

**First Reading:** \_\_\_\_\_

**Second Reading:** \_\_\_\_\_

**Passed:** \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAWSONVILLE TO AMEND THE STORMWATER MANAGEMENT ORDINANCE; TO PROHIBITING ILLICIT DISCHARGE AND ILLEGAL CONNECTION TO THE CITY OF DAWSONVILLE STORM SEWER SYSTEM; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

WHEREAS, discharges to the City of Dawsonville Separate Storm Sewer System that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving water; and

WHEREAS, non-stormwater discharges occur because of spills, dumping and improper connections to the City of Dawsonville Separate Storm Sewer System from residential, industrial, commercial and institutional establishments; and

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

WHEREAS, the impact of non-stormwater discharges adversely affects public health, safety and welfare, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters; and

WHEREAS, the impacts of non-stormwater discharges can be minimized through the regulation of spills, dumping and discharges into the City of Dawsonville Separate Storm Sewer System; and

WHEREAS, local governments in the State of Georgia are required to comply with state and federal law, regulations and permits that require a local government to address the impacts of stormwater runoff quality and nonpoint source pollution because of improper non-stormwater discharges into separate storm sewer systems; and

WHEREAS, the public is benefited by having an integrated and up-to-date municipal code.

NOW THEREFORE, the Mayor and City Council of the City of Dawsonville hereby ordains and enacts a revision to the Stormwater Management Ordinance of the City of Dawsonville to prohibit non-stormwater discharges to the City of Dawsonville Separate Storm Sewer System and to regulate spills, improper dumping and discharges to the City of Dawsonville Separate Storm Sewer System in the public interest and to prevent threats to public health, safety and welfare and the environment, as follows:

**SECTION 1.**

The reservation of sections 107-196 through 107-230 of Article VII of Subchapter B is hereby repealed.

**SECTION 2.**

Sections 107-197 through 107-200 of Article VII of Chapter 107 of Subchapter B are hereby reserved.

**SECTION 3.**

Subchapter B, Chapter 107, Section 107-41 of the Code of Ordinances for the City of Dawsonville is hereby amended by deleting the existing section 107-41 in its entirety and replacing it with a new section 107-41 as follows:

Sec. 107-41. - Definitions.

(1) *Applicant* means a person submitting a post-development stormwater management application and plan for approval.

(2) *Accidental discharge* means a discharge prohibited by this article which occurs by chance and without planning or thought prior to occurrence.

(3) *Better site design* means site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.

(4) *Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

(5) *City of Dawsonville Separate Storm Sewer System* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, city streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

(a) Owned or maintained by the City of Dawsonville;

(b) Not a combined sewer; and

(c) Not part of a publicly-owned treatment works.

(6) *Clean water act* means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(7) *Conservation easement* means an agreement between a land owner and the city or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

(8) *Construction activity* means activities subject to the Georgia Erosion and Sedimentation Control Act, O.C.G.A. § 12-7-1 et seq. 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.

(9) *Detention* means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

(10) *Detention facility* means a detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

(11) *Developer* means a person who undertakes land development activities.

(12) *Development* means a land development or land development project.

- (13) *Drainage easement* means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.
- (14) *Erosion and sedimentation control plan* means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.
- (15) *Evapotranspiration* means the loss of water to the atmosphere by both evaporation and transpiration, which is the evaporation of water by plants.
- (16) *Extended detention* means the detention of stormwater runoff for an extended period, typically 24 hours or greater.
- (17) *Extreme flood protection* means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.
- (18) *Flooding* means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.
- (19) *Greenspace or open space* means permanently protected areas of the site that are preserved in a natural state.
- (20) *Hotspot* means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hotspots may be permanent or temporary. Hotspots include, but are not limited to, fueling stations (including temporary fueling stations during construction) and golf courses.
- (21) *Hydrologic soil group (HSG)* means a natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.
- (22) *Illicit discharge* means any direct or indirect non-stormwater discharge to the City of Dawsonville Separate Storm Sewer System, except as exempted in section 103 of this article.
- (23) *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, 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 City of Dawsonville Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (24) *Impervious cover* means a surface composed of any material that greatly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, except those designed specifically to allow infiltration.
- (25) *Industrial activity* means activities subject to NPDES Industrial Permits as defined in 40 C.F.R. § 122.26(b)(14).

