

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE enacting chapter 242, Jackson County Code, 1984, consisting of nineteen new sections relating to illicit discharges and illegal connections, with a penalty provision.

ORDINANCE #4022, September 2, 2008

INTRODUCED BY Bob Spence, County Legislator

WHEREAS, the Legislature finds that discharges into the County's separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased non-point source pollution and degradation of receiving waters; and,

WHEREAS, these non-stormwater discharges occur due to spills, dumping, and improper connections to the County's separate storm sewer system from residential, industrial, commercial, and institutional establishments; 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 County's separate storm sewer system; and,

WHEREAS, localities in the of State of Missouri are required to comply with a number of State and Federal laws, regulations, and permits which require each locality to address the impacts of stormwater runoff quality and non-point source pollution due to improper non-stormwater discharges to the locality's separate storm sewer system; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause. chapter 242, Jackson County Code, 1984, consisting of nineteen new sections to be known as sections 24200., 24201., 24202., 24203., 24204., 24205., 24206., 24207., 24208., 24209., 24210., 24211., 24212., 24213., 24214., 24215., 24216., 24217., and 24218., is hereby adopted, to read as follows:

ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

24200. Purpose and Intent.

The purpose of this chapter is to protect the public health, safety, environment, and general welfare through the regulation of Non-Stormwater Discharges to the County's Separate Storm Sewer System or into any Waters of the United States to the maximum extent practicable as required by federal law. This chapter establishes methods for controlling the introduction of Pollutants into the County's Separate Storm Sewer System in order to comply with requirement of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are to:

- a. Regulate the contribution of Pollutants to the County's Separate Storm Sewer System or into any Waters of the United States by any Person;
- b. Prohibit Illicit Discharges and Illegal Connections to the County's Separate Storm Sewer System or into any Waters of the United States;
- c. Prevent Non-Stormwater Discharges, generated as a result of spills, inappropriate dumping, or disposal, into the County's Separate Storm Sewer System or into any Waters of the United States;
- d. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter.

24201. Applicability.

The provisions of this chapter shall apply throughout the unincorporated area of Jackson County.

24202. Compatibility with Other Regulations.

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

24203. Responsibility for Administration.

The County's Director of Public Works or designee shall administer, implement, and enforce the provisions of this chapter.

24204. Definitions.

As used in the this chapter the following words and phrases having the meanings indicated:

Accidental Discharge means a discharge prohibited by this chapter 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 Jackson County Erosion and Sedimentation Control Ordinance 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.

County means Jackson County, Missouri.

Director means the Director of Public Works or his designated agent.

Illicit Discharge means any direct or indirect Non-Stormwater Discharge to the County's Separate Storm Sewer System, except as exempted by this chapter.

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 conveyance which allows any Non-Stormwater Discharge, including sewage, processed 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 County's 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).

County's Separate Storm Sewer System means any facility in unincorporated Jackson County, Missouri, designed or used for collecting and/or conveying Stormwater, including but not limited to any roads with drainage systems, highways, streets, curbs, gutters, inlets,

catch basins, piped storm drains, pumping facilities, Structural Sormwater Controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which are: a) owned or maintained by Jackson County; b) not a combined sewer; and c) not part of a publicly-owned treatment works.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by the Missouri Department of Natural Resources under authority delegated pursuant to 33 USC § 1342 (b) that authorizes the discharge of Pollutants into 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 chapter, 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 of Missouri, 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; 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, or fish or other aquatic life.

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

Stormwater Runoff or Stormwater means any surface flow, runoff, or 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.

Waters of the United States 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 Missouri which are not entirely confined and retained completely upon the property of a single person.

24205. Prohibition of Illicit Discharges.

No Person shall throw, drain, or otherwise discharge, cause, or allow others under that Person's control to throw, drain, or otherwise discharge into the County's Separate Storm Sewer System or into any Waters of the United States, any Pollutants or waters containing any Pollutants, other than Stormwater.

24205.1 Exemption.

The following discharges are exempt from the prohibition contained in this section:

- a.. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering non-commercial or fundraising car washing, powerwashing on private property, discharges from swimming pools, 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, springs, natural riparian habitat or wetland flows, and any other water source not containing Pollutants;

- b. Discharges for agricultural use, to include crop planting and cultivation, vegetative renewal, and flushing of animal wastes.
- c. Discharges or flows from firefighting, and other discharges specified in writing by the Director or designee as being necessary to protect public health and safety; and,
- d. Any Non-Stormwater Discharges permitted under an NPDES Permit or order issued to dischargee and administered under the authority of the State of Missouri, or the Federal Environmental Protection Agency, provided that the dischargee 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 County's Separate Storm Sewer System or into any Waters of the United States.

24206. Prohibition of Illegal Connections.

It shall be unlawful for any Person to construct, use, or maintain any connection to the County's Separate Storm Sewer System or into any Waters of the United States, except in strict compliance with this chapter.

24206.1 Includes Post Connection.

The prohibition of this section 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.

24206.2 Sewage Lines.

A Person violates this chapter if that Person connects a line conveying sewage to the County's Separate Storm Sewer System or into any Waters of the United States, or allows such a connection to continue.

24206.3 Disconnection Required.

Illegal Connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system as approved by the Director.

24206.4 Drains.

Any drain or conveyance that has not been documented in plans, maps, or the equivalent, and which may be connected to the Storm Sewer System, shall be located by the owner or occupant of the Premise in question upon receipt of written notice of violation from the Director or designee 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 Director.

