

Storm Sewer System Illicit Discharge and Connection

ARTICLE VI. STORM SEWER SYSTEM ILLICIT DISCHARGE AND CONNECTION

Sec. 90-441. Definitions

For the purposes of this article, the following shall mean:

Authorized enforcement agency: Employees or designees of the City of Greer authorized to enforce this article.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 USC § 1251 et seq.), and any subsequent amendments thereof.

Construction activity: Activities subject to NPDES stormwater construction permits and City of Greer grading and building permits. NPDES stormwater construction projects are those resulting in land disturbance of one acre or more. NPDES stormwater construction activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition. Information on City of Greer grading and building permits is found in the building code regulations.

Hazardous materials: As defined in 49 CFR Part 171.8

Illegal discharge: Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in section 90-446 of this article.

Illicit connections:

(1) An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal 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 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City of Greer.

Industrial activity: 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: A permit issued by EPA (or by a state 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: Any discharge to the storm drain system that is not composed entirely of stormwater.

Person: Any state or federal agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or other political subdivision of this state, any interstate body or any other legal entity.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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

Stop work order: An order directing the person responsible for the land disturbing

activity to cease and desist all or any portion of the work which violates the provisions of this act.

Storm drainage system: Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater management: Means, for:

- (1) Quantitative control, a system of vegetative or structural measures, or both, that control the increased volume and rate of stormwater runoff caused by manmade changes to the land;
- (2) Qualitative control, a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by stormwater runoff.

Stormwater management system: All facilities associated with the collection, conveyance, storage, treatment and discharge of stormwater runoff including, but not limited to, the: stormwater pond, underground detention system, sediment dam, riser, trash rack, inlet structures, outlet structures, emergency spillway, swales and piped conveyances, curbs, gutters, flumes, catchbasins and inlets, anti-seep collars, storm sewer, vegetative cover, pond bottom, pond embankments, pond dam, riprap, geotextile fabric, and any other associated structures.

Stormwater pollution prevention plan: A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Water quality: Those characteristics of stormwater runoff from a land disturbing activity that relate to the physical, chemical, biological, or radiological integrity of water.

(Ord. No. 19-2008, § 1, 6-10-2008)

Sec. 90-442. Applicability

This article shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by the City of Greer.

(Ord. No. 19-2008, § 2, 6-10-2008)

Sec. 90-443. Responsibility for administration

The City of Greer shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed may be delegated in writing by the city engineer to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord. No. 19-2008, § 3, 6-10-2008)

Sec. 90-444. Severability

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

(Ord. No. 19-2008, § 4, 6-10-2008)

Sec. 90-445. Ultimate responsibility

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 19-2008, § 5, 6-10-2008)

Sec. 90-446. Discharge prohibitions

(a) *Prohibition of illegal discharges:* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article: water line flushing, (provided an approved BMP is implemented) or 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 (chemical free), springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), fire-fighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by the City of Greer as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(4) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of 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 storm drain system.

(b) *Prohibition of illicit connections:*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(4) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of nonstormwater, other than the exclusions described in subsection (a) above are unlawful. Prohibited connections include, but are not limited, to: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(5) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within six months following the effective date of this article. However, the six-month grace period shall not apply to connections which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat.

(6) Where it is determined that said connection:

a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or

b. Was made in violation of any applicable regulation or ordinance, other than this section; the city engineer shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the city engineer shall take into consideration:

1. The quantity and complexity of the work;
2. The consequences of delay;
3. The potential harm to public health, the environment; and
4. The cost of remedying the damage.

(c) *Spills:* Spills or leaks of polluting substances released, discharged to or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected and properly disposed. All affected areas shall be restored to their preexisting condition.

Persons in control of the polluting substances immediately prior to their release or

discharge and persons owning the property on which the substances were released or discharged, shall notify the City of Greer as well as making any required notifications under state and federal law.

Notification to the City of Greer for spills that also require state and/or federal notification is to be made to the City of Greer Police by calling 911. Notification of such spills shall also be submitted in writing to the City of Greer Stormwater Division within seven business days of the occurrence. The written notification shall include a description of the discharge and the pollutants it contained, the quantity of the discharge, the time and date of the discharge, the cause of the discharge, a description of the cleanup and names of the companies involved in the cleanup activities, a description of the disposition of the recovered material, quantity of the recovered material and preventive measures to be implemented to prevent a reoccurrence of the spill.

Notification to the City of Greer for spills that do not require state and/or federal reporting may be made to the City of Greer Stormwater Office at (864) 801-2026, (non-24-hour number).

Notification shall not relieve any person of any expenses related to the restoration, loss, damage or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or federal law.

