

## ARTICLE II. - ILLICIT DISCHARGE AND ILLEGAL CONNECTION

### Sec. 5-4-20. - General provisions.

- (a) *Title.* This article shall be known as the "Illicit Discharge and Illegal Connection Ordinance."
- (b) *Findings.* It is hereby determined that:
- (1) The Athens-Clarke County separate storm sewer system as defined in this article was designed and installed to manage stormwater so as to prevent localized flooding, damage to property and risk to public safety;
  - (2) The Athens-Clarke County separate storm sewer system was not designed or installed as a receiving system for non-stormwater discharges;
  - (3) Discharges to the Athens-Clarke County 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 county 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 Athens-Clarke County separate storm sewer system;
  - (8) Localities in the State of Georgia are required to comply with a number of state and federal laws, regulations and permits which require a locality to address the impacts of non-point source pollution caused by non-stormwater discharges to the county separate storm sewer system;
  - (9) The Clean Water Act requires the management and maintenance of the Athens-Clarke County separate storm sewer system and the management of discharges to that system;
  - (10) Therefore, in order to prohibit such non-stormwater discharges to the Athens-Clarke County separate storm sewer system, it is determined that the regulation of spills, improper dumping and discharges to the Athens-Clarke County separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.
- (c) *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 Athens-Clarke County separate storm sewer system to the maximum extent practicable as required by federal law. This article establishes methods for controlling the introduction of pollutants into the Athens-Clarke County 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)

Regulate the contribution of pollutants to the Athens-Clarke County separate storm sewer system by any user;

- (2) Prohibit illicit discharges and illegal connections to the Athens-Clarke County separate storm sewer system;
  - (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Athens-Clarke County separate storm sewer system; and,
  - (4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this article.
- (d) *Applicability.* The provisions of this article shall apply throughout Athens-Clarke County.
- (e) *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.
- (f) *Responsibility for administration.*
- (1) The Athens-Clarke County Manager or his designee 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 Athens-Clarke County 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 Athens-Clarke County's NPDES stormwater permit.
  - (3) The department or its designee may:
    - (a) Inspect private systems which discharge to the Athens-Clarke County separate storm sewer system; and
    - (b) Develop programs or procedures to control the discharge of pollutants into the Athens-Clarke County separate storm sewer system.

(Ord. of 10-3-2006, § 1)

#### **Sec. 5-4-21. - Definitions.**

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

*Athens-Clarke County* shall mean Athens-Clarke County and such of its departments, employees and agents as may have duties and responsibilities for administering and enforcing all storm water management activities and implementation of the provisions of this article.

*Clean Water Act* means the Federal Water Pollution Control Act (33 U.S.C. § 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.

*Conveyance* shall mean an aboveground or underground natural or man-made drainage feature, that provides for the collection and movement of stormwater, and shall include but not be limited to concrete or metal pipes, ditches, depressions, swales, roads with drainage systems, highways, county streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, drainage channels, reservoirs, rights-of-way, storm drains, culverts, street gutters, oil/water separators, modular pavements and other similar drainage structures.

*Department* shall mean, unless otherwise specified, the Department of Transportation and Public Works or their authorized agent.

*Discharge* shall mean the direct or indirect release of water, fluid, materials or other matter to a conveyance or surface that drains to a conveyance.

*Illegal connection* means either of the following:

- (a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (b) Any pipe, open channel, drain or conveyance connected to the Athens-Clarke County separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency regardless of whether such pipe, open channel, drain or other conduit, whether natural or man-made, was permissible under law or practices applicable or prevailing at the time the connection was made, or has been previously allowed, permitted, or approved by the Athens-Clarke County or any other authorized enforcement agency. "Illegal connection" expressly includes, without limitation, those connections made in the past.

*Illicit discharge* means any direct or indirect non-stormwater discharge to the Athens-Clarke County separate storm sewer system, except as exempted in section 5-4-22 of this article.

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

*National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by the Georgia 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 on an individual, group, or general area-wide basis.

