

6-2019

Illicit Discharge and Stormwater Connection Ordinance

1. Purpose and General Provisions

- A. This chapter is adopted to provide for the health, safety and general welfare of the citizens of Plainville, Connecticut through the regulation of non-storm water discharges to the Town's storm drainage system to the maximum extent practical as required by Federal and State law.
- B. This chapter establishes methods for controlling the introduction of pollutants into the Town's drainage system in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- C. The objectives of this chapter are:
 - 1) To regulate the contributions of pollutants to the Town's drainage system by stormwater discharges by any user;
 - 2) To prohibit Illicit Connections and Discharges to the Town's municipal separated drainage system;
 - 3) Prevent non-stormwater discharges generated as a result of spills, inappropriate dumping or disposal from entering the Town's municipal separated drainage system; and to
 - 4) To establish legal authority to carry out all inspections, surveillance and monitoring procedures necessary to ensure compliance with the requirements of the National Pollutant Discharge Elimination System and this Ordinance.

2. Definitions

The terms listed below shall have the defined meaning within this chapter:

Accidental Discharge

Any discharge which occurs by chance and without planning or thought prior to the occurrence.

Authorized Enforcement Agency

Employees or designated agents of the Town assigned to enforce this ordinance.

Best Management Practices (BMPs)

A schedule of activities, prohibition of practices, general good housekeeping practices, 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 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.

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. Currently these include construction project resulting in land disturbance of 5 acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 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 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 non-stormwater discharge to the storm drain system, except as exempted in Section 8. of this ordinance.

Illicit Connections

An illicit connection 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 including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drainage system and any connections to the storm drain from indoor drains and sinks regardless of whether said drain or connection had been previously allowed, permitted or approved by an 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 approve by the Town.

Industrial Activity

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.

A permit issued by EPA (or by the State of Connecticut under the authority delegated pursuant to 33 USC § 1342 (b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Non-Stormwater Discharge

Any discharge to the Town's stormwater 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 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 liquids 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 waste; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind.

Premise

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 waste other than uncontaminated stormwater discharged from a Water Pollution Control Facility.

3. Applicability

This Ordinance shall apply to all water entering the Town's storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

4. Responsibility for Administration

The Town Manager or his/her designated agent shall administer, implement and enforce the provisions of this ordinance. Any powers granted, or duties imposed upon the Town may be delegated in writing by the Town Manager to persons or entities acting in the beneficial interest of or in the employment of the Town.

5. Severability

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

6. Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Ordinance are defined as the minimum standards; therefore, this Ordinance is not intended nor imply that compliance by any person will ensure that there will be no contamination, pollution nor unauthorized discharge of pollutants.

7. Connection to Town Drainage System Authorization Process *****

The Town has developed a permit system to regulate the issuance of authorization to connect to the Town's drainage system. A prospective permittee shall submit to the Department of Technical Service a written request to connect to the drainage system. Such request shall include the following items if deemed appropriate: a description of the type and volume of the discharge, the source of the discharge, a sketch showing the proposed drainage connection and any other related construction include pertinent details, calculations the existing drainage system has adequate capacity to accommodate the discharge, certification and or evidence the discharge is not contaminated and any other documents, sketches or test results deemed pertinent by the Town Engineer.

8. Discharge Prohibitions

No person shall discharge or cause to be discharge into the Town's storm drain system or watercourses any materials, including but not limited to pollutants or water containing any pollutants that cause, may cause or contribute to a violation of applicable water quality standards other than stormwater. Additionally, no person shall throw, drain or otherwise discharge, cause or allows other under its control to throw, drain or otherwise discharge into municipal drainage system any pollutants or waters containing any pollutants other than stormwater.

The commencement or continuation of any illicit discharge to the Town's stormwater drainage system is prohibited except for those described below:

Exempt illicit discharges are as listed: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated –typically less than one PPM chlorine), firefighting activities and any other water source not containing pollutants.

Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

Dye testing is an allowable discharge however it requires the tester to notify the authorized enforcement agency no less than twenty-four in advance of such activities.

No prohibition shall apply to any non-stormwater 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, provided that the discharger is in full compliance with all the requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Town's storm drain system.

Connection to the Town's drainage system without first securing a permit and approval shall be prohibited. The construction use maintenance or continued existence of unpermitted connections to the Town's stormwater system is prohibited. This prohibition expressly includes without limitations any unpermitted connections made in the past which discharge illicit materials regardless of whether the type of discharge was permissible under law or practices applicable or prevailing at the time of connection. Additionally, a person is considered to be in violation of this Ordinance if the person connects a pipe conveying sewage to the Town's drainage system or allows such a connection to continue.

