

Sec. 26-203. NPDES Municipal Separate Storm Sewer System (MS4) Program. (Ord. 006-10HR; 1-19-10)

(a) *Purpose and applicability.* (Ord. 006-10HR; 1-19-10)

(1) *Purpose.* The primary intent of this section is to minimize the introduction of pollutants into stormwater runoff and subsequently into surface waters of the state. This will be accomplished through the implementation of programs developed to address specific activities that contribute to the contamination of stormwater. Richland County is required by its NPDES permit to regulate all discharges within the political boundary of the county; therefore, the county will take any measures necessary to comply with its permit and protect water quality within the jurisdictional areas defined with the NPDES permit. Discharge of pollutants shall be reduced to the Maximum Extent Practicable (MEP), shall not cause, nor contribute to, violations of South Carolina water quality standards, and shall be in compliance with TMDLs where applicable. (Ord. 006-10HR; 1-19-10)

(2) *General. Applicability.* The DHEC re-issued NPDES permit is hereby adopted in its entirety. This adoption includes individual programs developed as part of the implementation of the NPDES permit. The current NPDES permit became effective on September 11, 2006 and expires on September 10, 2011. The duration of the adoption of the NPDES permit will be for a term of five (5) years, and will be automatically renewed for a like term unless this provision is amended by County Council with an intent to terminate. Richland County personnel, the Director of Public Works, and Stormwater Management personnel, or their designees, may enforce any of the regulations in regards to DHEC delegated Richland County's NPDES storm water discharge permit programs or language. (Ord. 006-10HR; 1-19-10)

(b) *Components of NPDES MS4 Program.* (Ord. 006-10HR; 1-19-10)

(1) *Pesticide, Herbicide and Fertilizer (PHF) program.* The intent of the PHF program is to aid Richland County in reducing the discharge of pollutants related to the storage and application of PHFs applied by county employees or residents or contractors to public rights-of-way, parks, and other property. (Ord. 006-10HR; 1-19-10)

a. All commercial and non-commercial application of pesticides is regulated in the state of South Carolina by the Department of Pesticide Regulation (DPR). The DPR requires mandatory licensing for applicators involved in pest control activities in structural, landscape and turf, aquatic, and public health areas.

- b. Only Richland County staff members who are properly licensed by the DPR, or who are directly supervised by a licensed applicator, will be permitted to apply pesticides and herbicides.
- c. *Commercial Applicators.*
 - 1. Richland County will only contract for pesticide and herbicide application with commercial applicators that are licensed through the DPR.
 - 2. All commercial applicators who are contracted by the county will maintain current licensing through the DPR throughout the entire contract with the county.
 - 3. Commercial applicators contracted by the county to apply pesticides and herbicides must provide written notification to the appropriate county divisional manager, the Public Works Director, or the Vector Control Director (or their designee) prior to commencement of any work involving PHF application.
- d. Inspections may be conducted within the county by the Stormwater Manager or designee to ensure compliance with the PHF Program. The county may require monitoring if deemed necessary to protect water quality within the county.

(2) *Illicit Connections, Illegal Discharges, Illegal Dumping, Improper Disposal, Organic Waste and Spills.* The intent of this section is to aid Richland County in reducing and eliminating the discharge of pollutants to the county's MS4 related to illicit/illegal discharges, illegal dumping, destruction of stormwater facilities, improper disposal, organic waste and spills. This section will also fulfill one of the minimum control measures of the Phase II Rule: IDDE. The county shall have the authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions, including the prohibition on illicit discharges to the county's municipal separate storm sewer, as well as the stormwater systems within the jurisdictional areas of its NPDES co-permittees. (Ord. 006-10HR; 1-19-10)

- a. *Illicit Connections.*
 - 1. It shall be unlawful to connect or allow connection to any sanitary sewer. This includes existing connections.
 - 2. It shall be unlawful to cause or allow an illicit discharge to the stormwater system, or any component thereof, or onto

driveways, sidewalks, parking lots, sinkholes, creek banks, or other areas draining to the stormwater system.

