

ARTICLE XIII. - ILLICIT DISCHARGE AND ILLEGAL CONNECTION

Sec. 104-532. - Introduction.

- (a) It is hereby determined that discharges to the county's municipal separate storm sewer system (MS4) that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters.
- (b) These non-stormwater discharges occur due to spills, dumping and illegal connections to the county's MS4 from residential, industrial, commercial or institutional establishments.
- (c) These non-stormwater discharges not only impact waterways individually, but geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters.
- (d) These impacts of 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.
- (e) These impacts can be minimized through the regulation of spills, dumping and discharges into the county's MS4.
- (f) Localities in the state are required to comply with a number of state and federal laws, regulations and permits that require a locality to address the impacts of stormwater runoff quality and nonpoint source pollution due to improper non-stormwater discharges to the county's MS4.
- (g) Therefore, the county adopts this article to prohibit such non-stormwater discharges to the county's MS4. It is determined that the regulation of spills, improper dumping and discharges to the county's MS4 is in the public interest and will prevent threats to public health and safety, and the environment.

(Code 1992, § 8-401; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-533. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accidental discharge means a discharge prohibited by this article that occurs by chance and without planning or thought prior to occurrence.

Clean Water Act means the Federal Water Pollution Control Act (33 USC 1251 et seq.) and any subsequent amendments thereto.

Construction activity means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES general construction permits. These include construction projects resulting in land disturbance. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Illegal connection means the following:

- (1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allows any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any stormwater system including pipe, open channel, or drain connected to the county's MS4 not documented in county-approved plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to the county's MS4, except as exempted in section 104-535.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

Municipal separate storm sewer system (MS4) means all infrastructure, natural or otherwise, used for collecting and/or conveying stormwater that is:

- (1) Owned and maintained by the county;
- (2) Not a combined sewer; and
- (3) Not part of a publicly owned treatment works.

National pollutant discharge elimination system (NPDES) stormwater discharge permit means a permit issued by the state EPD 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 to an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the county's MS4 not composed entirely of stormwater.

Owner and/or operator means the legal or beneficial owner of a site, including, but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Person means, except to the extent exempted from this article, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

Pollutant means any liquid, gas, solid, radioactive, hazardous, or other substance, that, when not used and/or disposed of in accordance with manufacturer's instructions, causes or contributes to pollution. Pollutants include, but are not limited to:

- (1) Paints, varnishes, and solvents;
- (2) Petroleum hydrocarbons;
- (3) Automotive fluids;
- (4) Cooking grease;
- (5) Detergents (biodegradable or otherwise);
- (6) Degreasers;
- (7) Cleaning chemicals;
- (8) Nonhazardous liquid and solid wastes and yard wastes;
- (9) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations (that may cause or contribute to pollution);
- (10) Floatables;
- (11) Pesticides, herbicides, and fertilizers;
- (12) Liquid and solid wastes, sewage, fecal coliform and pathogens;
- (13) Dissolved and particulate metals;
- (14) Animal wastes;
- (15) Wastes and residues that result from building construction waste;
- (16) Concrete and cement; and
- (17) Noxious or offensive matter of any kind.

Pollution means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to: a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other pollutant into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

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

Stormwater drainage system means all infrastructure, natural or otherwise, used for collecting and/or conveying stormwater, e.g. inlets, street and roadway gutters, ditches, small channels, swales and underground piping systems.

(Code 1992, § 8-401; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-534. - General provisions.

- (a) *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 maximum extent practicable as required by federal law. This article establishes methods for controlling the introduction of pollutants into the county's MS4 in order to comply with requirements of the NPDES permit process. The objectives of this article are to:
- (1) Regulate the contribution of pollutants into the county's MS4;
 - (2) Prohibit illicit discharges and illegal connections into the county's MS4;
 - (3) Prevent non-stormwater discharges, generated as a result of spills and inappropriate dumping or disposal, to the county's MS4; and
 - (4) Establish legal authority to carry out all inspections, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this article.
- (b) *Applicability* . The provisions of this article shall apply throughout the unincorporated area of the county.
- (c) *Designation of article administrator* . The county environmental management director shall administer, implement, and enforce the provisions of this article except for issues pertaining to human or animal waste (i.e., sewage) that shall be administered, implemented, and enforced by the county environmental health department.
- (d) *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 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.

(Code 1992, § 8-402; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-535. - Prohibitions.

- (a) *Prohibition of illicit discharges.* No person, owner or operator shall throw, drain, or otherwise discharge, cause, or allow others under their control to throw, drain, or otherwise discharge into the county's MS4 any pollutants or waters containing any pollutants.

