

**Ordinance Governing Discharges To
The Municipal Storm Drain System**

SECTION 1. PURPOSE

1.1 The purpose and intent of this ordinance is to ensure the health, safety and general welfare of the citizens of the Town of West Springfield and to protect and enhance the water quality of watercourses and water bodies within the Town of West Springfield, in a manner consistent with the Federal Clean Water Act (33 U.S.C. Section 1251, et seq), by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system.

1.2 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.

1.3 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.

1.4 The objectives of this ordinance 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 ordinance through inspection, monitoring, and enforcement.

SECTION 2. DEFINITIONS

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

2.1 AUTHORIZED ENFORCEMENT AGENCY: The Department of Public Works of the Town of West Springfield (hereinafter the "Department"), its employees or agents designated to enforce this ordinance.

2.2 CLEAN WATER ACT: The Federal Clean Water Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

2.3 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.

2.4 EXPENSES OF ENFORCEMENT OR CORRECTION (EEC): Expenses of Enforcement or Correction shall mean all costs and expenses, including all penalties imposed by the ordinance, incurred or imposed by the Town, in enforcing this ordinance, or for violations thereof, including but not limited to attorney fees, consultant and expert witness fees.

2.5 GROUNDWATER: Water beneath the surface of the ground.

2.6 ILLICIT CONNECTION: A 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 ordinance.

2.7 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, or resulting from fire fighting activities exempted pursuant to Section 8, subsection 1, of this ordinance.

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

2.9 MUNICIPAL SEPARATE STORM SEWER SYSTEM or

MUNICIPAL STORM DRAIN SYSTEM (MS4): 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 West Springfield.

2.10 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

2.11 NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

2.12 PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, either owning or controlling the property in violation of this ordinance, to the extent permitted by law, and any officer, employee, or agent of such person.

2.13 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 reasonably be expected to be introduced into the MS4. 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;
- (5) chemicals, 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; and
- (11) noxious or offensive matter of any kind.

2.14 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.

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

2.16 STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

2.17 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.

2.18 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.

2.19 VIOLATOR: A person, as defined in Section 2.12, who is in violation of the ordinance.

2.20 WATERCOURSE: A natural or man-made channel through which water flows, or a stream of water including, but not limited to,

a river, brook or underground stream.

2.21 **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

3.1 This ordinance shall apply to flows entering the MS4.

SECTION 4. AUTHORITY

4.1 This ordinance 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 in effect at the time of the adoption of this ordinance, a copy of which is on file in the West Springfield Town Council Office.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION

5.1 The Department shall administer, implement and enforce this ordinance. Any powers granted to or duties imposed upon the Department may be delegated in writing by the Department to its employees or agents.

SECTION 6. REGULATIONS

6.1 The Department may promulgate rules and regulations to effectuate the purposes of this ordinance and establish the procedures for inspecting and monitoring property in town for compliance. Failure by the Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this ordinance.

SECTION 7. PROHIBITED ACTIVITIES

7.1 **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4.

7.2 **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law,

regulation or custom at the time of connection provided, any person who has an Illicit Connection validly permitted prior to the effective date of this ordinance shall have 60 days to remove said connection or obtain a permit for said connection.

7.3 Obstruction of MS4. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Department.

SECTION 8. EXEMPTIONS

8.1 Discharge or flow resulting from fire fighting activities or reasonable ice and snow control operations.

8.2 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 MS4:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (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) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing or, water from car washing conducted by a non-profit or charitable organization as part of a fund-raising activity on behalf of said organization;
- (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) Dye testing, provided verbal notification is given to the Department prior to the time of the test;

(14) 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

(15) Discharge for which advanced written approval is received from the Department.

SECTION 9. SUSPENSION OF MS4 ACCESS:

9.1 The Department may suspend or terminate MS4 access to any person or property without prior written notice when such action is determined to be of an emergency nature

9.2 to stop an actual or threatened illegal discharge that presents, or may present, imminent risk of harm to the public health, safety, welfare or to the environment. The person or property owner who has had MS4 access suspended or terminated may, within 30 days of notice of the action to suspend or terminate, request a hearing before the Director of the Department of Public Works appealing the action. Written notice of the suspension or termination shall be served on the person or the property owner as soon as practical, but no later than seven (7) days after the suspension or termination. In the event any person fails to comply with an emergency suspension or termination order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or to the environment.

9.3 Any person discharging to the MS4 system in violation of this ordinance may have their access to the MS4 suspended or terminated, after a hearing, if such suspension or termination would abate or reduce a violation of this ordinance. The department shall notify the alleged violator of the hearing regarding the proposed termination or suspension of MS4 access by written notice, mailed to the violator not less than 10 calendar days prior to the scheduled hearing date. Said notice shall contain a summary of the reason(s) for the proposed

suspension or termination and the effective date of said suspension or termination.

SECTION 10. NOTIFICATION OF SPILLS

10.1 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 MS4 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 and police departments and the Department. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the 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 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

11.1 The Department, or an authorized agent of the Department, shall enforce this ordinance, as well as regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

11.2 Civil Relief. If a person violates the provisions of this ordinance, or any regulation, permit, notice, or order issued thereunder, the Department 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. Any unpaid EEC, after 30 days, shall be a lien on all property in Town owned by the Violator, and shall be subject to collection pursuant to the Municipal Charges Lien provisions of the General Ordinances.

11.3 Orders. The Department, or an authorized agent, may issue a written order to enforce the provisions of this ordinance, 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.

11.4 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 fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and EEC shall be charged to the violator.

11.5 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 EEC incurred by the town, including administrative costs. The violator may file a written protest objecting to the amount or basis of costs with the Department 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 affirming or reducing the costs, the EEC 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 G.L. Ch. 59, Section 57 after the thirty-first day at which the costs first become due.

11.6 Criminal Penalty. Any person who violates any provision of this ordinance, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$ 1,000.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

11.7 Non-Criminal Disposition. As an alternative to criminal prosecution, the town may elect, in addition to civil relief, to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, Section 21D and as outlined in Section 1-105 of the General Ordinances of the Town of West Springfield to enforce this ordinance and, any EEC shall be a lien under the Municipal Charges Lien provisions of the General Ordinances. The use of the non-criminal procedure shall not limit the ability or authority to seek criminal penalties in addition to any other enforcement method authorized in the ordinance.

11.8 Entry to Perform Duties Under this Ordinance. To the extent permitted by state law and by this ordinance, or if authorized by the

owner or other party in control of the property, the Department, or, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and regulations and may make or cause to be made such examinations, surveys or sampling as the Department deems reasonably necessary.

11.9 Appeals. The decisions or orders of the Department shall be final.

11.10 Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 12. SEVERABILITY

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

SECTION 13. TRANSITIONAL PROVISIONS

13.1 Property owners shall have 60 days from the effective date of the ordinance to comply with its provisions provided good cause is shown for the failure to comply with the ordinance during that period.