

**WASHINGTON COUNTY, TENNESSEE
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION No. 12-08-07

***RESOLUTION CREATING
ILLICIT DISCHARGE AND ILLEGAL CONNECTION
CONTROL MEASURES***

WHEREAS, Discharges to the Washington County storm drain system that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters; and

WHEREAS, these non-stormwater discharges occur due to spills, dumping and improper connections to the Washington County storm drain system from residential, industrial, commercial or institutional establishments; and

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

WHEREAS, the impacts of these 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; and

WHEREAS, these impacts can be minimized through the regulation of spills, dumping and discharges into the Washington County storm drain system; and

WHEREAS, localities in the state of Tennessee are required to comply with a number of State and Federal laws, regulations and permits which require a locality to address the impacts of stormwater runoff quality and non-point source pollution due to improper non-stormwater discharges to the Washington County storm drain system; now therefore

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, TENNESSEE THAT:

Washington County adopts this resolution to prohibit such non-stormwater discharges to the Washington County storm drain system. It is determined that the regulation of spills, improper dumping and discharges to the Washington County storm drain system is in the public interest and will prevent threats to public health and safety, and the environment.

SECTION 1. The following regulations are adopted:

514. Illicit Discharge and Illegal Connection Control Measures

Section 1. General Provisions

Section 2. Definitions

Section 3. Prohibitions

Section 4. Industrial or Construction Activity Discharges

Section 5. Access and Inspection of Properties and Facilities

Section 6. Notification of Accidental Discharges and Spills

Section 7. Violations, Enforcement and Penalties

514. Illicit Discharge and Illegal Connection Control Measures

Table of Contents

Introduction

Section 1. General Provisions

Section 2. Definitions

Section 3. Prohibitions

Section 4. Industrial or Construction Activity Discharges

Section 5. Access and Inspection of Properties and Facilities

Section 6. Notification of Accidental Discharges and Spills

Section 7. Violations, Enforcement and Penalties

Short title. This Section shall be known as the "Illicit Discharge Resolution of Washington County, Tennessee".

Introduction

REGULATIONS

Section 1. General Provisions

1.1. Purpose and Intent

The purpose of this resolution is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the Washington County storm drain system to the maximum extent practicable as required by Federal law. This resolution establishes methods for controlling the introduction of pollutants into the Washington County storm drain system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this resolution are to:

- (1) Regulate the contribution of pollutants to the Washington County storm drain system by any person;
- (2) Prohibit illicit discharges and illegal connections to the Washington County storm drain system;

(3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Washington County storm drain system; and,

(4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this resolution

1.2. Applicability

The provisions of this resolution shall apply throughout the unincorporated areas of Washington County.

1.3. Compatibility with Other Regulations

This resolution is not intended to modify or repeal any other resolution, rule, regulation, other provision of law. The requirements of this resolution are in addition to the requirements of any other resolution, rule, regulation, or other provision of law, and where any provision of this resolution imposes restrictions different from those imposed by any other resolution, 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. Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this resolution 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 resolution.

1.5. Responsibility for Administration

The Enforcement Officer as directed by the Board of County Commissioners, shall administer, implement, and enforce the provisions of this resolution.

Section 2. Definitions

“Accidental Discharge” means a discharge prohibited by this resolution 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 Washington County Stormwater, Erosion and Sediment Control Resolution 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.

“Enforcement Officer” means the Zoning Administrator or any other person designated by the Washington County Board of County Commissioners to enforce the Illicit Discharge Resolution.

“Hot Spots” means sites, developments, or uses that have the potential of discharging pollutants that are not normally found in storm water, these sites could include concrete and asphalt facilities, auto repair, auto supply and large commercial parking lots.

“Illicit Discharge” means any direct or indirect non-stormwater discharge to the Washington County storm drain system, except as exempted in Section 3 of this resolution.

“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 and any connections to the storm drain system from indoor drains and sinks, 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 from a commercial or industrial use connected to the Washington County storm drain 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

“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by the state of Tennessee 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 resolution, 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 Tennessee 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.

