

- (b) The city shall maintain and repair (and operate as the case may be) only structures in improved drainage facilities which have been constructed to city standards and have been accepted or constructed by the city.
- (c) The cleaning of debris from public or private drainways may be performed as part of any general cleanup or beautification program of the city but shall not be performed as a part of maintenance and repair of drainage facilities; however, the chief engineer may cause to be removed any potential obstruction to the operation of any culvert, gate, bridge or drain opening, or similar drainage structure which has been accepted or constructed by the city.

(Sec. 16-6.16, R.O. 1978 (1983 Ed.))

Sec. 14-12.17 Exception.

This article shall not apply to the construction of any drainage facility for subdivisions, the final subdivision map of which has been approved by the city planning department within 30 days of the approval date of this article, nor to any drainage improvement where participation by the city has been approved by the chief engineer prior to the approval date. (Sec. 16-6.17, R.O. 1978 (1983 Ed.))

Sec. 14-12.18 Inequities.

Whenever the chief engineer finds that the apportionment of costs, as proposed in this article, would result in inequities, the chief engineer is authorized and directed to submit his or her recommendations to the council as to how such inequities may be corrected. (Sec. 16-6.18, R.O. 1978 (1983 Ed.))

Sec. 14-12.19 Provisions subject to state statutes.

- (a) Any drainage facility, open drainway or other similar facility which extends to the shoreline may be subject to the provisions of HRS Chapter 205A, Part III.
- (b) In such case, approval of the appropriate agency is required before approval of any construction plans may be granted by the chief engineer.

(Sec. 16-6.19, R.O. 1978 (1983 Ed.); Am. Ord. 96-58)

Sec. 14-12.20 Federal aid projects.

- (a) The contents of this article may be adjusted, modified or deleted to meet federal requirements under a federal aid project.
- (b) In the case of federal projects, the city may obtain the necessary channel right of way in such form as required by federal regulations.

(Sec. 16-6.20, R.O. 1978 (1983 Ed.))

Sec. 14-12.21 Approval denied.

The chief engineer shall disapprove any drainage facilities, open drainways and other similar facilities which do not conform with the provisions of this article. (Sec. 16-6.21, R.O. 1978 (1983 Ed.))

Sec. 14-12.22 Discharge of effluent other than storm water runoff--Violation.

- (a) No person shall discharge any effluent other than storm water runoff onto any public right of way and/or into any drainage facility without first obtaining a permit from the chief engineer. The chief engineer will only issue a permit upon application when the chief engineer determines that such discharge will not create a drainage or pollution problem or cause a violation of any provisions of the city NPDES permit. The chief engineer may condition the granting of the permit with requirements to prevent drainage and/or pollution problems or mitigative measures which will meet any conditions of the city NPDES permit. Except for those nonstorm water discharges authorized by the city NPDES permit, no discharge shall commence unless an NPDES permit is first obtained from the department of health, State of Hawaii, for the discharge of any pollutant into state waters through the municipal separate storm sewer system.
- (b) Any person desiring the permit required under this section shall apply to the chief engineer on form(s) prescribed by the chief engineer.
- (c) Any permit issued under this section shall be for the duration of the effluent discharge but shall not extend beyond the term of the city's NPDES permit. The permit shall meet any conditions of the city's NPDES permit.
- (d) A fee of \$200.00 shall be required for each permit application. All application fees collected shall not be refundable. When the discharge is performed by or on behalf of the city, state or federal government, the collection of the permit fee shall be waived. All permit fees shall be deposited into the highway fund.
- (e) Any discharge which violates any condition of the permit or the state water quality standards in Chapter 11 54, Hawaii Administrative Rules (HAR), shall also be a violation of Article 12 of this chapter and may result in a cease and desist order. In addition, the city by written notice may terminate the permit for any discharge which violates any condition of the permit or the state water quality standards in Chapter 11-54, HAR.
- (f) Failure to obtain a permit required under this section shall be a violation of Article 12.

(Sec. 16-6.22, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-122, 96-34, 03-12, 14-4)

Sec. 14-12.23 Environmental quality control--Violation.

- (a) It shall be unlawful for any person to discharge or cause to be discharged any pollutant into any drainage facility which causes a pollution problem in state waters, or causes a violation of any provision of the city NPDES permit or the water quality standards of the State of Hawaii.
- (b) It shall be unlawful for any person to discharge or cause to be discharged any storm water runoff associated with industrial activity into any drainage facility which causes a violation of any provision of the city NPDES permit.
- (c) It shall be unlawful to discharge domestic wastewater and industrial wastewater into any drainage facility or any separate storm sewer system.
It also shall be unlawful to discharge commercial cooking oil waste and commercial FOG waste, as defined under Section 14-5A.1, into any drainage facility or any separate storm sewer system.