3. Building permits shall be required before the construction of any connection to the county's publicly owned stormwater management system.
- b. *Improper Disposal.* It shall be unlawful to use any stream or watercourse to carry off water from any kitchen sink, bathtub, or privy, or to carry off any fluid of an offensive or dangerous nature. No water or refuse from any industrial, commercial, or institutional process, including water used for heating or cooling, shall be discharged in any stream or watercourse by any person until such person has obtained the appropriate local, state, and/or federal permits. Richland County shall be allowed on-site if there is a suspected illegal discharge for inspection and monitoring as deemed appropriate for the protection of water quality.
 - c. *Illegal Dumping.* It shall be unlawful to dispose of any trash or wastes in an unpermitted area or by disposing of such trash or waste into any storm drain or stormwater conveyance. Richland County shall be allowed on-site if there is suspected illegal dumping for inspection and monitoring as deemed appropriate. In addition, all provisions and authority contained within Chapter 12 (Garbage, Trash and Refuse) and Chapter 13 (Hazardous Materials) of this Code of Ordinances that are applicable to the protection of water quality shall be incorporated by reference to this section.
 - d. *Destruction of Stormwater Facilities.* It shall be unlawful, either willfully or negligently, to injure, deface, mutilate, destroy, tamper or interfere with any county-owned property or any property used in the county's publicly owned stormwater management system.
 - e. *Illegal Discharges.* It shall be unlawful for any person to discharge non-stormwater to any stormwater conveyance. The following non-storm water discharges to the MS4, wherever they are not a source of pollutants, are permitted:
 1. Water line flushing.
 2. Diverted stream flows.
 3. Rising ground water.

4. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005 [20]) to separate storm sewers.
 5. Uncontaminated pumped ground water discharges from potable water sources.
 6. Foundation drains.
 7. Air conditioning condensation.
 8. Irrigation water.
 9. Springs.
 10. Water from crawl space pumps.
 11. Footing drains.
 12. Lawn watering.
 13. Car washing at one's residence, not for hire.
 14. Flows from riparian habitats and wetlands.
 15. Dechlorinated swimming pool discharges.
 16. Road wash water.
 17. Discharges from fire fighting.
 18. Dye testing is an allowable discharge provided that the Director of Public Works or Stormwater Management personnel, or designee, is verbally notified prior to the time of testing.
- f. *Oils, Toxics and Household Hazardous Wastes.* It shall be unlawful to discharge or dispose of used motor vehicle fluids and household hazardous wastes into the MS4.
- g. *Organic Waste.*
1. *Yard waste.* It shall be the duty of the property owner to keep grass clippings, leaves, tree and shrub clippings, stumps, organic materials, or any other yard trash out of gutters, inlets, catch basins, and side ditches. It shall be unlawful to place grass clippings, leaves, tree and shrub

clippings, stumps, organic materials, or any other yard trash in any road, storm drain, stream, storm water conveyance, or any other location where concentrated flows could wash such wastes into the storm sewer system. All yard waste shall be bagged and set out for collection weekly.

2. *Human and animal waste.* Privies, pigpens, and stables of all kinds shall be placed far enough away from any stream, ditch, drain, or other stormwater conveyance that human and/or animal waste(s) will not run into them. The Stormwater Manager (or his/her designee) shall have the authority to determine whether a privy, pigpen or stable is deemed “far enough away” from stormwater conveyances in order that the human or animal waste(s) will not adversely impact the receiving conveyance.

h. *Spill Response.*

1. *General.* The Richland County Director of Emergency Services, or an authorized fire official, shall have the authority to summarily abate, control and contain hazardous materials that are emitted into the environment and endanger the health or safety of the general public or the environment. The director of emergency services or an authorized fire official shall have the authority to enter public or private property with or without the owner's consent, to respond to such hazardous materials emergencies. The director of emergency services or authorized fire official shall determine the type, amount, and quantity of equipment and personnel required to adequately abate, control, and contain all hazardous materials emitted into the environment.
2. *Liability for hazardous spill.* The property owner and/or person responsible for the hazardous materials spill or release shall be held financially liable for the response, control, containment, equipment and materials costs, including legal fees, incurred by the county and supporting agencies. The property owner and/or person responsible for the hazardous material spill may provide personnel to assist abatement, removal and remedial measures, provided such personnel have been adequately equipped and trained pursuant to the requirements of local, state and federal laws. The county shall not be liable for the use of outside personnel. Assistance shall consist of any or all of the following:

- [a] Informing Richland County Emergency Services Department personnel of all matters pertaining to the incident.
- [b] Supplying emergency response plan information for the site.
- [c] Supplying emergency response equipment, personnel and materials.
- [d] Charges for hazardous materials emergency response shall be based upon the actual costs of response, control, containment, equipment and materials, including legal fees. All fees collected shall be turned in to the county treasurer and credited to the county's general fund.

3. Fire incidents. In fire incidents involving hazardous materials or exposure to hazardous materials, no fee will be assessed for resources normally associated with fire fighting operations. Fees shall be assessed for those activities and resources associated with abatement, control and containment of the hazardous materials involvement or exposure.

i. *SSSO and Inflow/Infiltration (I/I).*

1. Every person, firm, corporation or other entity using the sanitary sewer system of the county, or pipelines connected to said system, shall maintain all sewer lines connected to the county's sewer system, or privately owned sewer collection systems which are connected to the county's system, in good condition so that the sewer will not:

- [a] Permit any leakage of stormwater or other surface water or groundwater into the sewer service lines or sewer collection lines system either by visual observation or low pressure leakage test.
- [b] Receive rainwater flow from roof downspout connections, yard drains, uncovered building area drains, sump pumps or other sources of rainwater flow and any other source of inflow/infiltration.

2. The county shall notify all persons, firms, corporations, or other entities where sewer service lines or sewer collection systems are found to have excessive inflow or infiltration that their service line or sewer collection system must be repaired so as to eliminate such violation. Such repairs must be completed within sixty days of notification by the county, or within such other time schedule as prescribed by the county.
 3. All private and public sanitary sewer systems that are operated within Richland County shall report any incidences of an SSO occurring in Richland County, or has the potential to impact surface waters with untreated wastewater within Richland County, to the Stormwater Management Division of the Public Works Department. This reporting requirement shall be in addition to any other state or local SSO reporting requirement and within the same required reporting timeframe.
 4. The Director of Public Works and Stormwater Management personnel, or their designees, bearing proper credentials and identification, may enter and inspect all sanitary sewer systems and appurtenances if there is evidence of sanitary sewer overflows which have impacted or have the ability to impact water quality with the county's jurisdictional areas. County personnel shall duly notify the owner of the system or the certified operator on site, and the inspection shall be conducted at a reasonable time.
- (3) *Industrial and High Risk Runoff Program.* The intent of the Richland County Industrial and High Risk Runoff Program is to aid Richland County in reducing the amount of stormwater runoff and improving the quality of runoff from industrial and high risk facilities. The county may review industrial stormwater pollution prevention plan(s), as well as Spill Prevention Control and Countermeasure (SPCC) plan(s), as required under the NPDES storm water discharge permit, while outfall monitoring indicates a suspected violation, or proactively in its routine water quality checks, as per below guidelines: (Ord. 006-10HR; 1-19-10)
- a. The Director of the Public Works Department and/or Stormwater Management personnel, or designee, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation, measurement, enforcement, sampling and testing. The personnel shall duly notify the owner of said property or the representative on site, and the inspection shall be conducted at a reasonable time.

