

# Chapter 370. Stormwater Management

## § 370-1. Purpose; objectives.

The purpose of this chapter is to provide for the health, safety and general welfare of the citizens of Woodbridge through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4 or "storm drainage system") to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- A. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- B. To prohibit and eliminate illicit connections and discharges to the MS4.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.
- D. To set forth the consequences for violation of this chapter, including without limitation the imposition of fines.

## § 370-2. Definitions.

For the purposes of this chapter, the following shall mean:

### **AUTHORIZED ENFORCEMENT DEPARTMENT**

The Public Works Department is the municipal department designated to enforce this chapter; the Public Works Director and employees or designees designated by him or her are charged with overseeing compliance and enforcement.

### **BEST MANAGEMENT PRACTICES (BMPs)**

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems, such as MS4s. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

### **CLEAN WATER ACT**

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any amendments thereto.

### **CONSTRUCTION ACTIVITY**

Any activity associated with construction at a site including, but not limited to, clearing and grubbing, grading, excavating, and dewatering.

### **HAZARDOUS MATERIALS**

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.

### **ILLEGAL DISCHARGE**

Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 370-3 of this chapter.

## **ILLCIT CONNECTIONS**

Either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to any conveyances which allow any nonstormwater discharge, including sewage, process wastewater, and wash water to enter the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

## **INDUSTRIAL ACTIVITY**

Activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

## **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT**

A permit issued by EPA [or by a state under authority delegated pursuant to 33 U.S.C. § 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.

## **NONSTORMWATER DISCHARGE**

Any discharge to a MS4 that is not composed entirely of stormwater.

## **PERSON**

Any individual, fiduciary, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

## **POLLUTANT**

Anything that causes or contributes to pollution. Pollutants may include but are not limited to paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution, floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

## **PREMISES**

Any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

## **STORM DRAINAGE SYSTEM or MS4**

Publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, 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.

## **STORMWATER**

Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

## **STORMWATER POLLUTION PREVENTION PLAN**

A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, storm drainage systems, and/or receiving waters to the maximum extent practicable.

## **WASTEWATER**

Any water or other liquid, other than uncontaminated stormwater, discharged from a facility or premises.

### **§ 370-3. Applicability.**

This chapter shall apply to all water entering the storm drainage system generated on any premises unless explicitly exempted by the authorized enforcement department.

### **§ 370-4. Responsibility for administration.**

The Public Works Department, through the Public Works Director, shall administer, implement, and enforce the provisions of this chapter and is designated the authorized enforcement department. Any powers granted or duties imposed upon the authorized enforcement department may be delegated, in writing, by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the authorized enforcement department.

### **§ 370-5. Severability.**

The provisions in this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

### **§ 370-6. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this chapter are minimum standards. This chapter is not intended to nor shall it imply that compliance by any person will ensure that there will be no contamination, pollution or unauthorized discharge of pollutants.

### **§ 370-7. Discharge and connection prohibitions; exceptions.**

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the storm drainage system or watercourses any materials, including but not limited to pollutants, waters containing any pollutants, wastewater or nonstormwater discharges, that cause or contribute to a violation of applicable federal or state water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, natural riparian habitat or wetland flows, residential swimming pools (provided water is dechlorinated, i.e., less than 1 PPM chlorine), fire-fighting activities.

- (2) Discharges specified, in writing, by the authorized enforcement department as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires written notification to the authorized enforcement department prior to the time of the test.
- (4) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States 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 drainage system in accordance therewith.

B. Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.
  - (2) The construction, use, maintenance or continued existence of connections for conveyance of stormwater to the sanitary sewer system owned by the Greater New Haven Water Pollution Control Authority is prohibited; further the discharge of any other substance to the sanitary sewer system owned by the Greater New Haven Water Pollution Control Authority (GNHWPCA) is subject to compliance with ordinances adopted by the GNHWPCA and to obtaining and compliance with all required permits from the GNHWPCA.<sup>[1]</sup>
- [1] *Editor's Note: See Ch. A600, Resolutions, Art. III, Water Pollution Control Authority.*
- (3) These prohibitions expressly include, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
  - (4) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4 or storm drainage system, or allows such a connection to continue.

## § 370-8. Suspension of MS4 access.

A. Suspension due to illicit discharges in emergency situations. The authorized enforcement department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of the public, or to the storm drainage system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement department may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or waters of the United States, or to minimize danger to the public.

B. Suspension due to the detection of illicit discharge.

- (1) Any person discharging to the storm drainage system in violation of this chapter may have MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement department shall notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement department for a reconsideration and hearing.
- (2) A person violates this chapter if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the authorized enforcement department.

## § 370-9. 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 authorized enforcement department prior to the allowing of discharges to the MS4.

## § 370-10. Monitoring of discharges; access to premises.

A. Applicability. This section applies to all premises that have stormwater discharges associated with industrial activity, including construction activity.

