

Recommended UPDATES
from Town Stormwater Advisory Group and PVPC 9-29-22

ARTICLE SIX

CONDUCT AFFECTING THE COMMUNITY

Chapter 600

Bylaw Governing Discharges To The Municipal Storm Drain System

6-601. PURPOSE

- A. Increased and contaminated storm water runoff is a major cause of
- (1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - (2) contamination of drinking water supplies;
 - (3) alteration or destruction of aquatic and wildlife habitat; and
 - (4) flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this by-law are:
- (1) to prevent pollutants from entering the Town'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 by-law through inspection, monitoring, and enforcement.

6-602. DEFINITIONS

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

ACTIVE GROUNDWATER DEWATERING SYSTEM: Any active system used to transport groundwater, *i.e.*, sump pump.

AUTHORIZED ENFORCEMENT AGENCY: The Town of Longmeadow, Director of Public Works, appointed pursuant to Section 6-3(c) of the Town Charter, (the DPW DIRECTOR), designated to enforce this Bylaw.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff. 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.) as hereafter amended.

DEPARTMENT OF PUBLIC WORKS (the DPW): The Longmeadow Department of Public Works.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Groundwater means any water below the earth's surface in the zone of saturation not confined within a conduit or container.

ILLICIT CONNECTION: Any surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation 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.

ILLICIT DISCHARGE: Any direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 6-608. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire-fighting activities exempted pursuant to Section 6-608, subsection 1, of this Bylaw.

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 Longmeadow.

MUNICIPAL STORM DRAIN SYSTEM: See definition of MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) above.

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: An individual, 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 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 sewage treatment works or Waters of the Commonwealth. Pollutants shall include without limitation:

- (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: Water which, during manufacturing or processing, is increased in temperature or has come 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.

STORM DRAIN SYSTEM: See definition of MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) above.

STORMWATER: Storm water 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 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 G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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.

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.

6-603. APPLICABILITY

This Bylaw shall apply to flows entering the municipally owned storm drain system.

6-604. 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.

6-605. RESPONSIBILITY FOR ADMINISTRATION

The DPW DIRECTOR shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the DPW DIRECTOR may be delegated by the DPW DIRECTOR to their employees or agents.

6-606. REGULATIONS

The Select Board, by majority vote, may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general circulation at least seven (7) days prior to the hearing date. Failure by the Select Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

6-607. PROHIBITED ACTIVITIES

- A. 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), into a watercourse, or into the waters of the Commonwealth.
- B. 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.
- C. 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 DPW.
- D. Yard Waste.** No person shall dump yard waste (leaves, grass clippings, etc.) into areas that drain to the storm sewer system or open watercourses (swales, brooks, streams, rivers, ponds, and lakes).
- E. Drains** – No person shall tie any pump, cellar, yard, roof or area drain directly into the storm drain system without prior written approval from the DPW Director.
- F. Catch Basins** – No person shall directly or indirectly dump, discharge or cause or allow to be discharged into any catch basin, any solid waste, construction debris, paint or paint product, antifreeze, chlorinated pool water, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial or household cleaners, soap, detergent, ammonia, food and food waste, grease or yard waste, animal feces, dirt, sand gravel or other pollutant. Any person determined to be responsible for the discharge of any of the above substances to a catch basin may be held responsible for cleaning the catch basin and any other portions of the storm water system impacted according to Town standards and requirements or paying the cost for such cleaning. In addition, the Person shall be responsible for paying any penalties assessed by the Town.
- G. Septage** – No person shall discharge or cause or allow to be discharged any septage, or septage tank or cesspool overflow into the Town's storm drain system.

6-608. EXEMPTIONS

- 1. Discharge or flow resulting from fire-fighting activities;
- 2. 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:
 - (a) Municipal waterline flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;

- (f) Rising groundwater;
- (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (i) Discharge from landscape irrigation or lawn watering;
- (j) Water from individual residential car washing;
- (k) 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;
- (l) Discharge from street sweeping;
- (m) Dye testing, provided verbal notification is given to the DPW DIRECTOR prior to the time of the test;
- (n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order 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
- (o) Discharges for which advanced written approval is received from the DPW Director as necessary to protect public health, safety, welfare or the environment.
- (p) Discharges of uncontaminated groundwater from well drilling operations when hay bales, silt fencing, or other appropriate sediment controls have been properly utilized and maintained and all sediment and cuttings are removed from the site or stabilized to prevent mobilization after the completion of the drilling operation.

6-609. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The DPW DIRECTOR 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 public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the DPW DIRECTOR may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

6-610. 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 any known or suspected release of materials at that facility or operation which is resulting or which may result in an illicit discharge, that person shall take all necessary steps to ensure containment, and cleanup of the release.

The reporting person shall provide to the DPW DIRECTOR Authorized Enforcement Agency 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.

6-611. ENFORCEMENT

The DPW DIRECTOR shall enforce this Bylaw, regulations promulgated thereunder, as well as terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

- A. Civil Relief** If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued thereunder, the DPW DIRECTOR may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders**
1. The DPW DIRECTOR may issue a written order to enforce the provisions of this Bylaw or the regulations promulgated thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) termination of access to the storm drain system; (c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; and (e) remediation of contamination in connection therewith; (f) implementation of source control or treatment BMPs.
 2. If the DPW DIRECTOR 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, undertake such work, and expenses thereof shall be charged to either the violator or property owner.
 3. Within thirty (30) days after completing 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, including administrative costs for which payment is due to the Town. Subsequent notification of costs may be warranted if there are associated monitoring costs to the Town beyond the 30-day period.

The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW DIRECTOR 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 DPW DIRECTOR 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 pursuant to MGL Ch. 40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

- C. Criminal Penalty** Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than Three Hundred Dollars (\$300.00) per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Non-Criminal Disposition** As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D and Sections 1-501, 502 and 503 of the General Bylaws of the Town, in which case the DPW DIRECTOR shall be the enforcing person. The penalty for the 1st violation shall be One Hundred Dollars (\$100.00). The penalty for the 2nd violation and subsequent violations shall be Two Hundred Dollars (\$200.00). The penalty for the 3rd and subsequent violations shall be Three Hundred Dollars (\$300.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. 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 DPW DIRECTOR, his 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 DPW DIRECTOR deems reasonably necessary.
- F. Appeals** The decisions or orders of the DPW DIRECTOR may be appealed to the Town Manager by the party who is subject of the decision or order. A written notice of the appeal shall be filed with the Town Manager within 30 days of receipt of the order or decision being appealed. The Town Manager shall hold a hearing within 30 days of receipt of the notice of appeal and shall issue a decision within 30 days of conclusion of the hearing. Further relief from a decision by the Town Manager shall be to a court of competent jurisdiction.
- G. 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.

6-612. 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.

6-613. TRANSITIONAL PROVISIONS

Residential property owners shall have 14 days from the effective date of the Bylaw to comply with its provisions provided good cause is shown for the failure to comply with the Bylaw during that period.