

DIVISION 5. - ILLICIT DISCHARGE AND ILLEGAL CONNECTION

Sec. 405-39. - General provisions.

- (a) *Title.* This article shall be known as the "Illicit Discharge and Illegal Connection Ordinance."
- (b) *Authority.* The authority for this article is based on home rule provisions of the Georgia Constitution article IX, section 2, paragraph 3(a)(6).
- (c) *Findings.* It is hereby determined that:
 - (1) The city separate storm sewer system was designed and installed to manage stormwater so as to prevent localized flooding, damage to property and risk to public safety;
 - (2) The city separate storm sewer system was not designed or installed as a receiving system for non-stormwater discharges;
 - (3) Discharges to the city separate storm sewer system that are not composed entirely of stormwater contribute to increased nonpoint source pollution and degradation of receiving waters;
 - (4) These non-stormwater discharges occur due to spills, dumping and improper connections to the city separate storm sewer system from residential, industrial, commercial or institutional establishments;
 - (5) These non-stormwater discharges not only impact local waterways individually, but geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters;
 - (6) The impacts of these non-stormwater discharges adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;
 - (7) These impacts can be minimized through the regulation of spills, dumping and discharges into the city separate storm sewer system;
 - (8) Localities in the state are required to comply with a number of state and federal laws, regulations and permits which require a locality to address the impacts of nonpoint source pollution caused by non-stormwater discharges to the city separate storm sewer system;
 - (9) The Clean Water Act requires the management and maintenance of the city separate storm sewer system and the management of discharges to that system;
 - (10) Therefore, in order to prohibit such non-stormwater discharges to the city separate storm sewer system, it is determined that the regulation of spills, improper dumping and discharges to the city separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

- (d) *Purpose and intent.* The purpose of this article is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the city separate storm sewer system to the maximum extent practicable as required by federal law. This article establishes methods for controlling the introduction of non-stormwater discharges into the city separate storm sewer system in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process. The objectives of this article are to:
- (1) Comply with all Georgia Department of Natural Resources (DNR) and Federal Environmental Protection Agency (EPA) stormwater regulations developed pursuant to the Clean Water Act;
 - (2) Prohibit illicit discharges and illegal connections to the city separate storm sewer system;
 - (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the city separate storm sewer system; and
 - (4) Establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this article.
- (e) *Applicability.* The provisions of this article shall apply throughout the unincorporated area of the city. The city may enter into agreements with cities within the county, or other municipalities, to carry out the purpose of this article. These agreements may include, but are not limited to, enforcement of provisions, resolution of disputes, and cooperative monitoring and management of the separate storm sewer system and management programs.
- (f) *Compatibility 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 constitute a minimum standard, should not be deemed to limit or repeal any other local requirements, and are in addition to the requirements of any other ordinance, rule, regulation, 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.
- (g) *Severability.* If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.
- (h) *Responsibility for administration.*
- (1) The Department shall have the power to administer, implement, and enforce the provisions of this article and any procedures, standards and guidelines established under authority of this article. Such power shall include the right to maintain an action or procedure in any court of competent jurisdiction to compel compliance with or restrain any violation of this article.
 - (2)

The Department shall be responsible for the conservation, management, maintenance (where applicable), extension and improvement of the city separate storm sewer system, including activities necessary to control stormwater and activities necessary to administer and implement the stormwater management programs incorporated by reference into the NPDES stormwater permit.

- (3) The Department may develop, and update periodically, a stormwater management design manual for the guidance of persons preparing stormwater management plans, designing or operating stormwater management systems, and designing or operating facilities that may contribute non-stormwater discharges to the city's separate storm sewer system.
- (4) The Department may:
 - a. Establish or oversee the establishment of standards and guidelines for controlling stormwater;
 - b. Determine the manner in which conveyances should be operated;
 - c. Inspect private systems which discharge to the city separate storm sewer system;
 - d. Advise other departments on issues related to stormwater;
 - e. Protect facilities and premises controlled by the city and prescribe how they are to be used by others;
 - f. Require facilities or activities that create new, increased, or significantly changed stormwater contributions to the city's separate storm sewer system to comply with the terms of this article; and
 - g. Develop programs or procedures to control the discharge of pollutants into the city separate storm sewer system.

