ORDINANCE NO. 06-_____

AN ORDINANCE ADOPTED TO AMEND THE DACULA MUNICIPAL CODE FOR THE CITY OF DACULA BY ADDING CHAPTER 15.20, ILLICIT DISCHARGE AND ILLEGAL CONNECTION ORDINACE; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORGINANCES; AND FOR OTHER PURPOSES.

The Mayor and Council of the City of Dacula hereby ordain that the Dacula Municipal Code of the City of Dacula by adding a new Chapter 15.20, Illicit Discharge and Illegal Connection Ordinance, as follows:

SECTION 1.

Chapter 15.20, Illicit Discharge and Illegal Connection Ordinance, attached Exhibit "A" is hereby adopted for the City of Dacula and is incorporated herein as fully as though set out at length.

SECTION 2.

The Ordinance will be effective immediately upon its passage and approval.

SECTION 3.

All Ordinances and parts thereof in conflict herewith are hereby repealed.

AND IT IS SO ORDAINED by the governing authority of the City of Dacula, this 2nd day of February, 2006.

AYES: 4

NAYES: 0

Jimmy Welborn
MAYOR

ATTEST:

CITY CLERK

# Chapter 15.20

# ILLICIT DISCHARGE AND ILLEGAL CONNECTION ORDINANCE

## Description:

An illicit discharge is defined as any discharge to a municipal or county separate storm sewer system (stormwater drainage system) that is not composed entirely of stormwater runoff (except for discharges allowed under an NPDES permit or non-polluting flows). These non-stormwater discharges occur due to illegal dumping or illegal connections to the stormwater drainage system. This ordinance provides the City of Dacula with the authority to deal with illicit discharges and establishes enforcement actions for those persons or entities found to be in noncompliance or that refuse to allow access to their facilities.

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(1) Regulate the contribution of pollutants to the city separate storm sewer system by any person;

(2) Prohibit illicit discharges and illegal connections to the city separate storm sewer system;

(3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the city separate storm sewer system; and,

(4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance

### 1.2. Applicability

The provisions of this ordinance shall apply throughout the city limits area of the City Of Dacula.

### 1.3. Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, other provision of law. 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.

### 1.4. 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.

### 1.5. Responsibility for Administration

The City Administrator of designee shall administer, implement, and enforce the provisions of this ordinance.

## Section 15.20.020. Definitions

**"Accidental Discharge"** means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.
**"City officials"** means the City Administrator or designee.
**"Clean Water Act"** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
**"Construction Activity"** means activities subject to the Georgia Erosion and Sedimentation Control Act 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.

**"Illicit Discharge"** means any direct or indirect non-stormwater discharge to the city separate storm sewer system, except as exempted in Section 15.20.030 of this ordinance.

**"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 separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

**"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.

**"City 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;

b) Not a combined sewer; and

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

**"Non-Stormwater Discharge"** means any discharge to the storm drain system that is not composed entirely of stormwater.

**"Person"** means, except to the extent exempted from this ordinance, 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.

**"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.

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

## Section 15.20.030. Prohibitions

### 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 city separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.

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, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

(2) Discharges or flows from fire fighting, and other discharges specified in writing by the City Of Dacula/Gwinnett County as being necessary to protect public health and safety;

(3) 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 separate storm sewer system.

### 3.2 Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the city 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 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 Gwinnett County Department of Public Utilities.

(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 Dacula 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 Dacula.

## Section 15.20.040. 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 Dacula prior to allowing discharges to the city separate storm sewer system.

## Section 15.20.050. Access and Inspection of Properties and Facilities

City officials shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with 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 City Of Dacula.

(2) The owner or operator shall allow city officials 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) City officials shall have the right to set up on any property or facility such devices as are necessary in the opinion of the city to conduct monitoring and/or sampling of flow discharges.

(4) The city officials may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the City. 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 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 City of Dacula and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(6) Unreasonable delays in allowing city officials access to a facility is a violation of this ordinance.

(7) If city officials has been refused access to any part of the premises from which stormwater is discharged, and city officials are able to demonstrate probable cause to believe that there may be a violation of this ordinance, 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 City officals may seek issuance of a search warrant from any court of competent jurisdiction.

## Section 15.20.060. Notification of Accidental Discharges and Spills

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 separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge. .

Said person shall notify the 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 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.

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

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

## Section 15.20.070. Violations, Enforcement and Penalties

### 7.1. 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 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, city officials are 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 Dacula is authorized to seek costs of the abatement as outlined in Section 7.5.

### 7.2. Notice of Violation

Whenever the city finds that a violation of this ordinance has occurred, city officials may order compliance by written notice of violation.

A. The notice of violation shall contain:

(1) The name and address of the alleged violator;

(2) The 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 description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,

(6) A statement that the determination of violation may be appealed to the City of Dacula by filing a written notice of appeal within thirty (30) days of service of notice of violation.

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.

### 7.3. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the City Of Dacula. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the Mayor and City Council shall take place at the next regular scheduled City Council meeting from the date of receipt of the notice of appeal. The decision of the City Council shall be final.

**7.4. Enforcement Measures After Appeal**
If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 14 days of the decision of the appropriate authority upholding the decision of the Mayor and City Council, then representatives of the city 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 government agency or designated contractor to enter upon the premises for the purposes set forth above.

**7.5 Costs of Abatement of the Violation**
Within 21 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 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 on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City Of Dacula by reason of such violation.

**7.6 Civil Penalties -** 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 days, or such greater period as the City Of Dacula shall deem appropriate, after the City of Dacula has taken one or more of the actions described above, the City may impose a penalty not to exceed $1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

**7.7 Criminal Penalties -** For intentional and flagrant violations of this ordinance, the city may issue a citation to the alleged violator requiring such person to appear in City of Dacula court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**7.8 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.

### 7.9 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 Dacula may seek cumulative remedies.

The city may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.