- (d) It shall be unlawful to discharge any storm water on any public right-of-way which creates a drainage problem or causes a nuisance.
- (e) The provisions of this section are not applicable to employees of the city who, during the performance of their duties or in cases of emergency or a hazardous substance spill, may discharge sewage, other pollutants or wash water from cleanup operation of a hazardous substance spill into any drainage facility.
- (f) Upon presentation of proper credentials, the chief engineer or the chief engineer's duly authorized representatives may enter at reasonable times any building or premises in the City and County of Honolulu in the discharge of the chief engineer's official duties, to inspect or investigate the discharge of any pollutant or effluent into or onto a drainage facility; provided, that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and provided further, that an order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted.

(Sec. 16-6.23, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-122, 96-34, 02-14)

Sec. 14-12.24 Administrative enforcement.

If the chief engineer determines that any person is violating any provision of Article 12 of this chapter, any rule adopted thereunder, or any permit or license issued pursuant thereto, the chief engineer may have the person served, by mail or delivery, with a notice of violation and order. Whenever a corporation violates any of the provisions of Article 12 of this chapter, the violation shall be deemed to be also that of the individual directors, officers or agents of such corporation who, in their capacity as directors, officers or agents of such corporation, have authorized, ordered or done any of the acts constituting in whole or in part such violation.

- (a) Contents of the Notice of Violation. The notice shall include at least the following information:
 - (1) Date of the notice;
 - (2) The name and address of the person served with the notice and the location of the violation;
 - (3) The section number of the ordinance or rule, or other law which has been violated;
 - (4) The nature of the violation(s); and
 - (5) The deadline for compliance with the notice.
- (b) Contents of the Order. The order may require the person to do any or all of the following:
 - (1) Cease and desist from the violation;
 - (2) Correct the violation at the person's own expense before a date specified in the order;
 - (3) Payment of an administrative fine; or
 - (4) Appear before the chief engineer or a person designated by the chief engineer at a time and place specified in the order and answer the charges specified in the notice of violation.

(Added by Ord. 92-122)

Sec. 14-12.25 Judicial enforcement of order.

The chief engineer may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued. Where the civil action has been instituted to enforce the civil fine imposed by said order, the chief engineer need only show that the notice of violation and order was served, a hearing was held or the time granted for requesting a hearing had expired without such a request, the civil fine imposed, and that the fine imposed had not been paid. (Added by Ord. 92-122)

Sec. 14-12.26 Enforcement.

- (a) Show Cause Order. Whenever the chief engineer finds that a discharge of storm water or effluent or any pollutant is taking place or threatening to take place in violation of any requirement imposed by ordinance, regulation or other law, the chief engineer may issue a notice of violation and show cause order requesting the property owner or permit holder or discharger to meet with someone designated by the chief engineer to show why there should be no formal enforcement action. This meeting is not a prerequisite to taking formal enforcement action against the property owner or permit holder or discharger, and neither does this preclude in any way informal meetings of discussions with the property owner or permit holder or discharger.
- (b) Cease and Desist Order. Whenever the chief engineer finds that a discharge of storm water or effluent or any pollutant is taking place or threatening to take place in violation of any ordinance, order, regulation or other law, the chief engineer may issue an order directing the property owner or permit holder or discharger to cease and desist such discharges and directing the property owner or permit holder or discharger to achieve compliance in accordance with a detailed time schedule of specific actions the property owner or permit holder or discharger must take in order to correct or prevent violations of this ordinance, regulation, order or any other law. The chief engineer may order the revocation or suspension of any permit or license. Any order issued by the chief engineer may require the property owner or permit holder or discharger to provide information as the chief engineer deems necessary to explain the nature of the discharge. The chief engineer may require in any cease and desist order that the property owner or permit holder or discharger pay to the city the costs of any extraordinary inspection or monitoring which in the discretion of the chief engineer was necessary as a result of the violation together with civil penalties.
- (c) Cleanup and Abatement Orders.
 - (1) Any person who is in violation of this ordinance, regulation, order or any other law, shall upon the chief engineer's order and at the total expense of the property owner or permit holder or discharger clean up the discharge and do whatever is necessary or required by the chief engineer to abate the effects of the violation.
 - (2) The chief engineer may initiate any cleanup, abatement or remedial work required that the chief engineer deems necessary as a result of the magnitude of the violation or when necessary to prevent harm to public health or the environment. The chief engineer may take this action, notwithstanding that injunctive relief and this action may be in addition to any action taken by the property owner or permit holder or discharger or other persons.
 - (3) Any property owner or permit holder or discharger violating the ordinance, regulations, order or any other law shall be liable to the city for costs incurred in the cleanup, abatement or remedial actions undertaken by the chief engineer, including but not limited to administrative costs, inspection costs, attorney's fees and penalties