- (26) *Industrial stormwater permit* means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- (27) *Infiltration* means the process of percolating stormwater runoff into the subsoil.
- (28) *Inspection and maintenance agreement and covenant* means a written agreement and covenant providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.
- (29) *Jurisdictional wetland* means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- (30) *Land development* means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.
- (31) *Land development activities* means those actions or activities which comprise, facilitate or result in land development.
- (32) *Land development project* means a discrete land development undertaking.
- (33) *National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit* means a permit issued by the Georgia EPD under authority delegated pursuant to 33 U.S.C. § 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.
- (34) *New development* means a land development activity on a previously undeveloped site.
- (35) *Non-Stormwater Discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.
- (36) *Nonpoint source pollution* means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- (37) *Nonstructural stormwater management practice or nonstructural practice* means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.
- (38) *Off-site facility* means a stormwater management facility located outside the boundaries of the site.
- (39) *On-site facility* means a stormwater management facility located within the boundaries of the site.

(40) *Overbank flood protection* means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through 25-year frequency storm events.

(41) *Owner* means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

(42) *Permit* means the permit issued by the city to the applicant which is required for undertaking any land development activity.

(43) *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, any interstate body or any other legal entity.

(44) *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.

(45) *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.

(46) *Post-development* refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

(47) *Pre-development* refers to the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

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

(49) *Project* means a land development project.

(50) *Redevelopment* means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

(51) *Regional stormwater management facility* or *regional facility* means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

(52) *Runoff* means stormwater runoff.

(53) *Site* means the parcel of land being developed, or the portion thereof on which the land development project is located.

(54) *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 Georgia which are not entirely confined and retained completely upon the property of a single person.

(55) *Stormwater best management practice (BMP)* means structural and nonstructural practices that control stormwater runoff and provide for or enhance stormwater quantity and/or quality control or other stormwater management benefits.

(56) *Stormwater management* means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

(57) *Stormwater management facility* means any infrastructure that controls or conveys stormwater runoff.

(58) *Stormwater management measure* means any stormwater management facility or nonstructural stormwater practice.

(59) *Stormwater management plan* means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this chapter.

(60) *Stormwater management system* means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

(61) *Stormwater retrofit* means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

(62) *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.

(63) *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 of such runoff.

(64) *Subdivision* means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

SECTION 4.

Article VIII of Chapter 107 of Subchapter B shall be renamed “ARTICLE VIX - VIOLATIONS, ENFORCEMENT AND PENALTIES”.

SECTION 5.

Chapter 107 of Subchapter B shall be further amended by inserting the following “ARTICLE VIII – ILLICIT DISCHARGE AND ILLEGAL CONNECTION TO THE STORM SEWER SYSTEM” beginning at section 107-201 as follows:

ARTICLE VIII – ILLICIT DISCHARGE AND ILLEGAL CONNECTION TO THE STORM SEWER SYSTEM

Sec. 107-201. - General provisions.

(a) Purpose and intent. The purpose of this article is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the City of Dawsonville Separate Storm Sewer System to the maximum extent practicable as required by law. This article establishes methods for controlling the introduction of pollutants into the City of Dawsonville Separate Storm Sewer System in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are to:

- (1) Regulate the contribution of pollutants to the City of Dawsonville Separate Storm Sewer System by any person;
- (2) Prohibit illicit discharges and illegal connections to the City of Dawsonville Separate Storm Sewer System;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the City of Dawsonville Separate Storm Sewer System; and,
- (4) Establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this article.

(b) Applicability. The provisions of this article shall apply throughout the incorporated area of the City of Dawsonville.

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

(d) Responsibility for administration. The City of Dawsonville Public Works Department shall administer, implement, and enforce the provisions of this ordinance unless otherwise noted herein.

Sec. 107-202. - Prohibition of illicit discharges.

(a) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the City of Dawsonville Separate Storm Sewer System any pollutants or waters containing any pollutant, other than stormwater.

