

INTRODUCED: March 23, 2026

AN ORDINANCE No. 2026-076

To amend City Code §§14-335, concerning the City's Erosion and Stormwater Management Program, 28-780, concerning the City's Pre-treatment Program, and 28-966, concerning penalties for illicit discharge and connection violations.

Patron – Mayor Avula

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: APR 27 2026 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 14-335, 28-780 and 28-966 of the Code of the City of Richmond (2020), be and are hereby **amended** as follows:

Sec. 14-335. Enforcement.

(a) If the Administrator determines that there is a failure to comply with the permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee, operator or other person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, special orders, and notices to comply. Written notices shall be served by [~~registered or certified mail~~] mailing the

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____

notice to the address specified in the permit application, or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. If the person served with such notice fails to comply or ensure that a responsible party complies within the time specified, the Administrator is authorized to issue a stop work order or to revoke the permit. The Administrator is also authorized to pursue additional enforcement measures listed below.

(2) If the Administrator issues a stop work order, the person to which such order has been issued shall cease or ensure that all land-disturbing activities cease until the Administrator confirms in writing that the permit violation has ceased, and/or that an approved plan and required permits have been obtained, or that specified corrective measures have been completed.

(3) Stop work orders shall be issued in accordance with [~~City-issued procedures~~] the notice requirements of paragraph (a), and shall become effective upon service [~~on the permittee or other appropriate person by certified mail, return receipt requested, sent to such person's address specified in the land records of the locality, or by personal delivery by an agent of the Administrator~~].

(4) The Administrator is authorized if, in the Administrator's discretion, any violation is adversely affecting, or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within, the watersheds of the Commonwealth, or otherwise is causing a substantial adverse impact to water quality, to issue the permittee or other appropriate person, without advance notice or hearing, an

emergency order directing such person to cease immediately all land-disturbing activities on the site. The Administrator shall provide an opportunity for a hearing, after reasonable notice, as to the time and place thereof, to a permittee, in order to determine whether to affirm, modify, amend, or cancel such emergency order.

(b) In addition to any other remedy provided by this chapter, if the Administrator determines that there is a failure to comply with the provisions of this chapter, the Administrator may initiate such informal or formal administrative enforcement procedures in a manner authorized by this chapter and any applicable City requirements. Such measures include, but are not limited to:

(1) With the consent of any person subject to a Richmond Erosion and Stormwater Management Program Permit who has violated the Richmond Erosion and Stormwater Management Program Permit; who has failed to comply with any decision of the Administrator or City; or who has violated the terms of any order issued by the Administrator or the City, a consent special order issued pursuant to Code of Virginia, § 62.1-44.15:48. A consent special order shall order the person to comply with the terms of the order, as well as any provision of this article or decision by the Administrator or the City. Such special orders shall be issued in accordance with City-issued requirements, including requirements for public notice and comment, unless issued as an emergency order consistent with subsection (a)(4) of this section. Special orders may include a civil charge for violations of the requirements listed above, instead of civil penalties that could be imposed pursuant to this section. The provisions of this subsection notwithstanding, the City, in its discretion, may proceed directly with other enforcement measures authorized by this article.

(2) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, or any permit condition issued by the Administrator or any provisions of this chapter may be compelled in a proceeding instituted by the City in any appropriate court to obey such rule, regulation, ordinance, order, or permit condition and to comply therewith, by injunction, mandamus or other appropriate remedy.

(3) Any person who violates any provision of this chapter or who fails, neglects or refuses to comply with any order of the Administrator or City, shall be subject to a civil penalty not to exceed \$32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The City may issue a summons for the collection of the civil penalty and the action may be prosecuted in the appropriate court. Violations for which a penalty may be imposed shall include, but not be limited to:

- a. No State permit registration;
- b. No stormwater pollution prevention plan;
- c. Incomplete stormwater pollution prevention plan;
- d. Stormwater pollution prevention plan not available for review;
- e. No approved erosion and sediment control plan;
- f. Failure to install best management practices or erosion and sediment controls;
- g. Best management practices or erosion and sediment controls improperly installed or maintained;
- h. Operational deficiencies;
- i. Failure to conduct required inspections;

- j. Incomplete, improper, or missed inspections; and
- k. Discharges not in compliance with the requirements of the general permit.

