

An Ordinance to Amend the Code of the Town of Guilford

Chapter ____, Illicit Connections and Illegal Discharges to Municipal Storm Drainage Systems

§ __-1. Statement of purpose; statutory authority.

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Guilford, as authorized by C.G.S. § 7-148(c)(6)(B);(c)(7)(H);and (c)(8)(A), through the regulation of non-storm water discharges to the 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 municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (2) To prohibit and eliminate illicit connections and illegal discharges to the municipal separate storm sewer system; and
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

§ __-2. Applicability.

This Chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands located within the Town of Guilford, unless explicitly exempted by an authorized enforcement agency or as otherwise may be exempted by state or federal law.

§ __-3. Definitions.

As used in this Chapter, the following terms shall have the meaning set forth below, except as otherwise required by state or federal law.

Authorized Enforcement Agency shall mean the Town Engineer or his/her designee, who shall be a Town employee.

Best Management Practices (BMPs) shall mean schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state consistent with state, federal or other equivalent and technically supported guidance. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

Clean Water Act shall mean the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity shall mean any activity associated with construction at a site including, but not limited to, clearing and grubbing, grading, excavation, and dewatering.

Hazardous Materials shall mean 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 shall mean any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this Chapter.

Illicit Connections is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system 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, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit shall mean a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to "Waters of the United States," as defined under 40 CFR 230.3(s), whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge shall mean any discharge to the storm drain system that is not composed entirely of storm water.

Person shall mean any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant shall mean anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, 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 shall mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System shall mean publicly-owned facilities by which storm water 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 shall mean waters consisting of rainfall runoff, including snow or ice melt, during a rain event.

Stormwater Pollution Prevention Plan shall mean a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater shall mean any water or other liquid, other than uncontaminated storm water, discharged from a facility.

§ ____-4. Authorized enforcement agency.

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Chapter.

§ ____-5. Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision of this Chapter shall be found with finality by a court of competent jurisdiction to be prohibited by the Connecticut General Statutes or is held to be unconstitutional, the provisions of such statutes or constitution shall prevail and such court order or judgement shall not affect, impair or invalidate the remainder of the Chapter.

§ ____-6. Minimum standards.

Nothing in this Chapter shall limit the power and authority of local, state or federal authorities to enforce their respective laws and regulations. In any case where a provision of this Chapter is found to be in conflict with a provision of local, state or federal laws or regulations, if such provision of this Chapter establishes a higher standard for the promotion and protection of the health and safety of the public, such provision shall be enforceable pursuant to the procedures established herein, to the extent permitted by state and federal law.

§ ____-7. **Prohibitions.**

A. Illegal discharges.

No Person shall discharge or cause to be discharged into the Town of Guilford municipal storm drain system any materials, including but not limited to Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any Illegal Discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Chapter: uncontaminated ground water discharges including, but not limited to, pumped ground water; foundation drains; water from crawl space pumps and footing drains; irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street wash water associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), springs, diverted stream flows and flows from riparian habitats and wetlands.

(2) Any non-stormwater discharge to the MS4 authorized by a permit issued pursuant to C.G.S. § 22a-430 or § 22a-430b is authorized under this Chapter.

B. Illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the Town of Guilford municipal storm drain system is prohibited, except as otherwise permitted by state or federal law.

(2) A person is considered to be in violation of this Chapter if the person connects a line conveying sewage to the Town of Guilford MS4, or allows such a connection to continue.

§ ____-8. **Suspension of MS4 access.**

A. Suspension, without notice, due to Illegal Discharges in emergency situations.

The Authorized Enforcement Agency may, without prior notice or hearing, suspend Town of Guilford MS4 access by issuance of an emergency suspension order to a Person when such suspension is necessary to stop an Illegal Discharge which presents an imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or "Waters of the United States," as defined under 40 CFR 230.3(s). If the violator fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

B. Suspension due to Illegal Discharges in non-emergency situations.

Any person discharging to the MS4 in violation of this Chapter may have their MS4 access suspended if such suspension would abate or reduce an Illegal Discharge. In the event of such violation, the Authorized Enforcement Agency shall follow the citation and hearing process set forth in Sections 13 and 14 of this Chapter.

§ ____-9. **Industrial Activity and Construction Activity discharges.**

A. NPDES permits.

Any Person located in the Town of Guilford subject to an Industrial Activity or Construction Activity NPDES Stormwater discharge permit shall comply with all provisions of the NPDES Stormwater discharge permit and this Chapter prior to discharging into the MS4.

