

CHAPTER LIX

BYLAW GOVERNING ILLICIT DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM

SECTION 1. PURPOSE

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

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

The objectives of this bylaw are:

1. to prevent pollutants from entering Topsfield's 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; and
5. to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

SECTION 2. DEFINITIONS

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

AUTHORIZED ENFORCEMENT AGENCY: The Topsfield Stormwater Officer shall administer and implement this bylaw. Any powers granted to or duties imposed upon the Stormwater Officer may be delegated in writing by the Stormwater Officer to the appropriate agents of the Town, i.e. the employees and agents of the Highway Department, the Board of Health, the Police and Fire Departments, the Conservation Commission and the Inspectional Services Department.

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.) and as hereafter amended.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: Any indoor or outdoor drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL 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 owned or operated by the Town of Topsfield.

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: Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON: A partnership, association, firm, company, trust, corporation, 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 entity or an individual.

POLLUTANT: 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; sedimentary material and noxious or offensive matter of any kind.

PROCESS WASTEWATER: 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.

STORMWATER: Precipitation runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

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 the environment or to human health, safety, or welfare. 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 G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: 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, coastal 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.

SECTION 3. APPLICABILITY

This bylaw shall apply to flows entering the municipally owned storm drainage system.

SECTION 4. AUTHORITY

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION

The Board of Selectmen shall appoint the Stormwater Officer. The Stormwater Officer shall administer, implement and enforce this bylaw.

SECTION 6. REGULATIONS

The Stormwater Management Committee may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Committee to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

SECTION 7. PROHIBITED ACTIVITIES

Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4).

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

Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Stormwater Officer.

SECTION 8. EXEMPTIONS

A. Discharge or flow of water or other fire fighting materials resulting from fire fighting activities.

B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Groundwater;

- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump);
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water 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) Discharge from street sweeping;
- (13) Discharge of dye for testing purposes, provided verbal notification is given to the Stormwater Officer prior to the time of the test;
- (14) Discharge of non-stormwater as permitted under an NPDES permit, or under a Surface Water Discharge Permit, or by a waste discharge order or waiver administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge of non-stormwater for which advanced written approval is received from the Stormwater Officer as necessary to protect the environment or public health, safety, or welfare.

SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Stormwater Officer may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the environment or to the public health, safety, or welfare. In the event any person fails to comply with an emergency suspension order, the Stormwater Officer may take all reasonable steps to prevent or minimize harm to the environment or to public health, safety, or welfare.

SECTION 10. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the 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, police and highway departments. In the event of a release of other than oil or non-hazardous material, the reporting person shall notify the Stormwater Officer no later than the next business day. The reporting person shall provide to the Stormwater Officer written confirmation of all telephone, facsimile or in-person notifications 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.

SECTION 11. ENFORCEMENT

The Stormwater Officer or an authorized agent of the Stormwater Officer shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued hereunder, the Stormwater Officer 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 perform abatement or remediation of the violation.

Orders. The Stormwater Officer or an authorized agent of the Stormwater Officer may issue a written order to enforce the provisions of this bylaw or the regulations hereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, seek a court order requiring the property owner to perform the work or allowing the Town to perform the work and recover its costs.

Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Topsfield may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in which case the Stormwater Officer shall be the enforcing person. The penalty for the first violation shall be \$ 25.00. The penalty for the second violation shall be \$50.00. The penalty for the third and subsequent violations shall be \$100.00. Each day that such violation occurs or continues shall constitute a separate offense.

Entry to Perform Duties Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater Officer, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Officer deems reasonably necessary.

Appeals. The decisions or orders of the Stormwater Officer shall be final. Further except that relief may be sought in a court of competent jurisdiction.

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.

SECTION 12. COMPATIBILITY WITH OTHER REGULATIONS.

This bylaw is not intended to modify or repeal any other bylaw, rule, regulation, or other provision of law. The requirements of this bylaw are in addition to the requirements of any other bylaw, rule, regulation, or other provision of law, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, 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.

SECTION 13. SEVERABILITY

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw 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 bylaw.

(Art. 38, 5/4/2010)