B. Access to premises.

- (1) The authorized enforcement department shall be permitted to enter and inspect premises and all facilities and improvements located thereon subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry onto the premises or into any facility or improvement located thereon, the discharger shall make the necessary arrangements to allow access to the authorized enforcement department.
- (2) The person owning or leasing the premises and/or the operator of any facility or improvement located thereon and/or the agent of such owner or operator shall allow the authorized enforcement department ready access to all parts of the premises for purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES stormwater discharge permit, and the performance of any additional duties as defined or required by state and federal law.
- (3) The authorized enforcement department shall have the right to set up on any part of such premises, including any part of any facility or improvement located thereon, such devices as are necessary in the opinion of the authorized enforcement department to conduct monitoring and/or sampling of the stormwater discharge from the premises or any facility or improvement located thereon.
- (4) The authorized enforcement department has the right to require the discharger to install monitoring equipment as necessary. Such sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the premises or any improvement or facility located thereon to be inspected and/or sampled shall be promptly removed at the written or oral request of the authorized enforcement department and shall not be replaced. The costs of clearing such access shall be borne by the person who owns the premises and/or the operator of any facility or improvement located thereon.
- (6) Unreasonable delays in allowing the authorized enforcement department access to premises described in this section is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with a NPDES stormwater discharge permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement department reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
- (7) If the authorized enforcement department has been refused access to any part of the premises from which stormwater is discharged, and such department is able to demonstrate probable cause to believe that there may be a violation 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 this chapter or any order

issued hereunder, or to protect the overall public health, safety and welfare of the community, then the authorized enforcement department may seek issuance of a search warrant and/or restraining order or like remedy from any court of competent jurisdiction.

## § 370-11. Prevention, control and reduction of stormwater pollutants by use of best management practices.

The Town, through its authorized enforcement department, will adopt requirements identifying best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises or any person who is the owner of such premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal storm drainage system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

## § 370-12. Watercourse protection.

Every person owning premises through which a watercourse passes, or such person's lessee, and/or any occupant of such premises, shall keep and maintain that part of the watercourse within such premises 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, lessee or occupant of such premises 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.

## § 370-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person owning, leasing or using premises or 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 hazardous materials which are resulting or may result in illegal discharges or pollutants discharging into stormwaters, the storm drainage system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement department, in person or by phone or by facsimile, no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement 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.

## § 370-14. Enforcement.

A. Whenever the authorized enforcement department finds that a person has violated a prohibition or failed to meet a requirement of this chapter, such department may order compliance by written notice of violation to the responsible person. Such notice may require any one or more of the following without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution, hazardous materials or contamination hazards and the restoration of any affected property;
- (5) The payment of a fine to cover administrative and remediation costs;
- (6) Suspension of any discharge to the MS4 system consistent with section 8 of this ordinance; and
- (7) The implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Where elimination is not possible within 60 days of source confirmation, a schedule for its elimination will be set for no more than 180 days. Said notice of violation shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency/department or a contractor and the expense thereof shall be charged to the violator. Any such notice of violation shall be sent to the person by regular, first-class mail and by certified mail, return receipt requested, mailed to the premises address or the last known address of the person as shown on Town Tax Assessor records.

## § 370-15. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination through filing a timely notice of appeal. The notice of appeal must be received by the authorized enforcement department within 15 days from the date of the notice of violation. Hearing on the appeal shall take place not less than 15 nor more than 30 calendar days from the date of receipt of the notice of appeal. The hearing shall be conducted by the Town of Woodbridge in accordance with § 15-4F of Chapter 15. The decision of the municipal authority or its designee shall be final, except that the person shall have a right of further appeal as outlined under Chapter 15, Citation Hearing Procedure.

## § 370-16. 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 15 calendar days of the decision of the municipal authority upholding the decision of the authorized enforcement department, with no appeal having been taken to the Superior Court pursuant to Chapter 15, Citation Hearing Procedure, of this Code, then representatives of the authorized enforcement department shall enter upon the premises and are authorized to take any and all measures necessary to abate the violation and/or restore the premises. It shall be unlawful for any person, agent, or person in possession of the premises to refuse to allow the authorized enforcement department or designated agent or contractor to enter upon the premises for the purposes set forth above.

## § 370-17. Cost of abatement of violation.

Any person violating any of the provisions of this chapter shall become liable to the Town by reason of such violation. Within 30 days after abatement of the violation, the owner of the premises shall be notified, in writing, of the cost of abatement, including administrative costs. Any such notice of abatement costs shall be sent to the owner of the premises by regular, first-class mail and by certified mail, return receipt requested, mailed to the premises address or the last known address of the owner of the premises as shown on Town Tax Assessor records.

- A. The owner of the premises may file a written appeal objecting to the amount of the assessment within 15 calendar days of the date of the notice of abatement costs. Hearing on a timely filed appeal shall take place not less than 15 nor more than 30 calendar days from the date of receipt of the notice of appeal by the Town of Woodbridge. The hearing shall be conducted by the Town of Woodbridge in accordance with § 15-4F of Chapter 15, Citation Hearing Procedure, of this Code. The decision of the municipal authority or its designee shall be final, except that the person shall have a right of further appeal as outlined under Chapter 15, Citation Hearing Procedure.
- B. If the amount due is not paid within 30 days of the date of notice of abatement costs and no appeal of same has been timely filed, or, if timely appealed, within 30 days of the date the designated municipal hearing authority upholds the imposition of abatement with no appeal thereof to the Superior Court having been filed by the owner, lessee or occupant of the premises, the abatement costs shall become a special assessment against the property and shall constitute a lien on the premises for the amount of the assessment. In the alternative, the Town of Woodbridge shall be entitled to claim a mechanic's lien against the owner, lessee and/or occupant of the premises, which lien shall be filed in the office of the Town Clerk and shall encumber the premises. The Town of Woodbridge shall have all the rights and remedies granted to contractors pursuant to the provisions of the Connecticut General Statutes, §§ 49-33 through 49-40a, as amended. To the maximum extent permitted by law, the Town of Woodbridge shall be entitled to recover all costs of collection of abatement costs, including its reasonable attorneys' fees.

## § 370-18. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement department may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

## § 370-19. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

## § 370-20. Violations deemed 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 chapter is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

## § 370-21. Criminal prosecution; penalties for offenses.

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a penalty of \$100 per violation per day, each day such

violation persists or exists constituting a separate violation. The authorized enforcement department may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

## § 370-22. Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the authorized enforcement department to seek cumulative remedies.