(4) Notwithstanding any other civil or equitable remedy provided by this section or otherwise by law, any person who willfully or negligently violates any provision of this article, any order of the Administrator, any condition of a permit, or any order of a court pertaining to this article, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500.00 nor more than \$32,500.00, or both.

(c) The Administrator is authorized to assess and collect administrative civil penalties for violations of this chapter in amounts not to exceed those authorized by Code of Virginia § 62.1-44.15:48, as may be amended from time to time. In order to implement and enforce the requirements of this chapter, the Director is authorized and empowered to promulgate rules and regulations as authorized by and in the manner provided in Section 28-26, with any such rules and regulations consistent with Code of Virginia § 15.2-2122(10) and the standards established by the State Water Control Board pursuant to § 62.1-44.15:25.1. Such regulations shall have the force and effect of law upon adoption.

Sec. 28-780. Rules and regulations.

In order to implement and enforce the requirements of this article, the Director is authorized and empowered to promulgate rules and regulations as authorized by and in the manner provided in Section 28-26, which then shall have the force and effect of law. In establishing rules and regulations, the Director may incorporate, in whole or in part, any Federal or State law or regulations enacted pursuant to the Clean Water Act or the State Water Control Law, Code of Virginia, § 62.1-44.2 et seq. If a conflict occurs between any requirement of this article or any rule

or regulation adopted pursuant to this division and any applicable Federal or State requirement, the more stringent provision shall prevail and shall be enforceable under this article. The Director is further authorized and empowered to require recordkeeping, reporting, compliance with specific effluent standards, monitoring, sampling, analysis, and installation of monitoring facilities; to require the installation and use of other necessary technological equipment; to require the use of best management practices for the reasonable reduction of the volume, strength, and toxicity of wastes discharged to the wastewater system; and to make and carry out inspections, monitoring, sampling, analysis, and surveillance. The Director is further authorized to assess and collect administrative civil penalties for violations of this division in the manner prescribed by and in amounts not to exceed those authorized by Code of Virginia § 15.2-2122(10), as may be amended from time to time.

Sec. 28-966. Penalties for violation of division.

(a) Violation. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. Any person who violates any of the provisions of this chapter shall be subject to one or more of the enforcement actions outlined in this section.

(b) Abatement.

(1) If the City abates a violation, then within ten days after abatement of the violation, the owner of the property shall be notified of the cost of abatement, including administrative costs, and that such costs shall be charged to the owner. Notice shall be given by personal delivery or by mail to the last known address of the owner as shown in the records of the City Assessor. The notice shall be effective upon the date of mailing or

personal delivery. The property owner may file a written protest objecting to the amount of such charge within ten days of the effective date of the notice.

(2) If no protest is filed, then such charge shall become due and payable on the date set forth in the notice.

(3) In the event a protest is filed, the Director shall issue a decision within 15 days from the date of receipt of the written protest. Failure of the Director to issue an order within 15 days shall be deemed a denial of the protest. If any charges are upheld upon completion of such review, then such charges shall become due and payable ten days after the issuance of the order upon such protest.

(c) Misdemeanor. A willful violation of this division shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this article is permitted to remain shall constitute a separate offense.

(d) Civil liability. In addition to any criminal penalties provided, any person who violates any provision of this division may be liable to the City in a civil action for damages.

(e) Remedies not exclusive. The remedies in this chapter are cumulative and the exercise of any one or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this division. The remedies listed in this division 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.