24207. Industrial or Construction Activity Discharges.

Each 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 Director or designee prior to allowing discharges to the County's Separate Storm Sewer System or into any Waters of the United States.

24208. Access and Inspection of Premises and Facilities.

The Director or designee may enter and inspect Premises and facilities at reasonable times as may be necessary to determine compliance with this chapter.

24208.1 Allow Access.

The owner or operator of a Premise shall allow the Director or designee ready access to all parts of the Premises for the purposes of inspection, sampling, photography, videotaping, examination or copying of any records that are required under the conditions of an NPDES Permit to discharge Stormwater.

24208.2 Monitoring Services, Director.

The Director or designee shall have the right to set up on any Premises or facility such devices as are necessary in the opinion of the Director or designee to conduct monitoring and/or sampling of flow discharges.

24208.3 Maintaining Equipment, Owner's Responsibility.

The Director or designee may require the owners or operator of a Premise to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Director or designee. 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 utility shall be calibrated to ensure their accuracy.

24208.4 Search Warrant.

If the Director or designee has been refused access to any part of the premises from which stormwater is discharged, and the Director or designee is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any order issued hereunder, or to protect the overall public health, safety, environment, and welfare of the community, then the Director or designee may seek issuance of a search warrant from the appropriate court.

24209. Notification of Accidental Discharges and Spills.

Notwithstanding other requirement 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 County's Separate Storm Sewer System, state waters, or Waters of the United States, 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 Public Works Department in person, by phone or by facsimile no later than twenty-four hours after the incident 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 Director or designee within three business days of the phone call or by personal notification. 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. Said Person shall also take immediate steps to ensure no recurrence of the discharge or spill. In the event of a release of hazardous materials, the responsible Person shall immediately notify emergency response agencies and/or other appropriate agencies. Failure to provide notification of a release as provided above is a violation of this chapter.

24210. Violations.

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this chapter. Any Person who has violated or continues to violate any provision of this chapter, may be subject to the enforcement actions outlined in this chapter 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 safety, the Director or designee is authorized to enter upon the subject Premises, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the Premises. The Director or designee is authorized to seek costs of the abatement as outlined in section 24014 of this chapter.

24211. Notice of Violation.

Whenever the Director or designee finds that a violation of this chapter has occurred, the Director or designee may order compliance by written notice of violation.

24211.1 Delivery, Contents.

The notice of violation shall be sent via regular U.S. mail or via hand delivery to the owner of the Premises as shown by Jackson County official records, and shall contain:

- a. The name and address of the parties listed above;

- b. The address, when available, or a description of the building, structure, or land upon which the violation is occurring, or has occurred;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the Person or Persons to whom the notice of violation is directed; and,
- f. A statement that the determination of violation may be appealed to the Director or designee by filing a written notice of appeal within thirty (30) days of service of the notice of violation.

24211.2 Notice, Additional Requirements.

Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of Illicit Discharges and Illegal Connections;
- c. That violation discharges, practices, or operations cease and desist;
- d. The abatement or remediation of Stormwater Pollution or contamination hazards and the restoration of any affected Premises;

- e. Payment of costs to cover administrative and abatement expenses; and,
- f. The implementation of Pollution prevention practices.

24212. Appeal of Notice of Violation.

Any person receiving a notice of violation may appeal the determination of the Director or designee. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. A hearing on the appeal before the Director or designee, shall take place within fifteen days from the date of receipt of the notice of appeal. The decision of the Director or designee shall be final.

24213. 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 fifteen (15) days of the decision of the Director or designee, then the Director or designee may enter upon the subject's Premises and is authorized to take any and all measures necessary to abate the violation and/or restore the Premises. The Director may further issue to the property owner a General Ordinance Summons. It shall be unlawful for any Person, owner, agent, or Person in possession of any Premises to refuse to allow the County or designated County contractor to enter upon the Premises for the purposes set forth above.

24214. Costs of Abatement of the Violation.

Within thirty (30) days after abatement of a violation by the County the Director or designee will bill the owner of the Premises for the cost of abatement, including administrative costs. If within thirty (30) days after receiving the payment request, the owner has not made payment, the charges shall become a special assessment against the Premises and shall constitute a lien on the Premises for the amount of the assessment.

24215. Criminal Penalties.

For violation of this chapter, the Director or designee may issue a citation to the alleged violator requiring such Person to appear in the County Municipal Court to answer charges for such violation. Upon conviction, such Person shall be punished by a fine not to exceed \$1,000.00. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

24216. Violation 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 chapter is a threat to the 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.

24217. Remedies Not Exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable Federal, State or local law and the Director or designee may seek cumulative remedies. The Director or designee may recover attorney's fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

24218. Variances from Requirements.

The Director may grant a variance from requirements of this chapter if exceptional circumstances exist, such that strict adherence to the provisions of this chapter will not fulfill the intent of this chapter.

24218.1 Written Application Required.

A written application for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, why a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.

24218.2 Review.

The Director will conduct a review of the request for a variance and may approve, deny, or request additional information concerning the variance request.

Section B. Penalty Provision.

Violations of the provisions of this ordinance are punishable pursuant to section 24215. of this Ordinance.

Effective Date: This Ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:



Chief/Deputy County Counselor



County Counselor

I hereby certify that the attached Ordinance, Ordinance #4022 introduced on September 2, 2008, was duly passed on September 8, 2008 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 7

Nays 0


Abstaining 0

Absent 2

This Ordinance is hereby transmitted to the County Executive for his signature.

9-9-08

Date



Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4022.

9/10/2008

Date



Michael D. Sanders, County Executive