

Barrow County Board of Commissioners

Proposed Illicit Discharge and Illegal Connection Ordinance

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations;

WHEREAS, O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protecting and preserving the public health, safety, and welfare of the population of the unincorporated areas of the County;

WHEREAS, the governing authority of Barrow County, to wit, the Board of Commissioners, desires to exercise its authority in adopting this Ordinance;

WHEREAS, discharges to the Barrow County separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters;

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

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;

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;

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

WHEREAS, localities in the State of Georgia 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 nonpoint sources pollution due to improper non-stormwater discharges to the Barrow County separate storm sewer system.

NOW THEREFORE, the Barrow County Board of Commissioners adopts this Ordinance to prohibit such non-stormwater discharges to the Barrow County separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the Barrow County separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

Section 1. General Provisions

1.1 Purpose and Intent.

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

- (a) Regulate the contribution of pollutants to the Barrow County separate storm sewer system by any person;
- (b) Prohibit illicit discharges and illegal connections to the Barrow County separate storm sewer system;
- (c) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Barrow County separate storm sewer system; and
- (d) To establish legal authority to carry out all inspections, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Ordinance.

1.2 Compatibility with Other Regulations

This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law, which does not directly conflict with this Ordinance. The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Ordinance 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.

1.3 Severability

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

1.4 Responsibility for Administration

The Barrow County Board of Commissioners, through its Director of Public Works, shall administer, implement, and enforce the provisions of this Ordinance.

Section 2. Definitions

“Accidental discharge” means a discharge prohibited by this ordinance that occurs by chance and without planning or thought prior to occurrence.

“Applicant” means a person submitting a post-development storm water management application and plan for approval.

“Authorized Enforcement Agency” shall mean the Public Works Department of the County.

“Best Management Practice” means sediment and erosion control and storm water management practices approved by the Department of Public Works or agricultural runoff control practices approved by the Soil Conservation District to mitigate adverse effects of land use activities, runoff, sedimentation, and nonpoint source pollution on stream bank erosion, stream hydrology, surface and groundwater replenishment.

“Board of Commissioners” shall mean the Board of Commissioners of Barrow County, Georgia or its agent or representative.

“Channel” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

“County’s Separate Storm Sewer System” means any facility designed or used for collecting and/or conveying storm water, including but not limited to any roads with drainage systems, highways, County streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural, man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- (a) Owned or maintained by the County;
- (b) Not a combined sewer; and
- (c) Not part of a Publicly-Owned Treatment Works (POTW).

“Clean Water Act” means the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) and any subsequent amendments thereto.

“Conservation Easement” means an agreement between a land owner and the County or other governmental 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.

“Construction Activity” means an activity subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, demolition and other projects resulting in land disturbance.

“Detention” means the temporary storage of storm water runoff in a storm water management facility for the purpose of controlling peak discharges.

“Detention Facility” means a detention basin or structure designed for the detention of storm water runoff and gradual release of stored water at controlled rates.

“Developer” means a person who undertakes land development activities.

“Development” means a land development or land development project.

“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 storm water runoff onto the tract or parcel of land subject to the drainage easement.

“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.

“Extended Detention” means the detention of storm water runoff for an extended period, typically 24 hours or greater.

“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.

“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.

“Greenspace” or **“Open Space”** means permanently protected areas of a site that are preserved in a natural state.

“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 storm water.

“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 County’s storm drain system, including but not limited to any conveyances which allow any non-storm water discharge such as sewage, chemicals, 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 County's separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

"Illicit discharge" means any direct or indirect non-storm water discharge to the County's separate storm sewer system, except as expressly exempted under the provision of this Ordinance.

"Impervious Surfaces" shall mean those areas, which prevent or impede the infiltration of storm water into the soil as it entered in natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

"Industrial Activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

"Industrial Storm Water 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 storm water discharges or specifies on-site pollution control strategies.

"Infiltration" means the process of percolating storm water runoff into the subsoil.

"Inspection and Maintenance Agreement" means a written agreement providing for the long-term inspection and maintenance of storm water 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.

"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.

"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 surface.

"Land Development Activities" means those actions or activities that comprise, facilitate or result in land development.

"Land Development Project" means a discrete land development undertaking.

“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by the Georgia EPD 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.

“New Development” means a land development activity on a previously undeveloped site.