(Ord. No. 08-2019, § I, 6-3-2019)

Sec. 405-40. - Prohibitions.

(a) *Prohibition of illicit discharges.*

- (1) It shall be a violation of this article for any person to throw, drain, or otherwise discharge, cause, or allow others under his control to throw, drain, or otherwise discharge into the city separate storm sewer system anything other than stormwater.
- (2) Discharges from the following sources are exempt from the prohibition provision in subsection (a)(1) of this section:
 - a. Water line flushing performed by a government agency, other potable water sources, dechlorinated and unpolluted swimming pool discharges, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including

active groundwater dewatering systems), crawlspace pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

b. Discharges or flows from firefighting, and other discharges specified in writing by the city as being necessary to protect public health and safety.

(b) *Prohibition of illegal connections.*

- (1) It shall be a violation of this article for any person to construct, connect, use, maintain, or suffer or allow the continued existence of any illegal connection to the city separate storm sewer system.
- (2) Illegal connections must be disconnected. The Department may require that illegal connections be disconnected and redirected if necessary, to an approved on-site sewage management system or the sanitary sewer system. Such redirected connections must be approved by the agency responsible for administering and operating those systems.
- (3) The Department may require any underground or aboveground pipe, drain or other conduit, that has not been documented in plans, maps or equivalent, and which may be connected to the city's separate storm sewer system, to be located by the owner or occupant of that property upon receipt of written notice from the Department. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, 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 storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Department. Failure to comply with the terms of the written notice mentioned within this subsection shall constitute a violation of this article.

(Ord. No. 08-2019, § I, 6-3-2019)

Sec. 405-41. - Industrial or construction activity discharges.

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 said permit may be required in a form acceptable to the city prior to allowing discharges to the city separate storm sewer system.

(Ord. No. 08-2019, § I, 6-3-2019)

Sec. 405-42. - Access and inspection of properties and facilities.

(a) *Access and inspection.* The Director or his designee shall be permitted to enter and inspect premises, properties and facilities at reasonable times as often as may be necessary to determine compliance with this article.

(1)

If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to the Director or his designee.

- (2) The owner or operator shall allow the Director or his designee ready access to all parts of the premises for the purposes of inspection, investigation, observation, monitoring, measurement, recording, enforcement, sampling and testing, photography and videotaping for the purpose of ensuring compliance with the provisions of this article. The owner or operator shall allow the Director or his designee to examine and copy any records that are required under the conditions of an NPDES permit. The Director or his designee shall duly notify the owner of said property or the representative on site, except in the case of an emergency.
- (3) The Director or his designee shall have the right to set up on any premises, property or facility such devices as are necessary in the opinion of the Department to conduct monitoring and/or sampling of discharges.
- (4) The Director or his designee may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy. Measurements, tests and analyses performed shall be completed in accordance with 40 CFR 136, unless the Director approves another method.
- (5) Any temporary or permanent obstruction to safe and easy access to the premises, property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Director or his designee and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the Director or his designee access to a facility, property or premises shall constitute a violation of this article.
- (7) If the Director or his designee has been refused access to any part of a premises, property or facility from which stormwater is or would likely be discharged, and the Director or his designee 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, environment and welfare of the community, then the Department may seek issuance of a search warrant from any court of competent jurisdiction.

(b)

Schedule. The Director or his designee may determine inspection schedules necessary to enforce the provisions of this article.

(Ord. No. 08-2019, § I, 6-3-2019)

Sec. 405-43. - Notification of accidental discharges and spills.

- (a) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of non-stormwater from that facility or operation which is resulting or may result in a discharge of that non-stormwater into the city separate storm sewer system, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge. Said person shall notify the Department by phone, facsimile or in person within 24 hours of discovering the discharge. Such notification shall detail the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department within three business days of the phone or in person notice. If the discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
- (b) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
- (c) Failure to provide notification of a release or discharge as provided in this section is a violation of this article.

