharged from a facility.

The following sections shall be deleted as set forth below:

**§213-27 Right to appeal.** DELETE and designate as RESERVED.

**§213-28 Severability.** DELETE and designate as RESERVED. [New §213-56 addresses severability.]

**§213-29 Violations and penalties.** DELETE and designate as RESERVED. [New §213-49 addresses violations and penalties.]

**§213-36 Petitions for adjustment.** DELETE 'D' as Board of Technical Appeals does not have jurisdiction over these matters per the §10-66 of the Code.

The following Article shall be added to Chapter 213:

ARTICLE XIV  
Illicit Discharge

**§ 213-38. Purpose and intent.**

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City, through the regulation of Non-Storm Water Discharges to the Stormwater Management System to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of Pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- (1) To regulate the contribution of Pollutants by any user to the Municipal Separate Storm Sewer System (MS4) by Storm Water Discharges;
- (2) To prohibit Illicit Connections and Illicit Discharges to the Municipal Separate Storm Sewer System; and
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Article.

**§ 213-39. Applicability.**

This Article shall apply to all flows entering the Stormwater Management System generated on any developed and undeveloped lands unless explicitly exempted by the Mayor and Council.

**§ 213-40. Responsibility for administration.**

The Engineering Department shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed may be delegated in writing by the City Engineer or his or her duly authorized agent, to persons or entities acting in the beneficial interest of or in the employ of the City.

**§ 213-41. Compliance with other Regulations.**

This Article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Article are in addition to the requirements of any other ordinance, rule, regulations, or other provision of law, and where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**§ 213-42. Limits on liability.**

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

**§ 213-43. Discharge prohibitions.**

**A. Prohibition of Illicit Discharges:**

No Person shall discharge or cause to be discharged into the municipal Stormwater Management System or Watercourses any materials, including but not limited to Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than Storm Water.

The commencement, conduct, or continuance of any Illicit Discharge to the Stormwater Management System is prohibited.

The following discharges are exempt from discharge prohibitions established by this Article:

- (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), and any other water source not containing Pollutants.
- (2) Discharges or flow from firefighting and other discharges specified in writing by the Engineering Department as being necessary to protect public health and safety.
- (3) Dye testing subject to a verbal notification to the Engineering Department prior to the time of the test.
- (4) The prohibition shall not apply to any Non-Storm Water Discharge permitted under an NPDES permit, waiver, or waste Discharge order issued to the discharger and administered under the authority of the United States 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 Drainage System.

**B. Prohibition of Illicit Connections:**

- (1) The construction, use, maintenance or continued existence of Illicit Connections to the Stormwater Management System is prohibited.
- (2) 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.
- (3) A Person is considered to be in violation of this Article if the Person connects a line conveying sewage to the MS4 or allows such a connection to continue.
- (4) Improper connections in violation of this Article must be disconnected and redirected, if necessary, to an approved onsite Wastewater management system or the sanitary sewer system upon approval of the Engineering Department.
- (5) Any drain or conveyance that has not been documented in plans, maps or the equivalent, and which may be connected to the Stormwater

Management System, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Engineering Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the Stormwater Management System, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Engineering Department.

**§ 213-44. Watercourse protection.**

Every Person owning property through which a Watercourse passes, or such Person's lessee, shall keep and maintain that part of the Watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

**§213-45. Industrial or construction activity discharges.**

**A. Submission of Notice of Intent to the Engineering Department.**

- (1) Any person subject to an Industrial or Construction Activity NPDES Storm Water Discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Engineering Department prior to the allowing of discharges to the MS4.
- (2) The operator of a facility, including construction sites, required to have an NPDES permit to Discharge Storm Water associated with Industrial Activity shall submit a copy of the Notice of Intent (NOI) to the Engineering Department at the same time the operator submits the original NOI to the Maryland Department of the Environment or the Environmental Protection Agency as applicable.
- (3) The copy of the NOI may be delivered to the Engineering Department either in person or by mailing it to:

City of Hagerstown  
1 East Franklin Street  
3<sup>rd</sup> Floor  
Hagerstown, MD 21740  
Attn: City Engineer



## § 213-46. Monitoring of discharges.

### **A. Applicability**

This section applies to all facilities that have Storm Water discharges associated with Industrial Activity, including Construction Activity.

### **B. Right of Entry to Facilities having a NPDES Permit for Industrial Activity or Construction Activity.**

- (1) The Engineering Department shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the designated personnel of the Engineering Department.
- (2) Facility operators shall allow the Engineering Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge Storm Water, and the performance of any additional duties as defined by state and federal law.
- (3) The Engineering Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Engineering Department to conduct monitoring and/or sampling of the facility's Storm Water discharge.
- (4) The Engineering Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Storm Water flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Engineering Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Engineering Department access to a permitted facility is a violation of a Storm Water discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge Storm Water associated with Industrial Activity commits an offense if the person denies the Engineering Department reasonable access to the permitted facility for the purposes of conducting any activity authorized or required by this Article.

### **C. Right of Entry to Facilities without a NPDES Permit for Industrial Activity or Construction Activity.**

- (1) The Engineering Department shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has

- security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Engineering Department.
- (2) The Engineering Department shall have the right to set up such devices as are necessary in the opinion of the Engineering Department to conduct monitoring and/or sampling of the facility's Storm Water discharge.
  - (3) The Engineering Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Storm Water flow and quality shall be calibrated to ensure their accuracy.
  - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Engineering Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

#### **D. Search Warrants.**

If any personnel of the Engineering Department has been refused access to any part of the premises from which Storm Water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Engineering Department and/or the City may seek issuance of a search warrant from any court of competent jurisdiction.