B. Access to and monitoring of facilities with Industrial Activity or Construction Activity discharges.

- (1) Operators of facilities located in the Town of Guilford with Industrial Activity or Construction Activity shall allow the Authorized Enforcement Agency or its designee reasonable access to all parts of the Premises for the purposes of inspection, sampling, examination and copying of records that are required under the conditions of an NPDES permit to discharge into the MS4, and the performance of any additional duties required by state or federal law with respect to such discharges into the MS4. Such access shall be as often as may be reasonably necessary to determine compliance with this Chapter. Except in an emergency, prior written notice of intent to access shall be provided to such operators.
- (2) The Authorized Enforcement Agency or its designee shall have the right to install on any such permitted facility such devices as are reasonably necessary to conduct monitoring and/or sampling of the facility's storm water discharge into the MS4, as are reasonably necessary to ensure compliance with state and federal law. The installation of which shall be at operator's sole expense.
- (3) In the alternative, the Authorized Enforcement Agency has the right to require the operator to install monitoring and sampling equipment as reasonably necessary to ensure compliance with state and federal law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the operator at its sole expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.
- (4) Any temporary or permanent obstruction to safe and effective access to the facility to be inspected and/or sampled shall be promptly removed by the operator, at its sole expense, at the prior written request of the Authorized Enforcement Agency.

§__-10. Use of Best Management Practices (BMP).

Authorized Enforcement Agency shall adopt requirements identifying BMP for any activity, operation, or facility located in the Town of Guilford 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 facility shall provide, at its own expense, reasonable protection from accidental discharge of Illegal Discharges into the MS4 or watercourses through the use of these structural and non-structural BMPs. These BMPs shall be part of a Stormwater Pollution Prevention Plan as necessary for compliance with requirements of the NPDES permit.

§__-11. Notification of spills.

Any Person responsible for a facility or operation, or responsible for emergency response for a facility or operation, who has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges or Pollutants discharging into Stormwater, the storm drain system, or Waters of the United States, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, to the extent required by state and federal law.

§__-12. Enforcement officer.

The Town Engineer or his/her designee, who shall be a Town employee, is hereby designated the enforcement officer. The enforcement officer may pursue penalties against any Person who commits a violation of this Chapter.

§ ____-13. Penalties for offenses.

- A. **Citations.** Any violation of this Chapter ____ is subject to a municipal citation not to exceed two hundred and fifty dollars which shall be imposed by the enforcement officer, for each violation of this Chapter as provided under C.G.S. §7-148(c)(10); provided, however, that the violator has been issued a written warning for said violation by the enforcement officer. Each day of violation shall be considered a separate offense and subject to separate citations. The provisions of this Section are in addition to and do not supersede any penalties resulting from simultaneous violations of state or federal laws, to the extent permitted by law.
- B. **Suspension of access to MS4.** Repeated violations of the provisions of this Chapter may, after due notice in writing by the enforcement officer, result in suspension of access to MS4, subject to the hearing process set forth in Section ____-14.
- C. **Cease and desist order.** The Town may issue a cease and desist order and seek whatever additional remedies to which it may be entitled, at law and in equity, to the extent permitted by state and federal laws.

§ ____-14. Hearing procedure for citations.

Any person issued a municipal citation pursuant to Section ____-13 shall be entitled to a hearing to contest the citation. Any Person given notice that its access to MS4 will be suspended may appeal the notice of suspension within the time limit and on the form prescribed for appeals of citations. Except in an emergency, no permit will be suspended pending the outcome of the appeal process set forth below. The Town hereby specifically adopts the provisions of C.G.S. §7-152c for the establishment of a citation hearing process to contest citations issued pursuant to this Chapter. The procedures for notice, hearing, disposition, appeal and enforcement shall be as set forth in C.G.S. §7-152c. The citation hearing process shall not apply to those violations which are otherwise governed by state or federal law.

§ ____-15. Abatement after citation; cost.

If a violation is not abated within the time period and pursuant to the requirements set forth in the citation, or in the event of an appeal, within the same time period permitted in the original citation calculated from the date the citation is upheld on appeal, then the enforcement officer shall have the right to enter the Premises in order to take measures reasonable necessary to abate the violation. The cost of such abatement shall be payable by the owner or operator of the Premises. If the costs are unpaid after thirty (30) days of the Town's demand for payment, the owner's or operator's obligation to pay may be enforced in the same manner as the penalties imposed by way of citation under Section 14 above.

§ ____-16. Injunctive relief.

If a Person has violated or continues to violate the provisions of this Chapter, the Authorized Enforcement Agency may, in addition to the Town's rights at law or in equity, petition for a preliminary or permanent injunction restraining the Person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation, to the extent permitted by law or in equity.

§ ____-17. 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.