“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, storm water runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agriculture, silviculture, mining, construction, subsurface disposal and urban runoff sources.

“Non-storm water Discharge” means any discharge to the storm drain system that is not composed entirely of storm water.

“Nonstructural Storm Water Management Practice” or **“Nonstructural Practice”** means any natural or planted vegetation or other nonstructural component of the management plan that provides for or enhances storm water quality and/or quality control or other storm water management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

“Off-Site Facility” means a storm water management facility located outside the boundaries of a site.

“On-Site Facility” means a storm water management facility located within the boundaries of a site.

“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 2-year through 25-year frequency storm events.

“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.

“Permit” means the permit issued by the County to the applicant, which is required for undertaking any land development activity.

“Person” means, except to the extent exempted from the provisions of this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county or other political subdivision of Georgia, any interstate body or any other legal entity.

“Pollutant” means anything that 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 that 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 other 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, gas, solid, radioactive material, 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.

“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.

“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, such as in the case of preliminary grading, roads and utilities, the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

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

“Project” means a land development project.

“Publicly Owned Treatment Works” or **“POTW”** shall mean a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned, in this case, by the County. This definition includes any sewers that convey wastewater to such treatment works, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. The term shall also mean Barrow County, Georgia, a governmental body, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

“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 storm water runoff or cause additional nonpoint source pollution.

“Regional Storm Water Management Facility” or **“Regional Facility”** means storm water management facilities designed to control storm water 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.

“Responsible Party” means any person (as that word is defined in this Section) that is responsible for a facility, activity, or operation, or that is responsible for emergency response for a facility, activity, or operation, that will or may result in pollutants entering storm water or the County municipal separate storm sewer system, regardless of whether that person is an owner, operator, or holds another position of responsibility.

“Runoff” means storm water runoff.

“Site” means the parcel of land being developed, or the portion thereof on which the land development project is located.

“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.

“Storm Water Better Site Design” means nonstructural site design approaches and techniques that can reduce a site’s impact on the watershed and can provide for nonstructural storm water management. Storm water better site design includes conserving and protecting natural areas and greenspace, reducing impervious surface and using natural features for storm water management.

“Storm Water Management” means the collection, conveyance, storage, treatment and disposal of storm water 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.

“Storm Water Management Facility” means any infrastructure that controls or conveys storm water runoff.

“Storm Water Management Measure” means any storm water management facility or nonstructural storm water practice.

“Storm Water 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 ordinance.

“Storm Water Management System” means the entire set of structural and nonstructural storm water management facilities and practices that are used to capture, convey and control the quantity and quality of the storm water runoff from a site.

“Storm Water Retrofit” means a storm water management practice designed for a currently developed site that previously had either no storm water management practice in place or a practice inadequate to meet the storm water management requirements of the site.

“Storm Water Runoff” or **“Storm Water”** means any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

“Structural Storm Water Control” means a structural storm water management facility or device that controls storm water 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 the storm water.

“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.

“Waters of the State” shall mean any water, surface or underground, within the boundaries of the state.

Section 3. Connection and Discharge into Storm Sewer System

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 County’s separate storm sewer system any pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The following discharges are exempt from the provisions of this section:

- (a) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, irrigation for agricultural purposes, 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, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
- (b) Discharges or flows from fire fighting, or other discharges specified in writing by the County’s Public Works Department as being necessary to protect public health and safety.

- (c) The prohibition provision of this section shall not apply to any non-storm water 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 further provided that written approval has been granted by the County's Public Works Department for any discharge to the County's separate storm sewer system.

3.2 Prohibition of Illegal Connections.

The construction, connection, use, maintenance or continued existence of any illegal connection to the County's separate storm sewer system is prohibited.

- (a) 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.
- (b) A person violates this Ordinance if the person connects a line conveying sewage to the County's separate storm sewer system, or allows such a connection to continue.
- (c) 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 County's Public Works Department.
- (d) 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 County's Public Works Department 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 County's Public Works Department.

3.3 Prohibition of Water Pollution.

A person must not improperly store, handle, throw, deposit, leave, or apply any pollutant in a manner that will cause its exposure to rainfall or runoff and discharge as point pollution or nonpoint source pollution into the County separate storm sewer system except in concentrations and quantities authorized by and approved National Pollutant Discharge Elimination System discharge permit or by a plan for compliance, or as results from approved best management practices.

