



Legislation Details (With Text)

**File #:** ORD-09:063    **Version:** 1    **Name:** Amend Stormwater Management Regulations  
**Type:** Ordinance    **Status:** Passed  
**File created:** 9/8/2009    **In control:** Public Works Council Committee  
**On agenda:**    **Final action:** 10/20/2009  
**Title:** AN ORDINANCE AMENDING THE STORMWATER MANAGEMENT REGULATIONS PROHIBITING ILLICIT DISCHARGE AND CONNECTIONS (NOTE: THIS ORDINANCE WAS AMENDED BY ORD-10:088 ON DECEMBER 21, 2010)  
**Sponsors:** Engineering  
**Indexes:** Technical Code  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
10/20/2009	1	City Council	Passed	Pass
10/6/2009	1	Public Works Council Committee	Recommended to Council	Pass

AN ORDINANCE AMENDING THE STORMWATER MANAGEMENT REGULATIONS PROHIBITING ILLICIT DISCHARGE AND CONNECTIONS (**NOTE: THIS ORDINANCE WAS AMENDED BY ORD-10:088 ON DECEMBER 21, 2010**)

WHEREAS, the City Council adopted the Stormwater Management Regulations on December 18, 2008 (ORD-08:099);

WHEREAS, the City of Jonesboro is required by the Department of Environmental Quality (ADEQ) to adopt an ordinance prohibiting Illicit Discharge and Connections to our Municipal Storm Sewer System (MS4);

WHEREAS, the Stormwater Management Board has prepared said ordinance and recommends it for adoption by the City Council;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: That ORD-08:099 passed and approved by the City Council on December 18, 2008 be hereby amended as follows:

SECTION 2. That the following definitions be added to the appropriate section of the ordinance.

1. 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.
2. Hazardous Materials - Any material, including any substance, waste, or combination thereof,

which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

3. Illegal Discharge - Any direct or indirect non-storm water discharge to the storm drain system, except as exempted by these regulations.
4. Illicit Connections - 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 non-storm water 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, 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 an authorized enforcement agency.
5. National Pollutant Discharge Elimination System (NPDES) Storm Water 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.
6. Non-Storm Water Discharge - Any discharge to the storm drain system that is not composed entirely of storm water.
7. 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; non-hazardous 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.
8. 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.
9. Wastewater - Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
10. Facility - something designed, built, installed, etc., to serve a specific function affording a convenience or service

SECTION 3. That Illicit Discharge and Connection be added to the appropriate section of the ordinance.

### **Illicit Discharge and Connection**

**Prohibition of Illegal Discharges** - No person shall discharge or cause to be discharged into the City of

Jonesboro Stormwater Management System 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 storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. Discharges such as water line flushing or 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, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land 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 Engineer or his designated representative as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the City Engineer prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under a National Pollution Discharge Elimination System (NPDES) permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency (EPA) or the Arkansas Department of Environmental Quality (ADEQ), 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 Stormwater Management System.

### **Prohibition of Illicit Connections**

1. The construction, use, maintenance or continued existence of illicit connections to the City of Jonesboro Stormwater Management 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 ordinance if the person connects a line conveying wastewater to the City of Jonesboro Stormwater Management System, or allows such a connection to continue.

### **Suspension due to Illicit Discharges in Emergency Situations**

The City of Jonesboro may, without prior notice, suspend 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 environment, or to the health or welfare of persons, or to the City of Jonesboro Stormwater Management System or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City Engineer may take such steps as deemed necessary to prevent or minimize damage to the City of Jonesboro Stormwater Management

System or Waters of the United States, or to minimize danger to persons.

### **Suspension due to the Detection of Illicit Discharge**

Any person discharging to the City of Jonesboro Stormwater Management System in violation of these regulations may have their access terminated if such termination would abate or reduce an illicit discharge. The City Engineer or his designated representative will notify a violator of the proposed termination of its access. The violator may appeal to the Stormwater Management Board in accordance with these regulations.

person commits an offense if the person reinstates access to premises terminated pursuant to this Section, without the prior approval of the City Engineer.

### **Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity National Pollution Discharge Elimination System (NPDES) 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 Jonesboro prior to discharge to the Stormwater Management System.

### **Monitoring of Discharges**

- A. Applicability - This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- B. Access to Facilities
  - 1. The City of Jonesboro shall be permitted to enter and inspect facilities subject to regulation under these regulations as often as may be necessary to determine compliance with these regulations. 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.
  - 2. Facility operators shall allow the City of Jonesboro 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 Jonesboro shall have the right to set up on any permitted facility such devices as are necessary to conduct monitoring or sampling of the facility's storm water discharge, or both.
  - 4. The City of Jonesboro 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.
  - 5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and sampled shall be promptly removed by the operator at the written or oral request of the City of Jonesboro and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the City of Jonesboro access to a permitted facility is a violation of a storm water discharge permit and of these regulations. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City Engineer or designated representative reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by these regulations.

7. If the City of Jonesboro has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of these regulations, or that there is a need to inspect and sample as part of a routine inspection and sampling program designed to verify compliance with these regulations or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Jonesboro may seek issuance of a search warrant from any court of competent jurisdiction.

### **Requirements to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices (BMPs)**

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 municipal storm drain system or watercourses through the use of structural or non-structural BMPs, or both. 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, structural and non-structural BMPs to prevent the discharge of pollutants to the City of Jonesboro Stormwater Management 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. BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

### **Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep 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 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.

### **Notification of Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City Engineer in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Jonesboro within three business days of the phone 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.

PASSED AND APPROVED this 20<sup>th</sup> day of October, 2009.