#### **§ 213-47. Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices.**

The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental Discharge of prohibited materials or other wastes into the municipal Stormwater Management System or Watercourses through the use of structural and non-structural BMPs. Further, 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 said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the Discharge of Storm Water associated with Industrial Activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

#### **§ 213-48. 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 Illegal Discharges or Pollutants discharging into Storm Water, the Stormwater Management System, or

water of the United States, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Engineering Department in person or by phone or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Hagerstown, 1 East Franklin Street, 3<sup>rd</sup> Floor, Hagerstown, Maryland, 21740 Attn: City Engineer 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 on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a least three (3) years. Failure to provide notification of a release, as indicated above, is a violation of this Article. This section does not apply to Sanitary Sewer Overflows as defined by COMAR 26.08.10.

## **§ 213-49. Violations, enforcement, and penalties.**

### ***A. Violations.***

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Article. Any Person who has violated or continues to violate the provisions of this Article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the City Engineer or his designee, representative and/or contractors are authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City Engineer is authorized to seek costs of the abatement as outlined in Section 213-52.

### ***B. Warning Notice.***

When the City Engineer finds that any Person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the City Engineer may serve upon that Person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the City Engineer to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

### ***C. Notice of Violation.***

Whenever the Engineering Department finds that a person has violated a prohibition or failed to meet a requirement of this Article, the City Engineer may order compliance by written notice of violation to the responsible person. The notice of violation shall be served via First Class mail and by posting a copy on the property, and shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred.

- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the City Engineer by filing a written notice of appeal within ten (10) business days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Such notice may require without limitation:
  - (a) The performance of monitoring, analysis, and reporting;
  - (b) The elimination of Illicit Connections or Illicit Discharges;
  - (c) That violating discharges, practices, or operations shall cease and desist;
  - (d) The abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property;
  - (e) Payment of a fee to cover administrative and remediate costs; and
  - (f) The implementation of source control or treatment BMPs.

***D. Compensatory Action***

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Engineering Department may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

***E. Suspension of MS4 Access***

**(1) Emergency Cease and Desist Orders**

When the City Engineer finds that any Person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the Person's past violations are likely to recur, and that the Person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City Engineer may issue an order to the violator directing it to immediately cease and desist all such violations and directing the violator to:

- (a) Immediately comply with all Article requirements; and
- (b) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any Person notified of an emergency order directed to it under this subsection, shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the

City Engineer may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City Engineer may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City Engineer within thirty (30) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) **Suspension due to Illicit Discharges in Emergency Situations**

The City Engineer may, without prior notice, suspend MS4 Discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United State, or to minimize danger to persons.

(3) **Suspension due to the Detection of Illicit Discharge**

Any Person discharging to the MS4 in violation of this Article may have its MS4 access terminated if such termination would abate or reduce an Illicit Discharge. The Engineering Department will notify a violator of the proposed termination of its MS4 access. The violator may petition the City Engineer for a reconsideration and hearing. A Person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City Engineer.

***F. Municipal Infraction***

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) business days of service of the notice of violation, or such greater period as the Engineering Department shall deem appropriate, the violation shall constitute a municipal infraction and the violator shall be fined, not exceeding One Thousand Dollars (\$1,000.00) per violation per day, as provided in Md. Code, Ann., Local Gov't, §6-102 for each day the violation remains unremedied after receipt of the notice of violation.

**G. Criminal Prosecution**

Any person who is found guilty of violating this Article shall be guilty of a misdemeanor and shall be subject to a criminal fine not exceeding One Thousand Dollars (\$1,000.00) per violation per day and/or imprisonment for a period not to exceed six (6) months. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**§ 213-50. Appeal of notice of violation.**

Any person aggrieved by the action of any official charged with the enforcement of this Article, as the result of issuance of a written notice of violation, or an alleged failure to properly enforce the Article in regard to a specific application, shall have the right to appeal the action to the City Engineer. The appeal must be filed in writing within ten (10) business days from the date of the notice of violation or determination to the applicant and shall clearly state the grounds on which the appeal is based. Except in the event of an emergency, any deadline set forth in the Notice of Violation shall be stayed upon the timely filing of an appeal and shall remain stayed pending the outcome of the appeal.

**§ 213-51. Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal within the timeframe set in the decision of the City Engineer upholding the decision of the Engineering Department, then representatives of the Engineering Department shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**213-52. Cost of abatement of the violation .**

Within sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the cost of abatement within ten (10) business days. If the amount due is not paid within a timely manner, as determined by the decision of the City Engineer, or by the expiration of the time in which to file an appeal, the cost of abatement shall constitute a lien on the property for the amount of the cost of abatement and may be collected in the same manner as City real estate taxes. For the purpose of collection, the City may include unpaid costs on the annual tax bill of the property. The unpaid costs shall be collected in the same manner as ordinary taxes are collected, subject to the same interest and penalty for nonpayment as provided by law for nonpayment of City real estate taxes.

**§ 213-53. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the City may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this chapter. Any court of competent jurisdiction shall have the

right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

**§ 213-54. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**§ 213-55. Remedies not exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, State, or local law and it is within the discretion of the City to seek cumulative remedies. The City is entitled to recover all attorney's fees, court costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

The following Article shall be added to Chapter 213:

ARTICLE XV  
SEVERABILITY

**§ 213-56. Severability of provisions.**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter 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 Chapter.



**Section 2. Effective Date.** This Ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

  
\_\_\_\_\_  
Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Emily N. Keller, Mayor

Date of Introduction: June 28, 2022  
Date of Passage: July 26, 2022  
Effective Date: August 26, 2022

PREPARED BY:  
SALVATORE & MORTON, LLC  
CITY ATTORNEYS