9. Guidance for the Proper Disposal of Common Exempt Non-Stormwater Sources

All vehicle washing should be performed in a manner which prevents the direct discharge of soap washwater to a stream, river, wetland or other surface waterbody. Washwaters should not be directed toward a stormwater catch basin because the vast majority of these structures discharge directly into a surface waterbody without any treatment. Vehicle washing should be performed in an area large enough to contain all the washwater and allowed to seep into the grass, gravel and/or soil.

Disposal of residential swimming pool and/or hot tub wastewater shall be done only when the concentration level of the disinfectant agent has achieved a non-detectable level. At that point the wastewater should be directed to an area where it can seep into the ground.

10. Notification of Accidental Discharges and Spills

When any person responsible for a facility, activity or operation or responsible for emergency response at a facility, activity, or operation has information of any known or suspected release of pollutants or non-stormwater discharge from that facility or operation which are resulting or may result in illicit discharges or pollutants into stormwater, the municipal drainage system, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and clean-up of such release so as to minimize the effects of the discharge. Should the release be of hazardous materials, emergency response agencies and/or appropriate agencies shall be notified immediately.

Said person shall notify the Town of Plainville no less than twenty-four hours after the event of the nature, quantity and time of the occurrence of the discharge. Notification in person, phone, fax, email shall be confirmed by written notice addressed and mailed to the Town Manager within three business days of the discharge event. In the event the discharge of prohibited material emanates from a commercial or industrial establishment, the owner/operator of the establishment shall retain an on-site written record of the discharge and actions taken to prevent its recurrence. Such records shall be retained for at least three year from the date of the completion of the corrective action.

Failure to provide notification of a release as outlined above shall be a violation of the ordinance.

11. Suspension/Termination of Access to Discharge into the Towns Drainage System

The Town Manager or his/her designate agent may without prior notice temporarily suspend a permittee's access to discharge into the Town's drainage system when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and or substantial danger to the environment, or health or welfare of persons, or to waters of the United States. If the permittee fails to comply with the suspension order issued, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize the risks or dangers to the water of the United States or any impacted individual.

Any person discharging to the Town's drainage system in violation of this Ordinance may have their access suspended or terminated if such action would abate or minimize an illicit discharge. The authorized enforcement agency shall notify the permittee of the violation and subsequent enforcement action. The permittee shall be ordered to disconnect such connection to the Town's drainage system until the abatement is completed and notified by the authorized enforcement agency that reconnection can proceed. The permittee may petition the authorized enforcement agency for a reconsideration and hearing. Any suspended or terminated connection reconnected prior to the approval of authorized enforcement agency shall be subject to further enforcement actions. The Town reserves the right to disconnect any connection which was connected without approval of the authorized enforcement agency.

12. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water 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 Town of Plainville (the authorized agency), the authorized enforcement agency prior to allowing of discharges to the Town's drainage system.

13. Screening/Monitoring of Discharges

The Town of Plainville shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which 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.

Facility operators shall allow the Town of Plainville (the authorized agency), ready access to all parts of the premises for the purposes of inspection, sampling, 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.

The Town of Plainville 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.

The Town of Plainville 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 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.

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 Town of Plainville, authorized enforcement agency, and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Unreasonable delays in allowing the Town of Plainville, access to a permitted facility are a violation of the stormwater discharge permit and this ordinance. A person or operator of a facility with a NPDES permit to discharge stormwater associated with an industrial 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 ordinance.

If the Town of Plainville, 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 ordinance, 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 ordinance or 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.

14. Requirements to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices

The Town of Plainville will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited material 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 premise which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal drainage system. Compliance with all terms and conditions of a valid NPDES permit authoring the discharge of stormwater associated with industrial activity, to the extent practical, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan SWPP as necessary for compliance with requirements of the NPDES permit.

15. Water Resource Protection

Every person owning property or leasing a property containing a water resource shall keep and maintain that part of the water resource within the property free of trash, debris and other substances that may or would pollute, contaminate or significantly degrade the water resource. Additionally, the owner/lessee shall maintain in proper working condition any existing privately-owned structures within or adjacent to the water resource such that the structure operates as intended and will not be a hazard to the use, function or physical integrity of the watercourse.

