

Chapter 141. STORMWATER MANAGEMENT

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[HISTORY: Adopted by the Town Council of the Town of Wethersfield as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. **143**.

Inland wetlands and watercourses — See Ch. **A181**.

Article I. Illicit Discharges and Connections to Stormwater Drainage Systems

[Adopted 5-27-2007 (Ch. 97 of the 1990 Code)]

§ 141-1. Purpose; intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Wethersfield, Connecticut through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article 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 article are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by illicit stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

§ 141-2. Definitions.

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

AUTHORIZED ENFORCEMENT AGENCY

Employees or designees of the Director of Public Works/Town Engineer.

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. 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 subsequent amendments thereto.

CONSTRUCTION ACTIVITY

Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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 storm drain system, except as exempted in § 141-7 of this article.

ILLCIT CONNECTIONS

An illicit connection is defined as either of the following:

A. 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 nonstormwater discharge including sewage, processed or domestic wastewater 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 conveyance 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 storm drain system which 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 to an individual, group, or general area-wide basis.

NONSTORMWATER DISCHARGE

Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON

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

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, articles, 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

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 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

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

§ 141-3. Applicability.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 141-4. Responsibility for administration.

The Director of Public Works/Town Engineer shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

§ 141-5. Severability.

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

§ 141-6. Minimum standards; disclaimer.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 141-7. Discharge prohibitions.

A. Prohibition of illegal discharges.

- (1) No person shall discharge or cause to be discharged into the municipal storm drain system, specifically dumping down catch basins and manholes or watercourses, any materials, including but not limited to pollutants or liquids containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
- (2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows as per Section 3(a)(2) of the General Permit for the Discharge of Stormwater from MS4, as amended from time to time.
- (3) The following discharges are exempt from discharge prohibitions established by this article providing they contain no pollutants:
 - (a) Landscape irrigation;
 - (b) Uncontaminated groundwater discharges such as pumped groundwater, foundation drains, water from crawl space pumps and footing drains;
 - (c) Irrigation water;
 - (d) Lawn watering runoff;
 - (e) Residual street wash water;
 - (f) Discharges or flows from fire-fighting activities (except training); and naturally occurring discharges such as rising groundwaters, uncontaminated groundwater infiltration [as defined at 40 CFR 35.2005(20)], springs, diverted stream flows and flows from riparian habitats and wetlands;
 - (g) Pool water discharge;
 - (h) Water main flushing.

(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 Federal Environmental Protection Agency or the Connecticut Department of Environmental Protection, 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 by the Director of Public Works/Town Engineer has been granted for any discharge to the storm drain system.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, 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.

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

§ 141-8. Suspension of MS4 access.

A. Suspension due to illicit discharges in emergency situations.

(1) The Director of Public Works/Town Engineer 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 persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, 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 the detection of illicit discharge.

(1) Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(2) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

§ 141-9. Industrial, commercial or construction activity discharges.

Any person subject to an industrial, commercial 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 Director of Public Works/Town Engineer prior to the allowing discharges to the MS4.

§ 141-10. Monitoring of discharges.

A. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial, commercial or construction activity.

B. Access to facilities.

- (1) The Director of Public Works/Town Engineer shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (2) Facility operators shall allow the Director of Public Works/Town Engineer ready access to all parts of the premises for the purposes of inspection, sampling, and the examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The Director of Public Works/Town Engineer shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Director of Public Works/Town Engineer has the right to require the discharger to install monitoring equipment as necessary. The facility's 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 facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Director of Public Works/Town Engineer and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Director of Public Works/Town Engineer access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial, commercial or construction activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(7) If the Director of Public Works/Town Engineer has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, 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 article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

§ 141-11. Requirement to prevent, control and reduce stormwater pollutants by use of BMPs.

The Director of Public Works/Town Engineer will adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or 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 separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial, commercial, or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) or stormwater management plan (SMP) as necessary for compliance with requirements of the NPDES permit.

§ 141-12. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee 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.

§ 141-13. Notification of spills.

Notwithstanding other requirements of 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 which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the State of Connecticut, 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 agency in person or by phone or 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 Director of Public Works/Town Engineer within three business days of the phone 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.

§ 141-14. Enforcement.

A. Notice of violation. Whenever the Director of Public Works/Town Engineer finds that a person has violated a prohibition or failed to meet a requirement of this article, the authorized enforcement agency may order compliance by a written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, sampling, 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 or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs;
- (6) 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. Said notice 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 or a contractor and the expense thereof shall be charged to the violator.

§ 141-15. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received by the Director of Public Works/Town Engineer within 15 days from the date of the notice of violation. Hearing on the appeal before the Inland Wetlands and Watercourses Agency shall take place within 45 days from the date of receipt of the notice of appeal. The decision of the Inland Wetlands and Watercourses Agency shall be final.

§ 141-16. 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 days of the decision of the Inland Wetland and Watercourses Commission upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

§ 141-17. Cost of abatement of violation.

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the Inland Wetlands and Watercourses Commission or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Town of Wethersfield by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 18% per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

§ 141-18. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement agency may 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.

§ 141-19. Compensatory actions.

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

§ 141-20. 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 article 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.

§ 141-21. Penalties for offenses.

Any person that has violated or continues to violate this article shall be liable for fines and penalties to the full extent of the law. The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

§ 141-22. Remedies not exclusive.

The remedies listed in this article 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 agency to seek cumulative remedies.