(Ord. No. 08-2019, § I, 6-3-2019)

Sec. 405-44. - Violations, enforcement and penalties.

- (a) *Violations.* It shall be a violation of this article 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. Each day of noncompliance is considered a separate offense. The Department may institute appropriate action or proceedings at law or equity for the enforcement of this article. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Nothing herein contained shall prevent the Department from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. In the event the

violation constitutes an immediate danger to public health or public safety, the Department has the right but not the duty, to enter upon the subject private property or premises, without giving prior notice, and take any and all measures necessary to abate the violation and/or restore the property. The Department is authorized to seek costs of the abatement as outlined in subsection (e) of this section.

(b) *Notice of violation.* Whenever the Department finds that a violation of this article has occurred, the Department may order compliance by written notice of violation.

(1) The notice of violation shall contain:

- a. The name and address of the alleged violator;
- b. The address when available or a description of the building, structure, premises or land upon which the violation is occurring, or has occurred;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
- f. A statement that the determination of violation may be appealed to the Department by filing a written notice of appeal within 30 days of service of notice of violation.

(2) Such notice of violation may require without limitation:

- a. The performance of monitoring, analysis, and reporting;
- b. The elimination of illicit discharges and illegal connections;
- c. That violations of this article shall cease and desist;
- d. The abatement of non-stormwater discharges, the remediation of land or the effects of pollution, and the restoration of any affected property to its unaffected condition;
- e. Payment of costs to cover administrative and abatement costs;
- f. The implementation of pollution prevention practices;
- g. The development and provision to the Department of written remediation or action plans;
- h. The development and provision to the Department of documents showing the location and discharge points of conveyances, pipes, channels, or drains; and
- i. Any other actions that will lead to the remedy of a condition of violation of this article.

(c) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the Director or his designee. The notice of appeal must be received by the Department within 30 days from the date of the notice of violation. Hearing on the appeal before the Director shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Director shall be final.

- (d) *Enforcement measures.* 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 three days of the decision of the Director upholding the decision of the Director or his designee, then in addition to any other remedies that may be available, representatives of the Department or its contractors may enter upon the subject private premises, property or facility, where they are then authorized to take any and all actions or measures necessary to abate the violation and/or restore the property. Such measures or actions shall include but not be limited to repairs, maintenance, containment, cleanup and remediation. It shall be a violation of this article for any person, owner, agent or person in possession of any premises, property or facility to refuse to allow the Department or designated contractor to enter upon the premises for the purposes set forth above.
- (e) *Costs of abatement of the violation.* Within ten working days after abatement of the violation by the Department or its contractors, 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 assessment or to the amount of the assessment within ten working days of such notice. If the amount due is not paid within 30 days after receipt of the notice, or if an appeal is taken, within 30 days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.
- (f) *Criminal penalties.* For violations of this article, the Department may issue a citation to the alleged violator requiring such person to appear in a court of competent jurisdiction to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (g) *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, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
- (h) *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 the Department may seek cumulative remedies. The Department may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses. If the amount due is not paid within 30 days after receipt of a notice requiring payment of such costs, or if an appeal is taken, within 30 days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Sec. 405-45. - Variances.

- (a) *Circumstances.* The Director or his designee may grant a variance from the requirements of this article if exceptional circumstances applicable to a site or premises exist such that strict adherence to the provisions of this article will result in unnecessary hardship and will not fulfill the intent of this article. Specifically, such variances may be granted in such individual cases of unnecessary hardship upon a finding by the Director or his designee that:
- (1) There are extraordinary and exceptional conditions pertaining to the particular site in question;
 - (2) The variance is the minimum necessary, considering the impact on upstream and downstream properties;
 - (3) The application of this article to this particular site would create an unnecessary hardship;
 - (4) Such conditions are peculiar to the particular site involved;
 - (5) Such conditions are not the result of any actions of the site owner; and
 - (6) Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this article.
- (b) *Request.* A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, that a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.
- (c) *Review of request.* The Director or his designee will conduct a review of the request for a variance within 30 working days of receiving the request.

(Ord. No. 08-2019, § I, 6-3-2019)