(b) The following discharges are exempt from the prohibition provision above:

(1) Water line flushing performed by a government agency, 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, non-commercial washing of vehicles, swimming pools (if dechlorinated - typically less than one PPM chlorine), springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

(2) Dye testing is an allowable discharge, but requires an email or other written notification to the authorized enforcement agency prior to the time of the test;

(3) Discharges or flows from firefighting, and other discharges specified in writing by the City of Dawsonville as being necessary to protect public health and safety;

(4) The prohibition provision above shall not apply to any non-stormwater discharge 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 City of Dawsonville Separate Storm Sewer System.

#### Sec. 107-203. - Prohibition of illegal connections.

The construction, connection, use, maintenance or continued existence of any illegal connection to the City of Dawsonville Separate Storm Sewer 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 ordinance if the person connects a line conveying sewage to the City of Dawsonville Separate Storm Sewer System or allows such a connection to continue.

(3) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City Utilities Department or if applicable, Etowah Water and Sewer Authority.

(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 City of Dawsonville 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 City of Dawsonville.

Sec. 107-204. - 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 Dawsonville prior to allowing discharges to the City of Dawsonville Separate Storm Sewer System.

Sec. 107-205. - Access and inspection of properties and facilities.

The City of Dawsonville shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this article.

(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 to representatives of the City of Dawsonville.

(2) The owner or operator shall allow the City of Dawsonville 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 City of Dawsonville may set up on any property or facility devices necessary to conduct monitoring and/or sampling of flow discharges.

(4) The City of Dawsonville may require the owner or operator to install monitoring equipment and perform monitoring as necessary and make the monitoring data available to the City of Dawsonville. 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 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 request of the City of Dawsonville 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 City of Dawsonville access to a facility is a violation of this article.

(7) If the City of Dawsonville has been refused access to any part of the premises from which stormwater is discharged and the City of Dawsonville is able to demonstrate probable cause to believe that a violation of this ordinance exists or occurred 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 ordinance or any order issued hereunder or to protect the overall public health, safety, environment and welfare of the community, then the City of Dawsonville may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 107-206. - Notification of accidental discharges and spills.

(a) 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 City of Dawsonville Separate Storm Sewer System, state waters, or waters of the U.S., the person so responsible shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

(b) Such person shall notify the City of Dawsonville Public Works Department in person, by phone, or email of the discharge or spill no later than 24 hours of the nature, quantity and time of occurrence of the discharge or spill. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Dawsonville within three business days of the phone or in person notice. If the discharge or spill 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 or spill and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. The owner or operator shall also take immediate steps to ensure no recurrence of the discharge or spill.

(c) In the event of a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

(d) Failure to provide notification of a release as provided herein is a violation of this ordinance.

#### Sec. 107-207. - Suspension of access.

(a) Suspension due to illicit discharges in emergency situations. The City of Dawsonville may, without prior notice, suspend discharge access into the City of Dawsonville Separate Storm Sewer System 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 Dawsonville Separate Storm Sewer System, Waters of the State, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Dawsonville may take such steps as deemed necessary to prevent or minimize damage to the City of Dawsonville Separate Storm Sewer System, Waters of the State, 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 City of Dawsonville Separate Storm Sewer System in violation of this ordinance may have access terminated if such termination abates or reduces an illicit discharge. The City of Dawsonville Public Works Director will notify a violator of the proposed termination of access. The violator may petition the City of Dawsonville for reconsideration and a hearing in accord with section 107-232 of this article.

(c) Illegal reinstatement of access. A person commits an offense by reinstating the City of Dawsonville Separate Storm Sewer System access to premises terminated pursuant to this section without the prior approval of the City of Dawsonville.

#### Sec. 107-208. - Requirement to prevent, control, and reduce stormwater pollutants by the use of BMPs.

Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the City of Dawsonville Separate Storm Sewer System, or Waters of the State of Georgia and or Waters of the U.S. shall be observed by the owner of any property discharging into the City of Dawsonville Separate Storm Sewer System. 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 City of Dawsonville Separate Storm

Sewer System or watercourses through the use of these structural and non-structural BMPs. 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, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the City of Dawsonville Separate Storm Sewer 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. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Sec. 107-209. - 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, 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.