3.4 Responsibility to Implement Best Management Practices.

Any Responsible Party shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. Any Responsible Party shall provide reasonable protection from accidental discharge of prohibited materials or other wastes and discharge of non-point source pollution into the municipal separate storm sewer system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes, and to limit to the maximum extent practical discharge of non-point source pollutants shall be provided and maintained at the Responsible Party's expense.

3.5 Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES storm water 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 County prior to allowing discharges to the County's municipal separate storm sewer system.

3.6 Access and Inspection of Properties and Facilities.

Authorized representatives of the County shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with the provisions of this Ordinance.

- (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 County.
- (2) The owner or operator shall allow the County ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examining and copying of any records that are required under the conditions of an NPDES permit to discharge storm water.
- (3) The County shall have the right to set up on any property or facility such devices as are necessary in the opinion of the County to conduct monitoring and/or sampling of flow discharges.
- (4) The County may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the County. 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 maintained and calibrated by the owner or operator 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 County and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator. If the owner or operator fails to remove the obstruction within five (5) days of notice to remove it, the owner or operator shall be deemed to have consented to the County taking actions to remove the temporary or permanent obstruction, in which case, the County will assess the costs of such actions against the owner or operator in the same manner as assessments for the costs of abatement are treated in Section 4.4. The owner or operator shall have the same rights of appeal as set forth in Section 4.4 and shall likewise be subject to having a lien placed against the offending property.
- (6) Unreasonable delays in allowing the County access to a facility for the purpose of such inspections is a violation of the provisions of this chapter.
- (7) If the County has been refused access to any part of the premises from which storm water is discharged, and the County is able to demonstrate probable cause to believe that there may be a violation of the provisions 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 the provisions of this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the County may seek issuance of a search warrant from any court of competent jurisdiction.

3.8 Notification of Accidental Discharges and Spills.

Notwithstanding other requirements of law, as soon as any Responsible Party has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which is resulting or may result in illicit discharges into the County's municipal separate storm sewer system, the Responsible Party shall immediately take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

The Responsible Party shall notify the appropriate agency in person or by phone or facsimile within 24 hours of discovery of such release or discharge of the nature, quality and time of occurrence of the discharge. In the event of a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified by the Responsible Party. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County within three business days of the phone, facsimile or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the Responsible Party of such establishment shall also make and 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 from the date of discovery of such release or discharge. The

Responsible Party shall also take immediate steps to ensure that there is no recurrence of the discharge or spill.

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

Section 4. Enforcement; appeal; penalties

4.1 Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this Ordinance may be subject to any or all of 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 County 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 County is authorized to seek costs of the abatement as outlined herein.

4.2 Notice of Violation

Whenever the County determines that a violation of any of the provisions of this Ordinance has occurred, it may order compliance by serving a written notice of violation upon the alleged violator.

(a) Such notice shall contain:

- (1) The name and address of the alleged violator;
- (2) The street 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 statement of the remedial measures necessary to restore compliance with the provisions of this chapter, including a timetable for the completion of such remedial action;
- (5) A statement of the applicable penalty provisions of this article;
- (6) A statement that the County's determination of violation may be appealed to the Board of Commissioners, as hereinafter provided; and
- (7) Such other information relating to the violation as the County may deem appropriate.

(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.

4.3 Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination to the County Board of Commissioners. The notice of appeal must be received by the Director of Public Works within ten (10) days from the date of the Notice of Violation. The decision of the Board of Commissioners shall be final.

4.4 Enforcement of Notice of Violation

In the event that the violation has not been corrected in accordance with the Notice of Violation, or, in the event of an appeal, within thirty days of a decision of the Board of Commissioners affirming the County's determination of violation, the County may take any and all measures necessary or appropriate to remedy the violation and shall notify the property owner of the costs of abatement for which the property owner is responsible. The property owner may file a written protest objecting to the assessment or to the amount of the assessment with the Director of Public Works within ten (10) 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, the charges shall become a special assessment against the property and shall constitute a lien against the property in the amount of the costs of such assessment.