(d) *Nuisances*: Any condition caused or permitted to exist in violation of any of this section is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 19-2008, § 6, 6-10-2008)

Sec. 90-447. Suspension of MS4 access

(a) *Suspension due to illicit discharges in emergency situations*. The City of Greer may, without prior notice, suspend MS4 discharge access 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 health or welfare of persons or to the environment, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Greer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) *Suspension due to the detection of illicit discharge*. Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Greer will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Greer for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City of Greer.

(Ord. No. 19-2008, § 7, 6-10-2008)

Sec. 90-448. Industrial or construction activity discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Greer prior to the allowing of discharges to the MS4.

(Ord. No. 19-2008, § 8, 6-10-2008)

Sec. 90-449. Monitoring of discharges

(a) *Applicability*. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to facilities*.

(1) Duly authorized representative(s) of the City of Greer shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to duly authorized representative(s) of the City of Greer.

(2) Facility operators shall allow duly authorized representatives of the City of Greer ready access to all parts of the premises for the purposes of inspection, sampling,

examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The City of Greer shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Greer to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The City of Greer has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. All sample collection shall comply with S.C. DHEC regulations and all sample analyses shall be conducted by an S.C. DHEC-certified laboratory.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Greer and shall not be replaced. The costs of clearing such access shall be borne by the facility operator.

(6) Unreasonable delays in allowing the City of Greer access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies duly authorized representatives of the City of Greer reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(7) If the duly authorized representative(s) of the City of Greer has/have been refused access to any part of the premises from which stormwater is discharged, and he/she 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, and welfare of the community, then the City of Greer may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 19-2008, § 9, 6-10-2008)

Sec. 90-450. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices

Post-construction stormwater quality treatment for new and redeveloped sites is addressed during plan review and regulated under chapter 90, article V of the City of Greer Code of Ordinance.

The owner or operator of existing commercial or industrial establishments shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 19-2008, § 10, 6-10-2008)

Sec. 90-451. 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. 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.

(Ord. No. 19-2008, § 11, 6-10-2008)

Sec. 90-452. Enforcement

(a) *Notice of violation.* Whenever the City of Greer finds that a person has violated a prohibition or failed to meet a requirement of this article, the City of Greer may order

compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting by a S.C. DHEC-certified laboratory;
- (2) The elimination of illicit connections or discharges;
- (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 a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City of Greer or by its designated contractor(s). All costs incurred including time, materials and labor plus a 15 percent penalty shall be charged to the violator. The owner shall have 30 days to repay the City of Greer.

The requirements of this section impose no liability of any kind on the City of Greer and the owner agrees to hold the City of Greer harmless from any liability in the event the corrections fail to operate properly.

(Ord. No. 19-2008, § 12, 6-10-2008)

Sec. 90-453. Appeal of notice of violation

Any person receiving a notice of violation may appeal the determination of the City of Greer. The notice of appeal must be received within seven days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the City of Greer Construction Board of Appeals or its designee shall be final.

(Ord. No. 19-2008, § 13, 6-10-2008)

Sec. 90-454. 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 ten days of the decision of the construction board of appeals upholding the decision of the City of Greer, then duly authorized representatives of the City of Greer shall 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 duly authorized representatives of the City of Greer to enter upon the premises for the purposes set forth above.

(Ord. No. 19-2008, § 14, 6-10-2008)

Sec. 90-455. Cost 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. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The owner agrees to repay the City of Greer within 30 days for all costs incurred including, but not limited to, time, materials, labor, etc., plus a 15 percent penalty.

(Ord. No. 19-2008, § 15, 6-10-2008)

Sec. 90-456. Injunctive relief

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the

provisions of this article, the City of Greer may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 19-2008, § 16, 6-10-2008)

Sec. 90-457. Compensatory action

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the City of Greer may impose upon a violator alternative, compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. No. 19-2008, § 17, 6-10-2008)

Sec. 90-458. Additional legal measures

Where the City of Greer is fined and/or placed under a compliance schedule by the state, federal government or sued by a private entity for a violation of its NPDES permit, and the City of Greer can identify the person(s) who caused such violation(s) to occur, the City of Greer may pass through the penalty and cost of compliance to that person(s).

The city attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this article or to correct violations of this article, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

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, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 19-2008, § 18, 6-10-2008)

Sec. 90-459. Criminal prosecution

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500.00 per violation per day and/or imprisonment for a period of time not to exceed 30 days. The City of Greer may recover all attorneys' fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. No. 19-2008, § 19, 6-10-2008)

Sec. 90-460. 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 it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 19-2008, § 20, 6-10-2008)