

CITY OF HAHIRA, GEORGIA

ILLICIT DISCHARGE AND ILLEGAL CONNECTION
ORDINANCE

Section 1, Definitions
Section 2, General Provisions
Section 3, Prohibitions
Section 4, Watercourse protection
Section 5, Industrial or construction activity discharges
Section 6, Access and inspection of properties and facilities
Section 7, Notification of accidental discharges and spills
Section 8, Violations, enforcement and penalties,
Sections 9 – 29, Reserved

SECTION 1: DEFINITIONS

The following words, terms and phrases, when used in this ordinance, 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 chapter, which occurs by chance, and without planning or thought prior to occurrence.

City means the City of Hahira, Georgia.

City Manager means the City Manager for the City of Hahira.

City municipal separate storm sewer system (MS4) means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, city streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and manmade or altered drainage channels, reservoirs, and other drainage structures, and which is:

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

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 either of the following:

- (1) 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 nonstormwater 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
- (2) Any pipe, open channel, drain or conveyance connected to the City's municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect nonstormwater discharge to the City's municipal separate storm sewer system, except as exempted in Section 4.

Industrial activity means activities subject to NPDES Industrial Permits as defined in 40 CFR 12226(b) (14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the Georgia Environmental Protection Division (EPI) 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

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

Person means, except to the extent exempted from the chapter, 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 (biodegradable or otherwise); degreasers; cleaning chemicals; 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 or 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; concrete and cement; and noxious or offensive matter of any kind.

Pollution means the contamination or other alternation 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.

Public Works Director means the appointed head of the City's Public Works Department.

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, which are not entirely confined and retained completely upon the property of a single person.

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.

SECTION 2: GENERAL PROVISIONS

(a) *Purpose.* The purpose of this chapter is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the city's municipal separate storm sewer system to the maximum extent practicable as required by state and federal law. This chapter establishes methods for controlling the introduction of pollutants into the city's municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) phase II stormwater general permit. The objectives of this chapter are to:

- (1) Regulate the contribution of pollutants to the City's municipal separate storm sewer system by any person, property owner, site operator, etc.;
- (2) Prohibit illicit discharges and illegal connections to the City's municipal separate storm sewer system;
- (3) Prevent nonstormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the City's municipal 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 chapter.

(b) *Applicability.* The provisions of this chapter shall apply throughout the municipal boundaries of the City.

(c) *Compatibility with other regulations.* This chapter is not intended to modify or repeal any other article, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provisions of this chapter imposes restrictions different from those imposed by any other article, 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.

- (d) *Responsibility for administration.* The Public Works Director, or the Public Works Director's designee, shall administer, implement, and enforce the provisions of this chapter.

SECTION 3: PROHIBITIONS

- (a) *Prohibition of illicit discharges.* No person shall dispose, discard, drain, or otherwise discharge, cause, or allow others under its control to dispose, discard, drain, or otherwise discharge into the City's municipal separate storm sewer system any materials, including, but not limited to, contaminated or polluted water, liquids, materials, waste products, etc., other than stormwater. The following discharges to the City's municipal separate storm sewer system are exempt from the prohibition provision of this section:

- (1) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, noncommercial car wash water, 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, and any other water source not containing pollutants;
- (2) Discharges or flows from fire fighting, and other discharges specified in writing by the City as being necessary to protect public health and safety;
- (3) The prohibition provision of this section shall not apply to any nonstormwater discharge permitted under an approved NPDES permit or order issued to the discharger and administered under the authority of the state EPD and the United States Environmental Protection Agency (USEPA), 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 City's municipal separate storm sewer system.

- (b) *Prohibition of illegal connections.* The construction, connection, use, maintenance or continued existence of any illegal connection to the City's municipal separate storm sewer system 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.
- (2) A person violates this chapter if the person connects a line conveying sewage to the City's municipal separate storm sewer system, or allows such a connection to continue.
- (3) Improper connections in violation of this chapter must be abated, disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system with approval of the City Public Works Department.

- (4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the City's municipal separate storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City 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 City.

SECTION 4: WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse, as required by the litter control and post-construction ordinances. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION 5: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to a NPDES industrial stormwater permit or NPDES construction activity permit administered by the state EPD 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's municipal separate storm sewer system.