4.5 Penalties

Violations of the provisions of this Ordinance are hereby declared to be unlawful and a public nuisance, and in the event of final determination of such violation, the County may impose any or all of the following penalties in addition to the enforcement discussed above:

- (a) Issuance of a stop work order;

- (b) Suspension, modification or revocation of the applicable land development permit;
- (c) Withholding of a certificate of occupancy for any building or other structure located on the affected property;
- (d) Civil Penalty. In the event 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 (10) days, or such greater period as the County shall deem appropriate, the County may impose a penalty not to exceed \$1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the Notice of Violation;
- (e) Criminal Penalty. The County, acting through its Director of Public Works and/or his/her designee(s) may issue a citation to the alleged violator requiring such person to appear in Magistrate Court to answer charges for such violation. Upon conviction, such person shall be punishable by a fine not to exceed \$1,000.00, or imprisonment not to exceed sixty (60) days, or both. Each act of violation and each day upon which any violation shall occur or continue shall constitute a separate offense.
- (f) Any violator may be required to restore land to its undisturbed condition. If corrective action is not taken in a reasonable period of time, the County may take corrective action, the cost of which shall be borne by the violator. In the event of nonpayment by the violator, the incurred costs by the County shall become a lien upon the property.

4.6 Liability and Supplemental Charges.

Any person in violation of any portion of this Ordinance shall pay for all County costs associated with the violation, including (but not limited to) investigation, containment, cleanup, remediation, sampling and testing, injury, death, legal and other costs.

4.7 Appeals.

The County's determination of any violation of the provisions of this Ordinance and any enforcement measures taken hereunder may be appealed to the Board of Commissioners. The decision of the Board of Commissioners shall be final.

4.8 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 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.

4.9 Remedies Not Exclusive

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

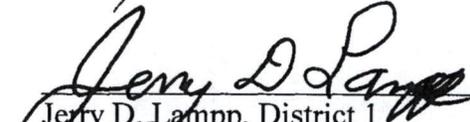
Section 5. Variances.

- (a) The Director of Public Works or his/her designee may grant a variance from the requirements of this Ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the Ordinance will result in unnecessary hardship and will not fulfill the intent of the Ordinance. Specifically, such variances may be granted in such individual cases of unnecessary hardship upon finding by the Director or his/her designee that:
- (1) There are extraordinary and exceptional conditions pertaining to the particular site in question; and
 - (2) The variance is the minimum necessary, considering the impact on upstream and downstream properties; and
 - (3) The application of the Ordinance to this particular site would create an unnecessary hardship; and
 - (4) Such conditions are peculiar to the particular site involved; and
 - (5) Such conditions are not the result of any actions of the site owner; and
 - (6) Relief, if granted would not cause substantial detriment to the public good nor impair the purposes or intent of this chapter; and
 - (7) No variance may be granted for a site for any discharge that is prohibited by this Ordinance or which would result in a deterioration of quality of storm water from a site greater than would otherwise be allowed if no variance were involved.
- (b) A written request for a variance shall be submitted to the Director of Public Works and shall state the specific variance sought and the reasons, with supporting data, that a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.
- (c) The Director or his/her designee will conduct a review of the request for a variance within 30 calendar days of receiving the request and issue a decision. The applicant may appeal a denial of a variance request to the Board of Commissioners by submitting a written Notice of Appeal to the Director of Public Works within ten (10) days of the date of the decision. The decision of the Board of Commissioners shall be final.

**BARROW COUNTY BOARD OF
COMMISSIONERS**



Doug Garrison, Chairman



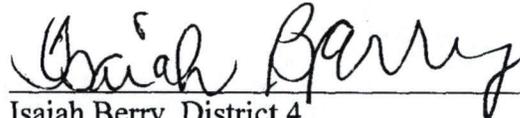
Jerry D. Lampp, District 1



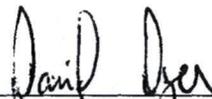
William J. Brown, District 2

ABSENT

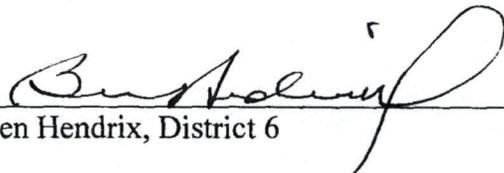
James Roger Wehunt, District 3



Isaiah Berry, District 4



David Dyer, District 5



Ben Hendrix, District 6

(Seal)

Attest:



Michelle Sims, Clerk
Barrow Board of Commissioners