(f) Administrative civil penalties and cost recovery. In order to implement and enforce the requirements of this division, the Director is authorized and empowered to promulgate rules and regulations as authorized by and in the manner provided in Section 28-26, which then shall have the force and effect of law. The Director is authorized to assess and collect administrative

civil penalties for violations of this division in amounts not to exceed those authorized by Code of Virginia § 62.1-44.15:48, as may be amended from time to time, consistent with Code of Virginia §§ 15.2-2122(10) and 62.1-44.15:25.1. In addition, the Director may recover any penalties assessed against the City or costs incurred by the City as a result of violations, including remediation costs, investigation costs, monitoring costs, emergency response costs, and any other costs resulting from the violation.

§ 4. This ordinance shall be in force and effect upon adoption.

DATE: January 21, 2026
TO: The Honorable Members of City Council
THROUGH: The Honorable Danny Avula, Mayor
THROUGH: Odie Doland II, Chief Administrative Officer
THROUGH: Al Wiggins, Jr., Deputy Chief Administrative Officer
FROM: Scott Morris, Director, Department of Public Utilities
RE: DPU Director Authority to Assess Civil Penalties, City Code revisions

ORD. OR RES. No.:

PURPOSE:

To amend § 14-335 of the Code of the City of Richmond, regarding the City's Erosion and Stormwater Management Program, to authorize the Administrator to assess administrative civil penalties for erosion and stormwater management violations; to amend § 28-780 of the Code of the City of Richmond, regarding the City's Pretreatment Program, to authorize the Director of Public Utilities to assess administrative civil penalties for pretreatment violations; and to amend § 28-966 of the Code of the City of Richmond, regarding unpermitted discharges into the City's municipal separate storm sewer or into waters of the State, to authorize the Director of Public Utilities to assess administrative civil penalties for illicit discharge violations.

BACKGROUND:

The Department of Public Utilities administers multiple regulatory programs affecting water quality, including the Richmond Erosion and Stormwater Management Program, the City's Industrial Pretreatment Program, and the Municipal Separate Storm Sewer System (MS4) illicit discharge program. These programs are mandated by federal Clean Water Act regulations and Virginia state law, with enforcement authority delegated to the locality.

Under Code of Virginia § 62.1-44.15:48, localities with delegated erosion and stormwater management authority may assess administrative civil penalties for violations in amounts not to exceed those established by state law. Similarly, Code of Virginia § 15.2-2122(10)

authorizes localities to establish reasonable penalties for violations of ordinances, including penalties for violations of pretreatment and illicit discharge regulations.

Currently, City Code authorizes criminal penalties and civil actions for violations but does not explicitly provide for administrative civil penalties that can be assessed by the Director or Administrator without court proceedings. Administrative civil penalties are essential enforcement tools that provide: 1. More timely enforcement responses to violations that threaten water quality; 2. Reduced burden on the court system for routine compliance matters; 3. Cost recovery for investigation, monitoring, and response activities; 4. Consistency with enforcement approaches used by state regulatory agencies and other Virginia localities; and 5. Enhanced deterrence through prompt assessment of penalties proportionate to violations.

The proposed amendments would align City Code with state statutory authority by expressly authorizing the Director and Administrator to assess administrative civil penalties through properly adopted regulations, subject to the procedural requirements and maximum penalty amounts established by state law. These penalties would supplement, not replace, existing criminal and civil enforcement remedies.

The Director will develop implementing regulations establishing procedures for penalty assessment, including notice requirements, opportunity for hearing, penalty calculation methods considering violation severity and duration, and provisions for payment plans where appropriate. These regulations will be adopted consistent with City Charter requirements for administrative rulemaking.

COMMUNITY ENGAGEMENT:

No specific community engagement activities were conducted for this procedural amendment authorizing administrative penalties, as the ordinance does not change substantive regulatory requirements for property owners or businesses. The Director will conduct appropriate stakeholder outreach when developing implementing regulations, including engagement with the development community, industrial users, and environmental advocacy organizations regarding penalty assessment procedures and calculation methodologies.

STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL:

This amendment advances the Richmond 300 Master Plan Goal 16 to improve local water quality and manage the built environment to enhance and protect natural assets such as the James River. Enhanced enforcement authority supports the City's obligations under state and federal water quality regulations and MS4 permit requirements.