Secs. 107-210 through 107-230. – Reserved.

## SECTION 6.

Subchapter B, Chapter 107, Article VIX, Sections 107-231 through Sections 107-233 of the Code of Ordinances for the City of Dawsonville is hereby amended by repealing existing sections 107-231 through 107-233 in their entirety and replacing them with new sections 107-231 through 107-233 as follows:

### ARTICLE VIX - VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 107-231. - Generally.

(a) It shall be unlawful for any person to violate any provision of this chapter or fail to comply with any of the requirements of this chapter, either through action or inaction. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this article or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In the event the violation constitutes an immediate danger to public health or public safety, the City of Dawsonville 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 City of Dawsonville is authorized to seek costs of the abatement as outlined in section 107-232.

Sec. 107-232. - (b) Notice of violation; Appeal; Abatement.

(a) *Notice of violation.* Whenever the City of Dawsonville finds that a violation of this chapter, a permit, or approved stormwater management plan has occurred, the City of Dawsonville may order compliance by written notice of violation. Where a person is engaged in activity covered by this chapter without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

(1) The notice of violation shall contain:

- (a) The name and address of the alleged violator;
- (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 ordinance 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 to whom the notice of violation is directed.

(2) 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 violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of costs to cover administrative and abatement costs; and,
- (f) The implementation of pollution prevention practices.

(b) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal such determination. The notice of appeal must be received by the Public Works Director within ten days from the date of the notice of violation. Hearing on the appeal before the City of Dawsonville Mayor and Council shall take place within thirty (30) days following submission of the notice of appeal. The decision of the Mayor and Council shall be final and subject to appeal only by writ of certiorari to the Superior Court of Dawson County.

(c) *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 to the Mayor and Council or Superior Court, within ten days of the final decision of the appropriate authority upholding the decision of the City of Dawsonville, then representatives of the City of Dawsonville 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 City of Dawsonville or its designated contractor to enter upon the premises for the purposes set forth above.

(d) *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 incurred by the City. 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 30 days after receipt of the notice, or if an appeal is taken, within 30 days after a decision on said 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 appeal of the cost of abatement shall follow the same procedure as outlined in section 107-232 (c) as set forth hereinabove.

Sec. 107-233. – Penalties.

Any person violating any of the provisions of this Chapter, or failing to comply with remedial measures described in a notice of violation by the date set forth for such completion, shall become liable to the City of Dawsonville by reason of such violation for any one or more of the following penalties:

(a) *Civil penalties.* In the event a violation of any provision of this Chapter or the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the City of Dawsonville shall deem appropriate), the city may impose a civil penalty not to exceed \$1,000.00 for each day the violation remains unremedied after receipt of the notice of violation.

(b) *Criminal penalties.* The City of Dawsonville Public Works Director or Planning Director may request, at his discretion, the City of Dawsonville code enforcement personnel to issue a citation to the alleged violator requiring such person to appear in Municipal court or other court of appropriate jurisdiction 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.

(c) *Stop work order.* The city may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

(d) *Withhold certificate of occupancy/certificate of completion.* The city may refuse to issue a certificate of occupancy or certificate of completion for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(e) *Suspension, revocation or modification of permit.* The city may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the city may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(f) *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 ordinance 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.

(g) *Remedies not exclusive.* The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Dawsonville may seek cumulative remedies.

(h) *Recovery of fees.* The City of Dawsonville may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses from any violator of this ordinance.

SECTION 9.

All Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 10.

This ordinance shall become effective upon adoption, the public good demanding the same.

SO ORDAINED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mike Eason, Mayor

\_\_\_\_\_  
Caleb Phillips, Council Member Post 1

\_\_\_\_\_  
Stephen Tolson, Council Member Post 2

\_\_\_\_\_  
Jason Power, Council Member Post 3

\_\_\_\_\_  
Mark French, Council Member Post 4

ATTEST:

\_\_\_\_\_  
Beverly Banister, Clerk