

**PURSUANT TO A STATE MANDATE
AN AMENDMENT OF THE COUNCIL FOR
THE TOWN OF ABINGDON, VIRGINIA HEREBY
EXPANDS CHAPTER 30, ENVIRONMENT, OF THE
CODE OF ORDINANCES BY ADDING TO IT
ARTICLE VI, STORMWATER SYSTEM TO ADDRESS ILLICIT
DISCHARGE AND ILLEGAL CONNECTION, §§126 – 131,
 (§§132 – 140 reserved), §§141 – 143, (§§144 - 150 reserved),
 §§151 – 154 (§§155 – 165 reserved)**

WHEREAS, pursuant to the Virginia Stormwater Management Act (Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870), the effective date of record being July 1, 2013 and expiration date being June 30, 2018, the Council for the Town of Abingdon, Virginia hereby expands the Town’s Code of Ordinances, as set forth above, to incorporate into Article VI sufficient language to meet the mandatory requirements thereof; and

WHEREAS, in compliance with the provisions of the Clean Water Act, as amended and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant thereto, this Commonwealth of Virginia permit authorizes operators of small municipal separate storm sewer systems to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board regulations which prohibit such discharges; and

WHEREAS, this addition, as set forth above, results from a Commonwealth of Virginia mandate to enact prior to an issuance of a MS-4 permit to the municipality pursuant to best management practices as set forth by the Commonwealth of Virginia; and

WHEREAS, upon due consideration, the Council for the Town of Abingdon, Virginia, has found it in the best interest of the public welfare to expand Chapter 30, Environment, Article VI, Stormwater System to address Illicit Discharge and Illegal Connection.

NOW THEREFORE, BE IT ORDAINED, by the Council for the Town of Abingdon, Virginia, after notice and public hearing, as required by law, adopts this Ordinance pursuant to the general permit requirements and the MS4 Program Plan, General Permit No.: VAR04, Commonwealth of Virginia.

1. That this ordinance shall become effective on June 1, 2018.

2. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section Or provision of this ordinance or the Code of the Town of Abingdon, Virginia.

- **ARTICLE VI. - STORMWATER SYSTEM TO ADDRESS ILLICIT DISCHARGE AND ILLEGAL CONNECTION**

- **§ 30-126. - Purpose(s).**

The purposes of this article are to provide to the maximum extent practical for the health, safety and general welfare of the citizens of the Town of Abingdon:

- (1) By reducing pollutants in storm water discharges;
- (2) Through the regulation of non-storm water discharges to the Town's storm sewer system; and
- (3) Complying with the requirements of the Federal Clean Water Act (33 U.S.C. 1251 *et seq.*)

- **§ 30-127. - Definitions.**

As used in this article:

Best management practices (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal storm sewer system. This term also includes treatment requirements, operating procedures, and practices to control site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Department of public works means the agency designated to administer and enforce this article.

Director means the director of the department of public works of the town.

Clean Water Act means the Federal Water Pollution Act (33 U.S.C. 1251 *et seq.*), and any subsequent amendments.

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored transported, disposed of, or otherwise managed.

Illicit discharge means any direct or indirect non-storm water discharge to the town's storm sewer system, except as exempted in sections 30-141 through 30-143.

Illicit connection means any unauthorized or illegal connection to the town's storm sewer system whether or not such connection results in a discharge to the system.

National pollutant discharge elimination system (NPDES) permit means a permit issued pursuant to 33 U.S.C. § 1342, as amended from time to time.

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

Pollutant means sewage, industrial waste, or other waste or materials, whether liquid or solid, which cause or contributes to pollution.

Storm sewer system means any publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm water means any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

Town means Town of Abingdon, Virginia.

Town manager means the town manager of the town or his designee, who is responsible for the implementation of this article.

- **§ 30-128. - Applicability.**

This article, including any amendments or revisions thereto, shall apply to all water entering the storm sewer system generated on any developed and undeveloped lands lying within the town.

- **§ 30-129. - Administration.**

The public work department of the town shall administer, implement, and enforce the provisions of this article.

- **§ 30-130. - 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, excessive vegetation, 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.

- **§ 30-131. - Notification of spills.**

- (a) Notwithstanding other requirement of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into

- storm water or the municipal storm water system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- (b) In the event of a release of hazardous materials, the person shall immediately notify the Virginia Department of Emergency Management, the Virginia Department of Environmental Quality, and the Abingdon Fire Department of the occurrence. In addition, the person shall notify the town manager in person or by telephone or facsimile no later than the next business day.
 - (c) In the event of a release of non-hazardous materials, the person shall notify the Virginia Department of Environmental Quality and the Abingdon Fire Department. In addition, the person shall notify the town manager in person or by telephone or facsimile no later than the next business day.
 - (d) Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the town manager within three business days of the telephone notice.
 - (e) 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 five years.

(§§ 30-132—30-140 – Reserved)

• **DIVISION 2. - ILLICIT DISCHARGES AND CONNECTIONS**

• **§ 30-141. - Prohibition of illicit discharges.**

- (a) No person shall introduce or cause to be introduced into the town storm sewer system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the town storm sewer system is prohibited.
- (b) Notwithstanding the foregoing, uncontaminated discharges from the following sources are permitted: water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities.
- (c) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of 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 storm sewer system.