The ordinance also furthers strategic priorities for regulatory compliance and effective municipal service delivery by providing enforcement tools comparable to those available to the Virginia Department of Environmental Quality and Virginia Department of Health. Other governmental bodies with related interests include the Richmond Regional Planning Commission and the James River Association, both of which support effective enforcement of water quality protections.

FISCAL IMPACT:

Implementation of administrative civil penalties may generate revenue to offset costs of compliance monitoring, investigation, and enforcement activities. Penalty amounts will be established through regulations to reflect actual costs incurred by the Department while providing appropriate deterrence. Revenue projections are not determinable at this time as they depend on violation rates and penalty assessment levels to be established through rulemaking.

Administrative costs for implementing the penalty program, including hearing procedures and appeals, are expected to be absorbed within existing Department resources, with costs offset by penalty collections and reduced reliance on more expensive judicial enforcement proceedings.

DESIRED EFFECTIVE DATE:

Upon adoption

REQUESTED INTRODUCTION DATE:

March 23, 2026

CITY COUNCIL PUBLIC HEARING DATE:

April 13, 2026

REQUESTED AGENDA:

Consent Agenda

RECOMMENDED COUNCIL COMMITTEE:

Governmental Operations Standing Committee (March 25, 2026)

AFFECTED AGENCIES:

Department of Public Utilities

RELATIONSHIP TO EXISTING ORD. OR RES.:

Amends existing City Code sections

ATTACHMENTS:

Draft Ordinance - Administrative Civil Penalty Authority

STAFF:

Lee Crowell, Department of Public Utilities, (804) 646-5209

Department of Public Utilities

ESC Program Review Civil Charge Worksheet					
Va. Code § 62.1-44.15; Va. Code § 62.1-44.15:54					
<i>Responsible Party</i>	EA No.		NOV No.		NOV Date
	NOV Observation #	Potential for Harm			<i>Amount</i>
		Serious	Moderate	Marginal	
1. Gravity-based Component					
a. Violations and Frequency (per violation unless otherwise noted)		\$ (x) occurrences	\$ (x) occurrences	\$ (x) occurrences	
(1) Ordinance		3,000 (x) ___	2,000 (x) ___	1,500 (x) ___	
(2) Administration		2,500 (x) ___	1,500 (x) ___	1,000 (x) ___	
(3) Plan Review		2,500 (x) ___	1,500 (x) ___	1,000 (x) ___	
(4) Inspections		2,500 (x) ___	1,500 (x) ___	1,000 (x) ___	
(5) Enforcement		2,500 (x) ___	1,500 (x) ___	1,000 (x) ___	
(6) Submissions		1,500 (x) ___	750 (x) ___	500 (x) ___	
(7) Other		1,500 (x) ___	750 (x) ___	500 (x) ___	
Subtotal 1.a – Violations and Frequency - Preliminary Subtotal					
b. Aggravating Factors					
(2) Compliance History					
Order or decree in another media program within 60 mo. before initial NOV	Y	N	If yes, add lesser of 0.05 (x) subtotal line 1.a, or \$5,000		
Order or decree in same media program within 60 mo. before initial NOV	Y	N	If yes, add 0.5 (x) subtotal line 1.a (for 1 order in 36 mo.)		
(3) Degree of Culpability (<i>applied to specific line amount(s) or subtotal line 1.a</i>)	Low = (x) 0		Moderate = (x) 0.25	Serious = (x) 0.5	High = (x) 1.0
Subtotal 1 b. – Aggravating Factors					
Subtotal - Gravity Based Component Subtotal (Add Subtotal #1.a and Subtotal #1.b)					
2. Economic Benefit of Noncompliance					
3. Ability to Pay (<i>based on information supplied by the locality</i>)					()
Total Civil Charge (<i>may not exceed \$5,000 per day with the maximum amount not to exceed \$20,000 per violation. Once new regulations go into effect, may not exceed \$5,000 per violation with the maximum not to exceed \$50,000 per order.</i>)					\$