- b. Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The inspector shall immediately report the refusal and the grounds to the director. The director shall promptly seek issuance of an administrative search warrant.
- c. In the event that the director or the designee reasonably believes that discharges from the property into the Richland County MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.
- d. Inspection reports shall be maintained in a permanent file located in the Storm Water Management Division of the Public Works Department.
- e. At any time during an inspection or at such other times as the director or his/her designee may request information from an owner or representative, the owner or representative may identify areas of its facility or establishment, material or processes which contains or which might reveal a trade secret. If the director or his/her designee has no clear and convincing reason to question such identification, all material, processes and all information obtained within such areas shall be conspicuously labeled "CONFIDENTIAL TRADE SECRET." The trade secret designation shall be freely granted to any material claimed to be such by the owner or representative unless there is clear and convincing evidence for denying such designation. In the event the director does not agree with the trade secret designation, the material shall be temporarily designated a trade secret, and the owner or representative may request an appeal of the director's decision in the manner in which all such appeals are handled in this article.
- f. All trade secret material which are prepared or obtained by or for the director shall be marked as such and filed in a secure place separate from regular, non-secret files, and documents. Reports from samples prepared or obtained by or for the director or submitted for laboratory analysis shall be marked as such and treated in the same manner as other trade secret material. Trade secret material shall not be divulged by the director to anyone other than:

1. Other employees of the county or employees of the state or federal governments engaged in an inspection or enforcement proceeding involving the designated material; and
 2. To administrative or judicial courts upon order to so divulge the material to the court.
- g. *Monitoring.* The Director of the Public Works Department and/or Stormwater Management personal, or their designee, may require the person responsible for any private property or premises, including, but not limited to, any private property or premises which is or may be the source of a stormwater discharge associated with industrial activity, or the source of a discharge from a site of industrial activity, or the source of a discharge from a high-risk facility, or the source of an illicit discharge, at that person's expense, to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such discharge in accordance with such methods, at such locations, and intervals as the director shall prescribe, and provide periodic reports relating to the discharge. To the extent practicable, the director/stormwater personal or designee shall recognize and approve the sampling procedures and test methods established by 40 CFR 136.
- h. *Best management practices.* Industrial facilities and high risk facilities may be required to implement, at their own expense, structural and/or nonstructural BMPs, as appropriate, to prevent the discharge of pollutants to the Richland County MS4. To the extent practicable, the director shall recognize that storage and handling of significant materials, material handling equipment or activities, intermediate products or industrial machinery in such a manner that they are not exposed to stormwater is an effective BMP. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.
- i. *Providing false information and tampering prohibited.*
1. It shall be unlawful for any person to provide false information to the director or anyone working under the director's supervision when such person knows or has reason to know that the information provided is false, whether such information is required by this article or any

inspection, recordkeeping or monitoring requirement carried out or imposed under this article.

2. It shall be unlawful for any person to falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this article.
- (4) *Construction Site Runoff Control Program.* The intent of the Construction Site Runoff Control Program is to aid Richland County in reducing and controlling the discharge of pollutants from construction sites. Construction sites have potential to introduce large volumes of soil and sediment to stormwater runoff, as well as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste. The individual requirements that make up the Construction Site Runoff Control Program are contained in Sections 26-64 and 26-202 of this Chapter. (Ord. 006-10HR; 1-19-10)
 - (5) *Post-Construction Maintenance Program.* The intent of the Post-Construction Maintenance Program is to aid Richland County in reducing the discharge of pollutants from permanent water quality BMPs that are left in place after construction is complete. If not operated and maintained properly, permanent water quality BMPs can become sources of pollutants; the goal of this program is to prevent this from occurring by requiring BMP maintenance to ensure these BMPs are operating as designed. (Ord. 006-10HR; 1-19-10)
 - a. The individual requirements that make up the Post-Construction Maintenance Program are contained in Sections 26-64 and 26-202.
 - b. Regular maintenance of permanent structural BMPs (i.e., ditches, ponds, etc.) will be the responsibility of Richland County if the county has an easement allowing it to access the BMP, and if the county has accepted maintenance responsibilities for the BMP. If the BMP is privately owned, all maintenance will be the responsibility of the owner.
 - (6) *Accidental Discharges or Damages.* In the event of any accidental discharge or damage to the municipal separate stormwater systems of Richland County or its co-permittees, immediate notification (not to exceed 24 hours) shall be given to the Director of the Public Works Department and/or Stormwater Management personnel, or their designee, regarding the nature, quantity (if applicable) and time of the occurrence. In addition to this notification, the responsible entity shall take immediate measures to contain and/or eliminate the discharge and minimize its effects on the receiving waters. The responsible entity shall also take steps to eliminate the recurrence of such events. The Director of Public Works