• **§ 30-142. - Prohibition or abatement of illicit connections.**

- (a) The construction, use, maintenance, or continued existence of illicit connections to the town's storm sewer system is prohibited.

- (b) Illicit connections to the town's storm sewer system made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection, shall be abated.

- **§ 30-143. - Elimination of illicit discharges and connections.**

- (a) Any owner or person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the best management practices necessary to prevent the further discharge of pollutants to the storm sewer system.
- (b) Any person responsible for a property or premises where an illicit connection is located may be required, at the person's expense, to eliminate or secure approval for the connection to the storm sewer system.

(§§ 30-144—30-150 – Reserved)

- **DIVISION 3. - ENFORCEMENT**

- **§ 30-151. - Notice of violation.**

Whenever the department of public works finds that a person has violated a prohibition or failed to meet a requirement of the ordinance, the director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) The violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) The implementation of source control or treatment BMPs.; and
- (6) A deadline within which such remediation or restoration must be completed.

- **§ 30-152. - Abatement of violation.**

- (a) If such violation presents an immediate and imminent threat to life or property, the town may abate or remove such violation and bring an action to recover the necessary costs for provision of public emergency services required to abate the violation against the responsible party.
- (b) The town may, after reasonable notice to the responsible party to abate or remove the violation, and after no action by that responsible part, remove or abate such violation acting through its own agents or by contract with independent contractors and may collect the cost thereof from the owner or occupants of the premises upon which the violation is maintained in any manner provided for the collection of state or local taxes, or by action against the responsible party if the responsible party is other than the owner or occupant of the premises upon which the violation is maintained.

- **§ 30-153. - Inspections by town.**

- (a) The department shall have the right at reasonable times to enter onto private properties for the purposes of investigating a suspected violation of this article. In the event the owner or person in control of any premises refuses entry after a request to enter and inspect has been made by the department, the town is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- (b) The owner or person in control of any premises, facility, operation or residence where an illicit discharge or illicit connection is known or suspected shall allow the department to have access to and copy at reasonable times, any applicable state or federal permits related to the suspected or known discharge or connection, and any reports or records maintained in accordance with this article.
- (c) The failure of an owner or person in control of any premises to allow such inspection by the department shall be cause for the issuance of a cease and desist order, the issuance of a stop work order, withholding of a certificate of occupancy, and civil penalties.

- **§ 30-154. - Penalties and liability.**

- (a) Any person who knowingly violates any provision of this article shall be guilty of a Class 1 misdemeanor. Each day that such violation is committed, and each day that such violation is permitted to remain uncorrected shall constitute a separate offense.
- (b) Any person who otherwise violates any provision of this article shall be subject to a civil penalty between \$250.00 and \$1,000.00 for each day that the violation continues. The court assessing such civil penalty may order the penalty to be paid into the treasury of the town and designated for the purpose of minimizing, preventing, managing or mitigating pollution of the waters of the town.
- (c) Pursuant to sections 30-143 and 30-152, any person who violates any provision of this article shall be responsible for the necessary costs to eliminate and abate the violation.
- (d) Upon the request of the town manager, the town attorney shall initiate appropriate legal action to enforce the provisions of this article.
- (e) The remedies provided for in this article are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.
- (f) Neither the approval of a discharge under this article, nor compliance with the conditions of such approval, shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the town for damage to other persons or property.

(§§155 – 165 reserved)

CERTIFICATE

Pursuant to Section 2-100 of the Code of the Town of Abingdon, I hereby certify that I have reviewed the foregoing proposed ordinance to expand Chapter 30, Environment, Article VI, Stormwater System to address Illicit Discharge and Illegal Connection of the Code of the Town of Abingdon, Virginia to establish open burning and find it to be in correct form this _____ day of _____, 2018.

Deborah C. Icenhour
Town Attorney for the Town of Abingdon, Virginia

This Ordinance was adopted on April 2, 2018 to take effect on June 1, 2018.

Cathy Lowe, Mayor
Town of Abingdon

The undersigned Clerk of the Town of Abingdon, Virginia (the "Town"), hereby certifies that the foregoing constitutes a true and correct copy of an ordinance duly adopted at a meeting of the Council held on the 2nd day of April, 2018. I hereby certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing ordinance, a quorum was present. I further certify that the minutes of meeting was a regularly scheduled meeting and that, during the consideration of the foregoing ordinance, a quorum was present. I further certify that the minutes of such meeting reflect the attendance of the members and the voting on the foregoing ordinance was as follows:

MEMBERS	ATTENDANCE	VOTE
Cathy Lowe, Mayor		
Richard Humphreys, Vice Mayor		
Robert Howard		
Wayne Craig		
Cindy Patterson		

WITNESS MY HAND and seal of the Town of Abingdon, Virginia as of _____, 2018.

(Seal) _____

Kimberly Kingsley, Deputy Clerk
Town of Abingdon, Virginia