- (b) *Exempted discharges.* The following discharges are exempt from the prohibition provision in subsection (a) of this section:
- (1) Water line flushing performed by a government agency, other potable water sources, 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), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
 - (2) Discharges or flows from firefighting, and other discharges specified in writing by the county environmental management and/or environmental health departments as being necessary to protect public health and safety;
 - (3) Non-stormwater discharges permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and the federal environmental protection agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or orders and other applicable laws and regulations; written approval has been granted for any discharge to the county's MS4; and
 - (4) Agricultural operations as defined in section 104-266(5) of the county's soil erosion, sedimentation and pollution control ordinance.
- (c) *Prohibition of illegal connections.* All stormwater systems shall be sufficient to collect, convey, detain and discharge stormwater runoff in a safe manner consistent with all applicable county development regulations, ordinances, and state and federal laws. Stormwater systems that are connected to the county's MS4 shall be properly operated and maintained by the respective property owner. The construction, connection, use, maintenance or continued existence of any illegal connection to the county's MS4 is prohibited.
- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - a. A person violates this article if the person connects a line conveying pollutants, including sewage, to the county MS4, or allows such a connection to continue.
 - b. Illegal connections conveying sewage shall be disconnected and/or redirected, if necessary, to an approved sanitary sewer system upon county environmental health department approval.
 - (2) Any stormwater system that has not been documented in plans, maps or equivalent and is connected to the county's MS4, shall be permitted or relocated by the owner or occupant of that property upon receipt of written notice of violation from the county environmental management department requiring that such permitting or relocating be completed. Such notice will specify a reasonable period for relocation and/or permitting of the stormwater drain or conveyance system.

(Code 1992, § 8-403; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-536. - Industrial or construction activity discharges.

Any person, owner, or operator of a facility subject to an industrial or construction activity NPDES stormwater permit shall comply with all provisions of such permit. A copy of the notice of intent submitted to the state environmental protection department shall be submitted to the county environmental management department.

(Code 1992, § 8-404; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-537. - Access and inspection of properties and facilities.

The county environmental management and/or environmental health departments shall be permitted to enter and inspect 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 that requires proper identification and clearance before entry onto premises, the owner and/or operator shall make the necessary arrangements to allow access to representatives of the county environmental management and/or environmental health departments.
- (2) The owner and/or operator shall allow the county environmental management and/or environmental health departments ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.
- (3) The county environmental management and/or environmental health departments shall have the right to set up on any property or facility such devices as are necessary in the opinion of the county environmental management and and/or environmental health departments to conduct monitoring and/or sampling of flow discharges.
- (4) The county environmental management and and/or environmental health departments may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the county environmental management and/or environmental health departments. 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.
- (5) Any temporary or permanent obstruction to safe and easy access to the 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 county environmental management and/or environmental health departments and shall not be replaced. The costs of clearing such access shall be borne by the owner.
- (6) Unreasonable delays in allowing the county environmental management and/or environmental health departments access to a facility is a violation of this article.
- (7) If the county environmental management and/or environmental health departments has been refused access to any part of the premises from which stormwater is discharged, and the county environmental management and/or environmental health departments 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 county environmental management and/or environmental health departments may seek issuance of a search warrant from any court of competent jurisdiction.

(Code 1992, § 8-405; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-538. - Notification of accidental discharges and spills.

- (a) Notwithstanding other requirements of law, as soon as any owner, operator, and/or person responsible for a facility, activity or owner, operation and/or person responsible, has information of any known or suspected release of any non-stormwater discharges from that facility or operation that may result in an illicit discharge into the county's MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release to minimize the effects of the discharge. Said person shall notify the authorized enforcement agency in person or by phone,

facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner and/or operator of such facility, activity, or operation 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. The owner and/or operator 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. Failure to provide notification of a release as provided above is a violation of this article.

(Code 1992, § 8-406; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Sec. 104-539. - Violations, enforcement and penalties.

- (a) *Violations* . It shall be unlawful for any owner and/or 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 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 county environmental management and/or environmental health departments is 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 county environmental management and/or environmental health departments are authorized to seek costs of the abatement as outlined in subsection (d) of this section.
- (b) *Notice of violation*. Whenever the county environmental management department and/or environmental health departments find that a violation of this article has occurred, the county environmental management and/or environmental health departments 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 or land upon which the violation is occurring or has occurred;
 - c. A statement specifying the nature of the violation; and
 - 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.
 - (2) Such notice may require without limitation:
 - a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit discharges;
 - c. The elimination and/or permitting of illegal connections;
 - d. That violating discharges, or operations shall cease and desist;
 - e. The abatement of remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - f. Payment of costs to cover administrative, abatement, and remediation costs; and
 - g. The implementation of pollution prevention practices.
- (c) *Abatement measures*. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the county environmental management and/or environmental health departments may 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 in subsection (a) of this section.

- (d) *Costs of abatement of the violation.* Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The county environmental management and/or environmental health departments may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 15 days of such notice. Written appeals shall be made to the board of commissioners or a party appointed thereby. 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.
- (e) *Citations .* For intentional and flagrant violations of this article, and/or 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 days, or such greater period as the county environmental management and/or environmental health departments shall deem appropriate, the county environmental management and/or environmental health department may issue a citation to the alleged violator requiring such person to appear in the state court for the county 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.
- (f) *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 the injunctive or other equitable relief as provided by law.
- (g) *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 county environmental management and/or environmental health departments may seek cumulative remedies.

(Code 1992, § 8-407; Ord. No. 2012-05, § 1, 3-22-2012; Ord. No. 2018-06, § 1, 3-22-2018)

Secs. 104-540—104-556. - Reserved.