

CHAPTER 14
Article X

Illicit Discharges and Connections

Sec 1. – Intent and Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Windsor through the regulation of non-stormwater discharges to the storm drainage system. This ordinance 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 ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
2. To prohibit Illicit Discharges and Connections to the municipal separate storm sewer system.
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

Sec. 2 – Applicability

This ordinance shall apply to all water entering the storm drainage system generated on any developed or undeveloped lands unless explicitly exempted by the Town Engineer.

Sec. 3 – Designation of Ordinance Administrator

The Town Engineer is hereby appointed to administer, implement, and enforce the provisions of this ordinance.

Sec. 4 – Definitions

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 practice to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Construction Activity	Activities subject to NPDES Construction Permits, CT DEP Construction Permits or Town of Windsor Erosion & Sediment Control Permits. These include construction projects resulting in land disturbance of 0.5-acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
CT DEP	Connecticut Department of Environmental Protection.
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 non-stormwater discharge to the storm drainage system, except as exempted in <u>Section 5</u> of this ordinance.
Illicit Connections	An illicit connection is defined as either of the following: <ul style="list-style-type: none"> (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection has been previously allowed, permitted, or approved by the Town; or (b) Any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps, or equivalent records and approved by the Town.
Industrial Activity	Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).
MS4	Municipal separate storm sewer system.

National Pollutant Discharge Elimination System (NPDES) Storm Water 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 on an individual, group, or general area-wide basis.
Non-Stormwater Discharge	Any discharge to the storm drainage system that is not composed entirely of stormwater.
Person	“Person” means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.
Pollutant	Anything which causes or contributes to pollution of air, water or soil. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard waste; refuse, rubbish, garbage, litter, or other discarded or abandoned objects 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.
Professional Engineer	A professional engineer licensed in the State of Connecticut.
Storm Drainage System	Publicly-owned facilities by which storm water 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 man-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 Runoff	That portion of the precipitation (excess rainfall, snow melt or irrigation) on a drainage area that is discharged from the area in the form of flow across the surface of the ground.
Stormwater Pollution Prevention Plan	A document which describes 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.
Town Engineer	The Town of Windsor Town Engineer or his/her designee.
Town Manager	The Town of Windsor Town Manager or his/her designee.
Wastewater	Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.
Watercourse	A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. This includes, but is not limited to lakes, ponds, rivers, and streams.

Sec. 5 – Discharges Prohibitions

(a) Prohibition of Illegal Discharges

No person shall discharge or cause to be discharged into the municipal storm drainage system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described below:

1. The following discharges are exempt from discharge prohibitions established by this ordinance:
 - a. Naturally occurring discharges such as rising groundwaters, uncontaminated groundwater infiltration [as defined at 40 CFR 35.2005(20)], springs, diverted stream flows, and natural riparian habitat or wetland flows;
 - b. Uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps;
 - c. Water line flushing;
 - d. Landscape irrigation; and

- e. Fire fighting activities.
 - 2. Discharges specified in writing by the Town Engineer as being necessary to protect health and safety.
 - 3. Dye testing is an allowable discharge, but requires a verbal notification to the Town Engineer prior to the time of the test.
 - 4. The prohibition shall not 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 or CT DEP, provided that the discharge is in full compliance with all 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 storm drainage system.
- (b) Prohibition of Illegal Connections
- 1. The construction, use, maintenance or continued existence of Illicit Connections to the storm drainage 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 ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 6 – Suspension of MS4 Access

(a) Suspension due to Illicit Discharges in Emergency Situations

The 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 Town Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Water of the United States, or to minimize danger to persons.

(b) Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town Engineer will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town Engineer for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior written approval of the Town Engineer.

Sec. 7 – Industrial or Construction Activity Discharges

Any person subject to an industrial 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 Town Engineer prior to the allowing of discharges to the MS4.

Sec. 8 – Monitoring of Damages

(a) Applicability

This section applies to all premises that have stormwater discharges associated with industrial and/or construction activities.

(b) Access to Premises

1. The Town Engineer shall be permitted to enter and inspect premises subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharge 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 Town Engineer.
2. Persons shall allow the Town Engineer 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.
3. The Town Engineer shall have the right to set up on any premise such devices as are necessary in the opinion of the Town Engineer to conduct monitoring and/or sampling of the premise's stormwater discharge.
4. The Town Engineer has the right to require the discharger to install monitoring equipment as necessary. The premise'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 premise to be inspected and/or sampled shall be promptly removed by the person responsible for maintaining the premise at the written or oral request of the Town Engineer and shall not be replaced. The costs of clearing such access shall be borne by the person responsible for maintaining the premise.

6. Unreasonable delays in allowing the Town Engineer access to a premise is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a premise with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Town Engineer reasonable access to the premise for the purpose of conducting any activity authorized or required by this ordinance.
7. If the Town Engineer has been refused access to any part of the premise from which stormwater is discharged, and he 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 any order issued hereunder; or to protect the overall public health, safety, and welfare of the community, then the Town Engineer may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 9 – Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices

The Town Engineer will implement requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage 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 materials or other wastes into the municipal storm drainage 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 separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with the requirements of the NPDES permit.

