

**AN ORDINANCE OF
THE BOARD OF COMMISSIONERS OF DAWSON COUNTY**

**PROHIBITING ILLICIT DISCHARGE AND ILLEGAL CONNECTION TO THE
DAWSON COUNTY STORM SEWER SYSTEM; TO PROVIDE FOR PENALTIES; TO
REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

WHEREAS, discharges to the Dawson County Separate Storm Sewer System that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving water; and

WHEREAS, non-stormwater discharges occur because of spills, dumping and improper connections to the Dawson County Separate Storm Sewer System from residential, industrial, commercial and institutional establishments; and

WHEREAS, non-stormwater discharges not only impact waterways individually, but geographically dispersed small volume non-stormwater discharges have cumulative impacts on receiving waters; and

WHEREAS, the impact of non-stormwater discharges adversely affect public health, safety and welfare, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters; and

WHEREAS, the impacts of non-stormwater discharges can be minimized through the regulation of spills, dumping and discharges into the Dawson County Separate Storm Sewer System; and

WHEREAS, local governments in the State of Georgia are required to comply with state and federal law, regulations and permits that require a local government to address the impacts of stormwater runoff quality and nonpoint source pollution because of improper non-stormwater discharges into separate storm sewer systems.

NOW, THEREFORE, the Board of Commissioners of Dawson County adopts this ordinance to prohibit non-stormwater discharges to the Dawson County Separate Storm Sewer System and to regulate spills, improper dumping and discharges to the Dawson County Separate Storm Sewer System in the public interest and to prevent threats to public health, safety and welfare and the environment.

Section 1. General Provisions

1.1. Purpose and Intent

The purpose of this ordinance is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the Dawson County Separate Storm Sewer System to the maximum extent practicable as required by law. This ordinance establishes methods for controlling the introduction of pollutants into the Dawson 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 ordinance are to:

- (1) Regulate the contribution of pollutants to the Dawson County Separate Storm Sewer System by any person;
- (2) Prohibit illicit discharges and illegal connections to the Dawson County Separate Storm Sewer System;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Dawson County 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 ordinance

1.2. Applicability

The provisions of this ordinance shall apply throughout the **unincorporated** area of Dawson County.

1.3. Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance 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.

1.4. Responsibility for Administration

The Dawson County Stormwater Management Office shall administer, implement, and enforce the provisions of this ordinance unless otherwise noted herein.

Section 2. Definitions

Accidental Discharge: means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.

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.*

Illicit Discharge: means any direct or indirect non-stormwater discharge to the Dawson County Separate Storm Sewer System, except as exempted in Section 3 of

this ordinance.

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 Dawson County Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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) Storm Water Discharge Permit: means a permit issued by the Georgia EPD under authority delegated pursuant to 33 U.S. Code § 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.

Dawson County 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, Dawson 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 Dawson County;
- b) Not a combined sewer; and
- c) Not part of a publicly-owned treatment works.

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 ordinance, 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 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; 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: mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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.

Section 3. Prohibitions

3.1 Prohibition of Illicit Discharges

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Dawson County Separate Storm Sewer System any pollutants or waters containing any pollutant, other than stormwater.

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, 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, non-commercial washing of vehicles, swimming pools (if dechlorinated - typically less

than one PPM chlorine), springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

- (2) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (3) Discharges or flows from firefighting, and other discharges specified in writing by Dawson County as being necessary to protect public health and safety;
- (4) 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 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 Dawson County Separate Storm Sewer System.

3.2 Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the Dawson County 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 ordinance if the person connects a line conveying sewage to the Dawson County Separate Storm Sewer System or allows such a connection to continue.
- (3) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of Etowah Water and Sewer Authority or any other governing authority or agency.
- (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 Dawson 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 Dawson County.

Section 4. 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 Dawson County prior to allowing discharges to the Dawson County Separate Storm Sewer System.

Section 5. Access and Inspection of Properties and Facilities

Dawson County shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.

- (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 representatives of Dawson County.
- (2) The owner or operator shall allow Dawson County 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) Dawson County may set up on any property or facility devices necessary to conduct monitoring and/or sampling of flow discharges.
- (4) Dawson County may require the owner or operator to install monitoring equipment and perform monitoring as necessary and make the monitoring data available to Dawson County. 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 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 request of Dawson County and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing Dawson County access to a facility is a violation of this ordinance.
- (7) If Dawson County has been refused access to any part of the premises from which stormwater is discharged and Dawson County is able to demonstrate probable cause to believe that a violation of this ordinance exists or occurred 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 ordinance or any order

issued hereunder or to protect the overall public health, safety, environment and welfare of the community, then Dawson County may seek issuance of a search warrant from any court of competent jurisdiction.