“Washington County Storm Drain System” means any publicly owned or operated facility designed or used for collecting and/or conveying stormwater including, but not limited to, any roads and streets with drainage systems, curbs, gutters, inlets, catch basins, storm drains, structural and non-structural stormwater controls, stormwater management devices such as detention ponds, ditches, swales, natural and man-made or altered drainage channels, streams, creeks, rivers, reservoirs, and other drainage structures.

“Watercourse” means any structural or non-structural stormwater conveyance device including, but not limited to, storm drains, ditches, swales, channels, creeks, streams, rivers, and lakes.

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 Washington County storm

drain system any pollutants or waters containing any pollutants, other than stormwater.

The county has the authority to identify areas that would be considered 'HOT SPOTS' for pollution runoff. These sites should be investigated for potential highly contaminated runoff and if found then enforcement action shall occur.

The following discharges are exempt from the prohibition provision above:

- (1) water line flushing performed by a government agency;
- (2) landscape irrigation or lawn watering with potable water;
- (3) diverted stream flows permitted by the State of Tennessee;
- (4) rising ground water;
- (5) ground water infiltration to storm drains;
- (6) uncontaminated pumped ground water;
- (7) foundation or footing drains (not including active groundwater dewatering systems);
- (8) crawl space pumps;
- (9) air conditioning condensation;
- (10) springs;
- (11) natural riparian habitat or wetland flows;
- (12) discharges or flows from fire fighting;
- (13) individual residential washing of vehicles;
- (14) vehicle washing for non-profit fund raising purposes as long as the activity does not negatively impact the waters of the State of Tennessee;
- (15) swimming pools (if dechlorinated-typically less than one part per million chlorine);
- (16) street wash waters resulting from normal street cleaning operations as long as the water is cold and does not contain any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other harmful cleaning substance;
- (17) dye testing permitted by Washington County;
- (18) any other water source not containing pollutants
- (19) Other discharges specified in writing by Washington County as being necessary to protect public health and safety;
- (20) discharges 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 Washington County storm drain system.

3.2 Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the Washington County storm drain 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 resolution if the person connects a line conveying sewage to the Washington County storm drain system, or allows such a connection to continue.
- (3) Improper connections in violation of this resolution must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the receiving sanitary sewer 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 the Enforcement Officer 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 Enforcement Officer.

3.3 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 boundaries free of trash, debris, and other items and obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse.

3.4 Storm Drain Inlet Labeling

Storm drain inlets installed in new public streets whether installed by private parties or Washington County shall be stenciled with the words "Don't Dump-Drains to Stream" using traffic bearing paint and minimum 2" high letters.

The stenciling shall be placed in a conspicuous location adjacent to or on the inlet. The preferred location for the stenciling is outside of the road pavement on the curb, if applicable, or the top of the inlet structure. Other alternate locations for the stenciling if the top of curb or structure does not work are the pavement or sidewalk.

Other methods such as storm drain markers to provide the words "Don't Dump-Drains to Stream" adjacent to or on the inlets may be used with Washington County Enforcement Officer approval and as long as the wording is conspicuous and long lasting.

The stenciling or other method of labeling installed by private developers within their new developments shall be guaranteed by the private developer for one (1) year from the time of installation and after this guarantee period Washington County shall be

responsible for maintenance. Labeling installed by Washington County or citizen groups in existing public streets shall be maintained by Washington County from the time of installation.

Other wording besides "Don't Dump-Drains to Stream" may be used with Washington County Enforcement Officer approval and as long as the intent is the same.

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 the Enforcement Officer prior to allowing discharges to the Washington County storm drain system.

Section 5. Access and Inspection of Properties and Facilities

The Enforcement Officer shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this resolution.

- (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 for representatives of the Enforcement Officer.
- (2) The owner or operator shall allow the Enforcement Officer 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) The Enforcement Officer shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Enforcement Officer to conduct monitoring and/or sampling of flow discharges.
- (4) The Enforcement Officer may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Enforcement Officer. 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.
- (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 Enforcement Officer 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 Enforcement Officer access to a facility are a violation of this resolution.
- (7) If the Enforcement Officer has been refused access to any part of the premises from which stormwater is discharged, and the Enforcement Officer is able to demonstrate probable cause to believe that there may be a violation of this resolution, 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 resolution or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction.

