

ORDINANCE ENACTING
TITLE 7, CHAPTER 6 "ILLICIT DISCHARGES AND CONNECTIONS"
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section Title 7, Chapter 6 "Illicit Discharges and Connections" be added as follows:

Sec. 7-6-1. Definitions.

Words and phrases used and contained in this chapter shall have the meanings ascribed to them by section 9VAC25-870-10 of the Virginia Administrative Code, except where the context clearly requires a different meaning.

"Illicit Connection" means any connection, in any manner whatsoever, to the City's Municipal Separate Storm Sewer System (the "MS4") which is not authorized by applicable state law or City ordinance, and which has not been approved by the City in accordance with applicable City ordinances.

"Illicit discharge" means any discharge from the MS4 that is not composed entirely of stormwater, except discharges pursuant to a separate VPDES or state permit (other than the state permit for discharges from the City's MS4), discharges resulting from firefighting activities, and discharges identified by and in compliance with this chapter.

Sec. 7-6-2. Purposes.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City and the Commonwealth of Virginia and to prevent water from being rendered dangerous to the health of persons living in the City. This chapter regulates non-stormwater discharges entering the MS4. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Virginia Pollutant Discharge Elimination System's (VPDES) General Permit For Discharges of Stormwater From Small Municipal Separate Storm Sewer Systems permit issued by the Commonwealth of Virginia.

Sec. 7-6-3. Applicability.

This article shall apply to all activities that cause or allow to be caused direct or indirect illicit discharges and illicit connections into the MS4.

Sec. 7-6-4. Control of pollutant contributions from interconnected MS4s.

MS4 systems not owned or operated by the City, but which are interconnected with the MS4, shall be controlled so that they do not impair the operation of or contribute to the failure of the MS4 or of any interconnected MS4 to meet any applicable local, state or federal law or regulation or permit. Owners of interconnected MS4 systems shall be responsible for the quality within their system and shall coordinate with the owners of the downstream MS4 systems.

Sec. 7-6-5. Discharges to the MS4.

- (a) It shall be unlawful and a violation of this article to:
- (1) Cause or allow any illicit discharge to the MS4;
 - (2) Cause or allow any illicit connection to the MS4;
 - (3) Violate any condition or provision of this chapter, or any permit or approval granted to allow any stormwater discharges to the MS4.
- (b) Subject to the provisions of this chapter, the following activities shall not be unlawful illicit discharges:
- a. Discharges resulting from fire fighting and other public safety activities;
 - b. Discharges associated with the maintenance or repair of public water, sanitary, and storm sewer lines, and public drinking water reservoirs and drinking water treatment or distributions systems conducted in accordance with applicable federal and state regulations and standards;
 - c. Discharges associated with any activity by the City, its employees and designees, in the maintenance of any component of a City-maintained stormwater management facility conducted in accordance with applicable federal and state regulations and standards;
 - d. Discharges specified in writing by the program authority or their designee as being necessary to protect public health and safety;
 - e. Water line flushing;
 - f. Landscape irrigation;
 - g. Diverted stream flows or rising groundwaters;
 - h. Infiltration of uncontaminated groundwater (as defined by 40 CFR 35.2005(20));
 - i. Pumping of uncontaminated groundwater;
 - j. Discharges from potable water sources, foundation drains, irrigation water, springs, water from crawl spaces or footing drains;
 - k. Air conditioning condensation;
 - l. Lawn watering;
 - m. House washing and individual car washing on residential lots;
 - n. Dechlorinated swimming pool discharges with pH between 6.0 to 8.0 standard units, at ambient water temperature, and with less than 0.10 milligrams per liter or parts per million;
 - o. Water from street, sidewalk or parking lot washing to remove algae or oil buildup;
 - p. Application of salts or other de-icing substances to streets, sidewalks and parking lots;
 - q. Discharges associated with dye testing, provided that the program authority is notified in writing before the test.