SECTION 6: ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

The Public Works Department or the Public Works Director's designee shall be permitted to enter and inspect private properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter and to meet applicable state and federal regulations.

- (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 Public Works Director or the Public Works Director's designee.
- (2) The property owner or operator shall allow the city 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 a NPDES permit to discharge stormwater.
- (3) The City shall have the right to set up on any property or facility such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of flow discharges.

- (4) The City may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the City. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at such owner's or operator's own expense. All devices used to measure flow and water 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 City 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 City access to a facility are a violation of this chapter.
- (7) If the City has been refused access to any part of the premises from which stormwater is discharged or would likely be discharged, and the City is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any other issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the City may seek issuance of a search warrant or a mandatory injunction from any court of competent jurisdiction.

SECTION 7: 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 pollutants or nonstormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the City's municipal 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 City and other appropriate agencies (state, federal, etc.) in person, by phone, or by facsimile no later than 24 hours after the discharge, quantity and time of notice addressed and mailed to the Public Works Director within three business days of the initial notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the property owner or operator of such establishment shall also retain an onsite 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 as provided in subsection (b) of this section is a violation of this chapter.

SECTION 8: VIOLATIONS, ENFORCEMENT AND PENALTIES

(a) *Violations of provisions.*

- (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
- (2) In the event the violation constitutes an immediate danger to public health or public safety, the City 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 City is authorized to seek costs of the abatement as outlined in this chapter.

(b) *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;
 - d. A description of the remedial measures necessary to restore compliance with this chapter 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 City by filing a written notice of appeal with the City Manager, or the City Manager's designee, within 15 days of service of notice of violation.
- (2) Such notice may require without limitation:
 - a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit discharges and illegal connections;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of costs to cover administrative and abatement costs; and
 - f. The implementation of pollution prevention practices.

(c) *Appeal of notice of violation.* Any person receiving notice of violation may appeal the City's determination. The notice of appeal must be received by the City Manager within 15 days from the date of the notice of violation. The failure to file a timely notice of appeal shall be deemed a waiver of appeal. A hearing on the appeal before the Mayor and Council, or their designee, shall take place within 15 days from the date of timely receipt of the notice of appeal. The decision of the Mayor and Council, or the their designee, shall be final.

(d) *Enforcement measures/recovery by City of costs.* 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 the later of five days of the decision of the Mayor and Council upholding the decision

of the City or the time schedule set forth in the notice of violation, the City (and its representatives) are authorized to 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.

- (1) Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.
- (2) If payment is not made pursuant to the notice in subsection d(1) of this section, a summons shall issue returnable to the City's municipal court so as to provide the property owner with an opportunity to show why execution should not issue against the real property for all costs incurred by the City.
- (3) Notices and summons addressed as per the most recent records of the County tax commissioner's records and mailed certified, return receipt requested, shall constitute appropriate service.
- (4) Any person violating any of the provisions of this chapter shall become personally liable to the City by reason of such violation, provided such individual have been afforded the notice and summons outlined in this section.
- (5) Such individual shall be subject to summons to the City municipal court of and subject to penalty. Each day of violation remains un-remedied after the person becomes noncompliant shall be considered a separate violation.
- (6) In assessing an appropriate penalty, the judge of the municipal court may consider:
 - a. The harm done to the public health or the environment;
 - b. Whether the civil penalty imposed will be a substantial economic deterrent to the reoccurrence of any illegal activity;
 - c. The economic benefit gained by the violator;
 - d. The amount of effort put forth by the violator to remedy this violation;
 - e. Any unusual or extraordinary enforcement costs incurred by the City; and
 - f. Any other factor or equity as deemed appropriate by the municipal court.

(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 chapter is a threat to the 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 applicable law.


(f) *Remedies not exclusive of other remedies*

- (1) The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and the City may seek cumulative remedies.
- (2) The City may recover attorney's fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

SECTIONS 9-29: RESERVED

This ordinance shall take effect on 9-4, 2014.

SIGNED:



Bruce Cain, Mayor

9-4-14
Date

ATTEST:



Lisa Mashburn, Clerk