*Non-stormwater discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.

*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 anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents or cleaning chemicals (biodegradable or otherwise); degreasers; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; sediment, as defined in section 8-3-2 of this Code; concrete and cement; and 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 substance 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.

*Procedure* shall mean a procedure adopted by the department, by and through the director, to implement a regulation or regulations adopted under this article, or to carry out other responsibilities as may be required by this Code or other codes, ordinances or resolutions of Athens-Clarke County or other agencies.

*Separate storm sewer system* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, county streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- (a) Owned or maintained by Athens-Clarke County;
- (b) Not a combined sewer; and
- (c) Not part of a publicly-owned treatment works (POTW).

*State waters* means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.

*Stormwater runoff* or *stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Structural stormwater control* means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

*Violator* means any person, business, or commercial entity violating any provision of this article or allowing any person or persons under their control or authority to violate any provision of this article.

(Ord. of 10-3-2006, § 1; Ord. of 12-3-2013, § 1)

#### **Sec. 5-4-22. - Prohibitions.**

- (a) *Prohibition of illicit discharges.* It shall be a violation of this article for any person to throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Athens-Clarke County separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.
- (b) *Exemptions.* The following discharges are exempt from the prohibition provision above:
- (1) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, non-commercial washing of vehicles, 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, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
  - (2) Discharges or flows from fire fighting, and other discharges specified in writing by the department as being necessary to protect public health and safety;
  - (3) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State of Georgia and the Federal Environmental 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 Athens-Clarke County separate storm sewer system.
- (c) *Prohibition of illegal connections.* 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 Athens-Clarke County separate storm sewer system.
- (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.
  - (2) A person violates this article if the person connects a line conveying sewage to the Athens-Clarke County separate storm sewer system, or allows such a connection to continue.
  - (3) 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 public utilities department.
  - (4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from Athens-Clarke County 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 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.

*(Ord. of 10-3-2006, § 1)*

**Sec. 5-4-23. - 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 department prior to allowing discharges to the Athens-Clarke County separate storm sewer system.

*(Ord. of 10-3-2006, § 1)*

**Sec. 5-4-24. - Access and inspection of properties and facilities.**

The department 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.

- (a) 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 representatives of the department.
- (b) The owner or operator shall allow the department 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.
- (c) The department shall have the right to set up on any property or facility such devices as are necessary in the opinion of the department to conduct monitoring and/or sampling of flow discharges.
- (d) The department 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/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (e) 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 department and shall not be replaced. The costs of clearing such access shall be paid by the owner or operator.
- (f) Unreasonable delays in allowing the department access to a facility is a violation of this article.
- (g) If the department has been refused access to any part of the premises from which stormwater is discharged, and the department 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.

*(Ord. of 10-3-2006, § 1)*

**Sec. 5-4-25. - 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 Athens-Clarke County 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.
- (b) 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.
- (c) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
- (d) Failure to provide notification of a release or discharge as provided above is a violation of this article.  
(Ord. of 10-3-2006, § 1)

**Sec. 5-4-26. - 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.
- (b) *Notice of violation.* Whenever the department finds that a violation of this Article has occurred, the department may, but is not required to, order compliance by written notice of violation.
  - (1) The notice of violation shall contain:
    - a. The name and address of the alleged violator when available; and
    - b. The address when available or a description of the building, structure, premises or land upon which the violation is occurring, or has occurred; and
    - 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; and
    - 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 appealed to the Administrative Hearing Officer pursuant to section 1-5-1
- (d) *Criminal penalties.* For violations of this article, the department may issue a citation to the alleged violator requiring such person to appear in the Municipal Court of Athens-Clarke County to answer charges for such violation. Upon conviction, such person shall be punished pursuant to section 1-1-5 of this Code. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (e) *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.
- (f) *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.

(Ord. of 10-3-2006, § 1)

#### **Sec. 5-4-27. - 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.

(Ord. of 10-3-2006, § 1)