Section 6. Notification of Accidental Discharges and Spills

- (1) 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 non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Dawson County Separate Storm Sewer System, State Waters, or Waters of the U.S., the person so responsible shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (2) Such person shall notify the Dawson County Stormwater Management Office in person, by phone, or facsimile no later than 24 hours of 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 Dawson County within three business days of the phone or in person notice. If the discharge of prohibited materials 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. The owner or operator shall also take immediate steps to ensure no recurrence of the discharge or spill.
- (3) In the event of a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
- (4) Failure to provide notification of a release as provided herein is a violation of this ordinance.

Section 7. Suspension of Access

7.1 Suspension due to Illicit Discharges in Emergency Situations

Dawson County may, without prior notice, suspend discharge access into the Dawson County Separate Storm Sewer System to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Dawson County Separate Storm Sewer System, Waters of the State, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, Dawson County may take such steps as deemed necessary to prevent or minimize damage to the Dawson County Separate Storm Sewer System, Waters of the State, Waters of the United States, or to minimize danger to persons.

7.2 Suspension due to the Detection of Illicit Discharge

Any person discharging to the Dawson County Separate Storm Sewer System in violation of this ordinance may have access terminated if such termination abates or reduces an illicit discharge. The Dawson County Stormwater Manager will notify a violator of the proposed termination of access. The violator may petition Dawson County for reconsideration and a hearing in accord with Section 8 of this ordinance.

7.3 Illegal Reinstatement of Access

A person commits an offense by reinstating Dawson County Separate Storm Sewer System access to premises terminated pursuant to this Section without the prior approval of Dawson County.

Section 8. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of BMP's

Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the Dawson County Separate Storm Sewer System, or Waters of the State of Georgia and or Waters of the U.S. shall be observed by the owner of any property discharging into the Dawson County Separate Storm Sewer System. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the Dawson County Separate Storm Sewer System or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMP's to prevent the further discharge of pollutants to the Dawson County Separate Storm Sewer System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMP's shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Section 9. 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, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. 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 10. Violations, Enforcement and Penalties

10.1. Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this ordinance, 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.

In the event the violation constitutes an immediate danger to public health or public safety, Dawson County 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. Dawson County is authorized to seek costs of the abatement as outlined in Section 10.5.

10.2. Notice of Violation

Whenever Dawson County finds that a violation of this ordinance has occurred, Dawson County may order compliance by written notice of violation.

- A. The notice of violation shall contain:
- (1) The name and address of the alleged violator;
 - (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- B. Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit discharges and illegal connections;
 - (3) That violating discharges, practices, or operations shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

- (5) Payment of costs to cover administrative and abatement costs; and,
- (6) The implementation of pollution prevention practices.

10.3. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal such determination. The notice of appeal must be received by the Stormwater Manager within (10) days from the date of the Notice of Violation. Hearing on the appeal before the Dawson County Board of Commissioners shall take place on the next available hearing date following submission of the notice of appeal. The decision of the Board of Commissioners shall be final.

10.4. Enforcement Measures after Appeal

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 (10) days of the decision of the appropriate authority upholding the decision of Dawson County, then representatives of Dawson County 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 Dawson County or its designated contractor to enter upon the premises for the purposes set forth above.

10.5 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 property owner may file a written protest objecting to the assessment or to the amount of the assessment within 30 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (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 Dawson County by reason of such violation.

10.6 Civil Penalties

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 (10) days, or such greater period as Dawson County shall deem appropriate, after Dawson County has taken one or more of the actions described above, Dawson County may impose a civil penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

10.7 Criminal Penalties

The Dawson County Stormwater Manager may request, at his discretion, the Dawson County Marshal's Office to issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000. Each act of violation and each day

upon which any violation shall occur shall constitute a separate offense.

10.8 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 ordinance 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.

10.9 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and Dawson County may seek cumulative remedies.

10.10 Recovery of Fees

Dawson County may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 11. Severability

If any paragraph, sub-paragraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if a provision of any part of this ordinance is applied to any particular situation or set of circumstances in such a manner as to be declared invalid or unconstitutional, then any such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid and the application of this ordinance to other circumstances shall not be held to be invalid. The Dawson County Board of Commissioners hereby declares the intent of Dawson County Board of Commissioners is to provide for separable and divisible parts, and the Dawson County Board of Commissioners hereby adopts any and all parts hereof as may not be held invalid for any reason.

Section 12. Repealer

All resolutions or ordinances or parts thereof in conflict with the terms of this ordinance are hereby repealed.

This 14th day of April, 2015.

SIGNATURES ON THE FOLLOWING PAGE

DAWSON COUNTY

ATTEST

By: Mike Berg
Mike Berg, Chairman
Board of Commissioners

By: Danielle Yarborough
Danielle Yarborough,
County Clerk

VOTE: Yes 4
 No 0

Dates of Public Hearings:

April 2, 2015

April 14, 2015

Dates of Advertising:

March 18, 2015

March 25, 2015