16. Notification of Spills

As soon as any person responsible for a facility or operation, or responsible for the emergency response of a facility or operation has information of any known or suspected release of materials which may result in an illegal discharge or pollutants discharging into stormwater, storm drain or waters of the US, said person shall take the necessary steps to ensure the discovery, containment, and clean-up of such release. If such release is of a hazardous material(s) said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. Should the release be of non-hazardous materials, said person shall notify the Town of Plainville's authorized enforcement agent in person or by telephone email and or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by a written notice addressed and mailed to the Town within three business days of the phone notice. If the discharge of the prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall retain an on-site record of the incident including actions taken to prevent future occurrences on site for a period of at least three (3) years after the event.

17. Enforcement

If and when the Town Manager or his/her designated agent discovers a violation of this ordinance, the Town of Plainville shall issue a written Notice of Violation. The Notice of Violation shall contain the following information: The name and address of the legal owner of the property, the name and address of the violator if different from the owner, the legal street address where the violation is occurring, a description of the violation, notification the owner/violator has the responsibility to remedy the violation within a specified time, a statement the violating practices or operation shall cease and desist immediately, additional conditions related to remedying the violation such as but not limited to preparing a written remediation plan, providing future performance monitoring, elimination of illegal connection(s) and discharge(s), remediation/restoration of impacted/degraded resources, potential financial impacts resulting from the violations, a statement of potential actions/penalties should the violator fail to remedy the violation within the specified time, and a statement that the violation may be appealed to the Plainville

Town Council or its designee by filing written notice within ten (10) calendar day from the date of the written Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination and or requirements of the Notice of Violation to the Plainville Town Council or its designee. This Notice of Appeal must be received by the Plainville Town Council or its designee within ten (10) calendar days of the date of the Notice of Violation. A hearing on the appeal before the Plainville Town Council or its designee shall be scheduled and be initiated within thirty (30) calendar days of receipt of the Notice of Appeal. At the hearing the alleged violator or his/her designee will be afforded the opportunity to present evidence and defend their assertions that the Notice of Violation is flawed. Upon consideration of the alleged violator evidence the Plainville Town Council will render a final decision. Such decision may be to affirm the Notice of Violation as delivered, modify the Notice of Violation based on the evidence presented at the hearing or rescind the Notice of Violation in its entirety.

If the violation has not been addressed pursuant to the requirements set forth in the Notice of Violation or in the event of an Appeal within the specified set period from the date of the decision rendered by the Plainville Town Council, the Town may enter upon the subject private property and may take measures necessary to abate the violation. If the Town of Plainville or its designated agents are refused access to any part of the premise from which access is needed to abate the violation, the Town of Plainville may seek issuance of a court order from any court of competent jurisdiction.

Within forty-five (45) calendar days after abatement of the violations, the owner of the property will be notified by the Town of Plainville's authorized enforcement agent of a costs incurred to the Town as related to the abatement actions including any administrative costs. The property owner may file a written protest to the Town Manager objecting to the assessment or to the amount of the assessment with thirty (30) calendar days of the date of the Notification. A hearing on the abatement assessment appeal before the Town Council or its designee shall take place within sixty (60) calendar day from the date of receipt of the Notice of Appeal. At this hearing the violator shall have the opportunity to present facts and testimony of why in their opinion the assessment is unfair. A decision by the Town Council or its designee whether to uphold the assessment or modify it shall be made within thirty (30) calendar days. The decision shall be final.

If the amount due and payable is not paid or other arrangement negotiated within a period of thirty (30) calendar days of the date of the assessment or the final decision resulting for an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property. Such lien shall be subject to all applicable interest, attorney fees, court costs, sampling, follow-up screening and other related expenses as allowable by law.

In addition to the enforcement process, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance 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 civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

18. Compensatory Action

In lieu of enforcement proceedings, penalties and remedies authorized by this Ordinance, the Town of Plainville's authorized enforcement agent may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, sponsored clean-ups or any other applicable educational or proactive remediation. Remedies listed within this Ordinance are not exclusive which are deemed appropriate for a specific circumstance under applicable Federal, State and local law.

19. Penalties

It shall be unlawful for any person to violate any provision of this ordinance. Should a person violate or continues to violate, ignoring the Notice of Violation, the Town of Plainville's authorized enforcement agent may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform the abatement or remediate the violation.

The Town of Plainville's authorized enforcement agent may impose a civil penalty not to exceed \$100.00 for each day the violation remains unremedied beyond the period described in the Notice of Violation. For intentional and flagrant violation of this Ordinance, the Town of Plainville may refer the violation to the United States Environmental Protection Agency, (EPA), for enforcement of penalties under Sections 309 and 311 of Clean Water Act.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law