Section 6. Notification of Accidental Discharges and Spills

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 Washington County storm drain system, State Waters, or Waters of the U.S., 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. .

Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person 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 the Enforcement Officer within three (3) 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 (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified through emergency dispatch services.

Failure to provide notification of a release as provided above is a violation of this resolution.

Section 7. Violations, Enforcement and Penalties

7.1. Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Resolution. Any person who has violated or continues to violate the provisions of this resolution, 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, the Enforcement Officer 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 Enforcement Officer is authorized to seek costs of the abatement as outlined in Section 7.5.

7.2. Notice of Violation

Whenever the Enforcement Officer finds that a violation of this resolution has occurred, the Enforcement Officer 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 resolution 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; and,
- (6) A statement that the determination of violation may be appealed to the Stormwater Appeals Board by filing a written notice of appeal within thirty (30) days of service of notice of violation with the Enforcement Officer.

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.

7.3. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the Enforcement Officer to the Stormwater Appeals Board. A written Notice of Appeal must be received by the Enforcement Officer within thirty (30) days from the date of the Notice of Violation.

7.4. 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 30 days of the decision of the appropriate authority upholding the decision of the Enforcement Officer, then representatives of the Enforcement Officer 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 the government agency or designated contractor to enter upon the premises for the purposes set forth above.

7.5 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 upholds the assessment, 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 Washington County by reason of such violation.

7.6 Penalties

Any person who shall commit any act declared unlawful under this Article, who violates any provision of this Article, who violates the provisions of any permit issued pursuant to this Article, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized Enforcement Officer, shall be guilty of a violation of this resolution, and each day of

such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the person shall be subject to fines of up to \$5000.00 for each offense per Tenn. Code Ann. §68-221-1101.

7.7 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 resolution 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.

7.8 Remedies Not Exclusive

The remedies listed in this resolution are not exclusive of any other remedies available under any applicable Federal, State or local law and the Enforcement Officer may seek cumulative remedies.

The Enforcement Officer may recover attorney's fees, court costs, and other expenses associated with enforcement of this resolution, including sampling and monitoring expenses.

SECTION 2. This Resolution shall take effect from and after the date on which it is approved by the County Mayor or as indicated by certification of the County Clerk, as hereinafter set forth.

Introduced by Commissioner: *Ford*
Seconded by Commissioner: *Phillips*

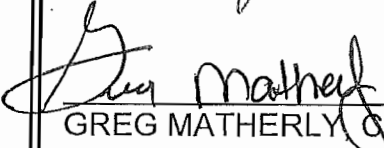
Commissioners Voting FOR Resolution: *Upon a voice vote, the entire membership voted to adopt the resolution.*

Commissioners Voting AGAINST Resolution: NONE
Commissioners NOT VOTING: NONE
Commissioners ABSENT: NONE

ADOPTED BY THE COUNTY LEGISLATIVE BODY, in session duly assembled, on this the 27th day of August 2012.

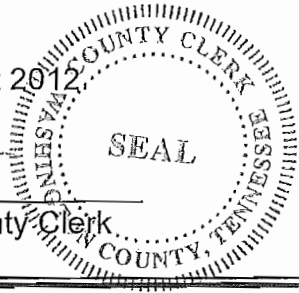


KATHY STOREY, County Clerk



GREG MATHERLY, Chair of the Board

REFERRED to County Mayor this the 28 day of August 2012



Kathy Storey
KATHY STOREY, County Clerk

APPROVED by County Mayor on this the ___ day of _____ 2012.

DANIEL J. ELDRIDGE, County Mayor

The County Mayor having declined to approve this Resolution, the same became effective on the 7 day of Sept. 2012, pursuant to Tennessee Code Annotated § 5-6-107(b)(5).

Kathy Storey
KATHY STOREY, County Clerk