and Stormwater Management personnel, or their designee, shall have the authority to inspect, monitor and approve any remedial actions taken by the responsible entity. Failure to notify Richland County as outlined above shall result in the action being deemed an illegal or illicit activity as described in this Section and appropriate enforcement action shall be taken as set out in Section 26-203(d), below, and the “Enforcement Response Guide”. (Ord. 006-10HR; 1-19-10)

(7) *Water Quality Controls for Impaired Water Bodies and Consistency with TMDLs.* The county may take action to provide reasonable assurance that discharges will not cause or contribute to violations of water quality standards in Impaired Water Bodies identified on the South Carolina 303(d) list. If a TMDL has been established for a water body, the county may also require additional conditions necessary to ensure consistency with the TMDL. (Ord. 006-10HR; 1-19-10)

(c) *MS4 Authority.* (Ord. 006-10HR; 1-19-10)

(1) The Director of the Public Works Department and/or Stormwater Management personnel, or designee, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation, measurement, enforcement, sampling and testing, and any other NPDES related tasks. The personnel shall duly notify the owner of said property or the representative on site, and the inspection shall be conducted at reasonable times. (Ord. 006-10HR; 1-19-10)

(2) In the event that the Richland County or the designee reasonably believes that discharges from the property into the Richland County MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative. In addition, the inspector may take such action as to abate or eliminate the discharge and begin remedial steps necessary to protect human health and/or the environment. (Ord. 006-10HR; 1-19-10)

(d) *Violations.* Upon determination that a violation of any of the provisions of this article or the NPDES permit has occurred, Richland County personnel will respond according to the procedures in the current “Enforcement Response Guide”, which includes timely personal notice at the property where the violation has occurred and written notice to the violator. This notice shall specify: the nature of the violation, the proposed penalty, and the time line (depending on the violation and is left to the discretion of the inspector) to correct deficiencies, if appropriate. There shall be sufficient notification to deliver the notice to the person to whom it is addressed, or to deposit a copy of such in the United States

Mail, properly stamped, certified and addressed to the address used for tax purposes. (Ord. 006-10HR; 1-19-10)

- (1) *Civil Penalties.* Any person violating any provision of this article shall be subject to a civil penalty of not more than five hundred dollars (\$500) for each violation. Each separate day of a violation, constitutes a new and separate violation. (Ord. 006-10HR; 1-19-10)
 - (2) *Criminal Penalties.* In addition to any applicable civil penalties, any person who negligently, willfully or intentionally violates any provision of this article shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of magistrate's court. Each day of a violation shall constitute a new and separate offense. (Ord. 006-10HR; 1-19-10)
 - (3) *Emergency Actions.* Richland County reserves the right to seek reimbursement of costs required to abate, eliminate and/or remediate discharges that have been deemed an imminent threat to human health and/or the environment. Such reimbursement shall be in addition to other appropriate enforcement actions including, but not limited to, civil or criminal penalties. (Ord. 006-10HR; 1-19-10)
- (e) *Supplemental regulations.* All applicable provisions of the standards for Stormwater Management and Sediment Reduction (Section 72-301, 302, 305, 307, 308, 312, 313, 314, 315 and 316) administered by the South Carolina Department of Health and Environmental Control pursuant to the South Carolina Stormwater Management and Sediment Reduction Act of 1991 are incorporated herein by reference. All applicable provisions of the NPDES and Land Application Permits Regulation (Section 61-9.122 Part A 122.2, 122.3, 122.4 and Part B 122.26) administered by the South Carolina Department of Health and Environmental Control pursuant to the South Carolina Pollution Control Act of 1976 are incorporated herein by reference. (Ord. 006-10HR; 1-19-10)

Secs. 26-204 – 26-209. Reserved. (Ord. 038-09HR; 7-21-09)