Sec. 10 – 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, excessive vegetation, 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.

Sec. 11 – Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible 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 drainage system, or water of the United States; said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence. Additionally, in the event of a release of hazardous and/or non-hazardous materials, said person shall notify the Town Engineer in person or by phone no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town Engineer within three business days of the phone notice. If the discharge of prohibited materials emanates from commercial or industrial activities, 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.

Sec. 12 - Enforcement

(a) Notice of Violation

Whenever the Town Engineer finds that a person has violated a prohibition or failed to meet a requirement of this ordinance he shall order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of Illicit Discharges or Connections;
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; and
5. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are 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.

(b) Procedure for Issuance of Citations

1. The Town Manager shall issue a written notice to any person who violates any provision of this ordinance. No written notice may be issued against the State or any State official or employee acting within the scope of his employment.

Such written notice shall explain the nature of the violation and the steps required for compliance, and shall allow a seventy-two (72) hour period within which to correct the violation or within which a written plan for correction shall be submitted to the Town Manager, setting forth a reasonable time period for correction of the violation as agreed upon by the Town Manager. A written notice issued pursuant to this subsection shall be served: 1) by hand delivery, at which time the seventy-two (72) hour period shall begin; or 2) by certified mail return receipt requested and by regular first class mail. Three (3) business days shall be allowed for mail delivery of the notice prior to the commencement of the seventy-two (72) hour period.

2. Within two (2) business days after the period for correction established in subsection (a) expires, the Town Engineer shall re-inspect the subject property to determine compliance.
3. If the violations set forth in the written notice have not been corrected at the time of re-inspection, the Town Manager, in his capacity as chief executive officer, shall issue a citation and fine in the amount of \$250.00 for each violation by hand, by certified mail return receipt requested, by leaving a true and attested copy of the citation at the usual place of abode or residence of the person in violation, or in the case of a corporate or business entity, delivery to the business address or the address of the statutory agent of said entity. No such fine shall be levied against the State or any State Official or State employee acting within the scope of his employment. All citations issued pursuant to this Section shall state the violation for which the citation is being issued, the fine imposed for the violation, the time period within which the fine must be paid, and an address for remittance of the fine.

(c) Compliance Periods After Citation

1. Any violation for which a citation is issued and which is not corrected within the time period specified in Section 12(b) shall be a new violation of this ordinance, and every twenty-four (24) hour period thereafter in which the violation is not corrected shall constitute a new violation. The citation shall include a notice to the alleged violator that each 24 hour period of noncompliance after the time period specified in Section 12(b) shall constitute a new violation and a new fine of \$250.00.
2. The Town Manager shall not be responsible for a daily re-inspection. Rather the person to whom the citation has been issued shall be responsible for reporting subsequent compliance by way of written report to the Town Manager. The Town Manager shall re-inspect to confirm compliance within one (1) business day of receipt of such report.

(d) Payment of Fines

1. All fines imposed under this Article which are uncontested shall be made payable to the Town of Windsor and shall be received by the Town Manager

within ten (10) business days from receipt of the citation. All fines collected by the Town Manager shall be directed to the Town Finance Director to be deposited into the Town of Windsor General Fund.

2. If no payment is received for any fine imposed under this Article within the time allowed for payment, then the Town Manager shall act in accordance with the procedures established in Chapter 2, Article VI, of the *Windsor Code of Ordinances*.

(e) 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 and it is within the discretion of the Town Engineer to seek cumulative remedies.

Sec. 13 – Hearing procedure for a citation

The procedure for admitting liability to a violation under this Article, and the hearing procedure for any citation issued pursuant to this Article shall be in accordance with the provisions set forth in Chapter 2, Article VI, of the *Windsor Code of Ordinances*.

Sec. 14 – Appeals

Any person or entity aggrieved by a finding, determination, notice order or action taken under the provisions of this ordinance may appeal and shall be advised of his right to appeal in accordance with the provisions set forth in Chapter 2, Article VI of the *Windsor Code of Ordinances*.

Sec. 15 - Miscellaneous

The penalties established by this ordinance shall not be exclusive of any other enforcement remedy which may be imposed by the Town Manager, or his designee, for violations of this ordinance, as authorized by any state statute, Town Ordinance, or the Inland Wetlands and Watercourses Regulations, of the Town of Windsor or otherwise any other penalty that may be imposed by any local, state or federal agency.

Sec. 16 - Savings Clause

The enactment of this ordinance shall not operate as an abatement of any action or proceeding previously taken, now pending, or taken prior to the effective date of this ordinance. All said actions and proceedings are hereby ratified to be continued.

Sec. 17 - Severability

All provisions of the Town Code in conflict herewith are hereby repealed and that if for any reason, any word, clause, paragraph, or section of this ordinance shall be held to make the same unconstitutional, this ordinance shall not hereby be invalidated and the remainder of the ordinance shall continue in effect. