

**AN ORDINANCE TO AMEND CHAPTER 25, WATER, SEWER, & SEWAGE DISPOSAL, OF THE CODE OF THE  
CITY OF BROOKHAVEN**

WHEREAS, Section 1.03(b)(18) of the Charter of the City of Brookhaven grants the City of Brookhaven the power to create, alter, or abolish departments, boards, and commissions and to confer upon such boards the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same; and

WHEREAS, the Mayor and City Council find that it is necessary to alter the City construction board of appeals and the City zoning board of appeals by combining the boards into the City board of appeals.

**BE IT ORDAINED** by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

**SECTION I:**

The identified sections of Chapter 25, Water, Sewer, & Sewage Disposal, are amended to read as shown in the attached mark-up.

**SECTION II:**

**Severability:** Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**SECTION III:**

**Repeal of Conflicting Provisions:** All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

**SECTION IV:**

**Effective Date:** This ordinance shall be effective immediately upon adoption.

**SO ORDAINED**, this 28<sup>TH</sup> day of May 2019.

Approved by:

Approved as to Form and Content

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John Arthur Ernst Jr., Mayor

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Diane LaRoss, Assistant City Attorney

Attest:

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Susan Hiott, City Clerk

SEAL

DIVISION 3. - REGULATED STORMWATER DISCHARGES

Sec. 25-647. - Regulation of quantity of stormwater discharges.

The quantity of stormwater discharges to the city MS4 shall be regulated as set forth in sections 14-29 and 14-77 and other applicable city ordinances and Code provisions.  
(Ord. No. 2014-12-07, § 1(24-522), 12-16-2014)

Sec. 25-648. - Prohibited and illicit discharges.

It is unlawful for any person to discharge or to cause, permit, or suffer to be discharged any pollutants or any water or stormwater containing any pollutants to any component of the city MS4. Such discharge shall be deemed an illicit discharge and constitutes a violation of the provisions of this article.

(Ord. No. 2014-12-07, § 1(24-523), 12-16-2014)

Sec. 25-649. - Prohibited and illegal connections.

- (a) It is unlawful for any person to connect a stormwater conveyance of any type that discharges any matter of any nature that is not composed entirely of stormwater or such unpolluted water as exempted in accordance with the provisions of section 25-650. Such connection shall be deemed an illegal connection and constitute a violation of the provisions of this article.
- (b) Illegal connections must be disconnected and redirected immediately, as necessary and appropriate, to the sanitary sewer system upon approval of the authority having jurisdiction to provide sanitary sewer service within the city. Any such redirection to the sanitary sewer system must be in compliance with the applicable provisions of this Code, state and federal law and regulations.
- (c) The prohibition against illegal connections 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.
- (d) Any drain or conveyance that has not been documented in the city's plans or maps, and which is illegally connected to the city MS4, shall be relocated immediately by the owner or occupant of that property upon receipt of written notice of violation from the director requiring that such relocation be completed.

(Ord. No. 2014-12-07, § 1(24-524), 12-16-2014)

Sec. 25-650. - Exemptions from prohibition on illicit discharges and illegal connections.

- (a) The following categories of discharges and connections are exempt from the prohibitions set forth in sections 25-648 and 25-649 unless the director determines that the following discharge or connection is a significant source of pollution:
  - (1) Water line flushing performed or approved by the director and other unpolluted discharges from potable water sources;
  - (2) Landscape irrigation and lawn watering;
  - (3) Uncontaminated pumped ground water;
  - (4) Diverted stream flows;
  - (5) Rising ground water;
  - (6) Groundwater infiltration to the city MS4;
  - (7) Water from foundation and footing drains(not including active groundwater dewatering systems) crawl space pumps, and air conditioning condensation;
  - (8) Springs;
  - (9) Individual residential car washing where biodegradable soap is used;

- (10) Natural flows from riparian habitats and wetlands;
  - (11) Unpolluted dechlorinated swimming pool discharges;
  - (12) Flows from firefighting; or
  - (13) Other water not containing pollutants.
- (b) In the event that the director determines a discharge or connection to constitute a significant source of pollution, then the director shall notify the discharger that the discharge or connection is prohibited by the terms of this article, and the discharger shall be required to immediately cease the illicit discharge or disconnect the illegal connection.
- (c) The discharger, after notice, shall immediately cease the illicit discharge or disconnect the illegal connection and bring any discharge or connection to the city MS4 into compliance with the applicable provisions of this article.
- (d) This section 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 EPA, provided that the discharger is in full compliance with all the requirements of the permit, waiver, or order and other applicable laws and regulations. The discharger must supply the director with a copy of the NPDES permit or order.
- (Ord. No. 2014-12-07, § 1(24-525), 12-16-2014)

Sec. 25-651. - Stormwater discharges associated with industrial or construction activity.

- (a) Discharges of stormwater associated with industrial activities or construction activities must comply with the permit requirements of the NPDES program for stormwater discharges and the regulations in chapter 14. Specific dischargers of stormwater associated with industrial or construction activity are responsible for submitting a permit application to the state EPD.
- (b) A copy of the permit application shall be submitted to the director.
- (c) Discharges of stormwater associated with industrial or construction activity must comply with all provisions of this article for any discharges which are made to the city MS4.
- (Ord. No. 2014-12-07, § 1(24-526), 12-16-2014)

Sec. 25-652. - Appeal of denial of exemption.

- (a) Any person aggrieved by the determination of the director that a discharge or connection, otherwise exempted under the provisions of section 25-650, is a significant source of pollution may file with the director a notice of appeal of such determination to the ~~construction board of appeals~~board of appeals. The notice of appeal must be in writing and received within 15 days of receipt of the notice of the determination from the director that such discharge or connection constitutes a source of pollution. The notice of appeal must set forth the reasons that the person believes that the determination of the director should be rescinded.
- (b) An appeal shall be sustained only upon the express written finding by the ~~construction board of appeals~~board of appeals that the director's action was based on an erroneous finding of a material fact, or that the director acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the director from whom the appeal was taken and may issue or direct the issuance of an exemption provided all requirements imposed by all applicable laws are met. The board may also remand any appeal for the receipt of additional information.
- (c) The fact that a person has appealed the determination of the director shall not delay or otherwise hinder any notice of violation, citation or other enforcement action or proceeding brought by the director to enforce the provisions of this article after notice of the determination.

- (d) Appeals from the decision of the ~~construction board of appeals~~board of appeals shall be by writ of certiorari to the superior court of the county.  
(Ord. No. 2014-12-07, § 1(24-527), 12-16-2014)

Sec. 25-653. - 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's separate storm sewer system, state waters, or waters of the U.S., the 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.
- (b) Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city public works department within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
- (c) In the event such 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 in this section is a violation of this article.  
(Ord. No. 2014-12-07, § 1(24-528), 12-16-2014)

Secs. 25-654—25-679. - Reserved.