

Illicit Connections and Discharges to the Municipal Storm Drain System

Sec. 1 Purpose & Authority

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of South Hadley's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this regulation are:

- (1) To prevent pollutants from entering the South Hadley municipal separate storm sewer system (MS4);
- (2) To prohibit illicit connections and unauthorized discharges to the MS4;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges;
- (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement; and
- (6) To prevent contamination of drinking water supplies.

The Selectboard, as sewer commissioners, for the Town of South Hadley, shall administer, implement and enforce this regulation. The Sewer Commission may delegate its authority to implement this regulation.

Sec. 2 Definitions

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

Authorized Enforcement Agency: The Department of Public Works, its employees or agents designated to enforce this regulation.

Best Management Practice (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended

Discharge of Pollutants: The addition from any source of any pollutant or combination of pollutants into the storm drain system or into the waters of the United States or Commonwealth from any source.

Groundwater: All water beneath the surface of the ground.

Illegal Discharge: Any direct or indirect non-stormwater discharge to storm drain systems, except as specifically exempted or permitted in Section 5 of this regulation. The term does not

include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire fighting activities exempted pursuant to Section 5, subsection 4, of this regulation.

Illicit Connection: Any surface or subsurface drain or conveyance, which allows an illegal discharge into a storm drain system. Illicit connections include conveyances which allow a non-stormwater discharge to the municipal storm drain system including sewage, process wastewater or wash water and any connections from indoor drains sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

Impervious Surface: Any material or structure on or above the ground that prevents water from infiltrating the underlying soil

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharge: Any discharge to the municipal storm drain system not composed entirely of stormwater.

Person: Any individual, partnership, association, firm, company, trust, corporation, and, any agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Pollutant: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any storm drain system or waters of the Commonwealth. Pollutants shall include:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock; sand; salt, soils;
- (10) construction wastes and residues;
- (11) and noxious or offensive matter of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Recharge: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Separate Storm Sewer System (MS4) or Storm Drain System: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system on public or private ways within the Town of South Hadley.

Stormwater: Runoff from precipitation or snow melt.

Toxic or Hazardous Material or Waste: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under M.G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Uncontaminated Water: Water containing no pollutants.

Watercourses: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

Waters of the Commonwealth: all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

Wastewater: any sanitary waste, sludge, or septic tank or cesspool overflow; and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. Any water that does not meet the definition of uncontaminated water.

Sec. 3 Applicability

This regulation shall apply to flows entering the stormwater and drainage system on public or private ways within the Town of South Hadley.

Sec. 4 Regulations

The Sewer Commissioners may promulgate additional rules and regulations as necessary to effectuate the purposes of this regulation. Failure by the sewer commissioners to promulgate such rules and regulations shall not have the effect of suspending or invalidating this regulation.

Sec. 5 Prohibited Activities

1. Illegal Discharges

No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, watercourse, or into the waters of the Commonwealth.

2. Illicit Connections

No person shall construct, use, allow, maintain or continue any illicit connection to storm drain systems, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

3. Obstruction of Municipal Storm Drain System

No person shall obstruct or interfere with the normal flow of stormwater into or out of storm drain systems without prior approval from the Department of Public Works or its designated agent.

4. Exemptions

This section shall not apply to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to storm drain systems. The Town reserves the right to develop procedures and criteria for limiting discharges or issuing permits under this section if necessary to maintain capacity within the storm drain system and / or to protect public health, safety, welfare or the environment.

- (1) Municipal Waterline flushing;
- (2) Flows from potable water sources;
- (3) Springs;
- (4) Natural Flows from riparian habitats and wetlands;
- (5) Diverted stream flows;
- (6) Rising groundwaters;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharges from landscape irrigation or lawn watering;

- (10) Water from individual residential car washing or temporary fund-raising car wash events;
- (11) Discharges from dechlorinated swimming pool water (less than one ppm chlorine) provided it is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharges from street sweeping;
- (13) Discharges or flows resulting from fire fighting activities;
- (14) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
- (15) Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.

Sec. 6 Suspension of Storm Drainage System Access

The Department of Public Works may suspend storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with a suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment, including termination of access to the storm drainage system if deemed necessary by the Authorized Enforcement Agency .

Sec. 7 Notification of Spills

Notwithstanding any other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility operation which is resulting or may result in illegal discharge of pollutants that person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Department of Public Works.. In the event of a release of non-hazardous material, said person shall notify the Authorized Enforcement Agency no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the Authorized Enforcement Agency within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 8 Enforcement

1. Enforcement Agent

The Department of Public Works or its authorized agent shall enforce this regulation, and any other rules and regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

2. Orders

The Department of Public Works may issue a written order to enforce the provisions of this bylaw or the regulations there under, which may include: (a) elimination of illicit connections or discharges to the storm drainage system; (b) termination of access to the storm drainage system; c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; and (e) remediation of contamination in connection therewith. If the Department of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of South Hadley may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of South Hadley including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department of Public Works within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Department of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

3. Civil Relief

If anyone violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compelling the person to abate or remediate the violation.

4. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town of South Hadley may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch.. 40, §21D. The Department of Public Works or its designee shall be the enforcing agent. The penalty for the 1st

violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

5. Right-of-Entry

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this regulation and may make or cause to be made such examinations, surveys or sampling as the Department of Public Works deems reasonably necessary.

6. Remedies Not Exclusive

The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

Sec. 9 Severability

If any provision, paragraph, sentence, or clause, of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.