(c) If any activity listed in paragraph (b) of this section is found by the City Manager or designee be a source of pollutants to the MS4, the City Manager or designee shall serve a written notice on the party responsible for the activity which orders that the activity be ceased or conducted in a manner that will avoid the discharge of pollutants to the MS4. The notice shall state the date by which the activity shall cease or be conducted without pollution. Failure to comply with such order within the time stated in the notice shall result in the revocation of the exemption listed in section 7-6-5 (a) and shall constitute a violation of that section.

Sec. 7-6-6. Right to Enter Property.

In order to assure compliance with the provisions of this chapter, and all applicable City ordinances, state and federal laws, orders or regulations, the City Manager or designee shall have the right to inspect any property, public or private, within the City at any reasonable time. In the event the City Manager or his designee shall be denied access to property, the City Manager or his designee may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this ordinance has occurred, request that the magistrate or court grant the City Manager or his designee an inspection warrant to enable the City Manager or his designee to enter the property for the purpose of determining whether a violation of this ordinance exists. The City Manager or his designee shall make a reasonable effort to obtain consent from the owner or occupant of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this section for any person to deny the City Manager or his designee access to any property after the City Manager or his designee has obtained an inspection warrant from the magistrate or a court of competent jurisdiction for the inspection of such property.

Sec. 7-6-7. Requirements to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The City may require the use of Best Management Practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of the MS4. The owner or operator of a commercial or industrial establishment shall provide, at the expense of the owner or operator, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 system through the use of these structural and non-structural BMPs. Furthermore, 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 such person's expense, additional structural and non-structural BMPs and/or implement a pollution prevention plan to prevent the further discharge of pollutants to the MS4.

Sec. 7-6-8. Reporting Requirements.

Illicit discharges to the MS4 are prohibited. Any person owning or occupying a premises or facility thereon who has knowledge of a discharge of pollutants from those premises or facilities which might result in a violation of the prohibitions found in Section 7-6-5 of this chapter shall immediately take action to abate the discharge and shall notify the City within

twenty-four (24) hours of the discharge. Discharges of hazardous materials or hazardous substances shall be immediately reported by calling "911".

Sec. 7-6-9. Violations, enforcement, and penalties.

(a) *Notice of Violation.* Whenever the City Manager or his designee finds that a person or entity has violated a prohibition or failed to meet a requirement of this chapter, the City Manager or his designee may order compliance by written notice of violation to the responsible party.

Such notice may require without limitation:

- (1) The performance of monitoring, analyses and reporting;
- (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 storm water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of the costs of administration and remediation; 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 performed by a designated governmental agency or a contractor procured by the governmental agency and the expense thereof shall be charged to the violator.

(b) Any person or entity who commits any act prohibited by this article shall be subject to a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) for each day that the violation continues. The court assessing such penalty may, at its discretion, order that the penalty be paid into the treasury of the City for the purpose of abating, preventing or mitigating environmental pollution.

(c) In addition to other remedies provided by the Code of the City of Harrisonburg and the Code of Virginia, any costs or fees that may be charged pursuant to this chapter that remain unpaid for more than thirty (30) days after a bill or invoice was sent for such cost or fees, shall

- (1) Be referred to the City Treasurer who shall include those costs of fees in the next regular real estate tax bill sent to the owner of the real estate at which the cost of fees were incurred. All unpaid costs and fees shall then constitute a lien against such real estate, and shall be collected as other taxes and liens are collected; or
- (2) Be referred to the City Attorney for collection through appropriate civil action.

(d) A willful violation of the provisions of the chapter shall constitute a class 1 misdemeanor each day that a violation of this chapter is maintained or permitted to remain shall constitute a separate offence.

(e) The City may elect to take any or all of the above remedies concurrently, and the pursuit of one shall not preclude the pursuit of another.

Sec. 7-6-10. No Effect on Existing Ordinances.

This chapter is intended to supplement other provisions of the Harrisonburg City Code. Nothing in this chapter shall affect any other provisions of the Harrisonburg City Code including, but not limited to, section 6-2-5 or Articles E and F of Title 7, Chapter 3 thereof.

This ordinance shall be effective from the 24 day of June, 2014. Adopted and approved this 24 day of June, 2014.

Red Boyd
MAYOR

ATTESTE:
Eric S. Kern
CITY CLERK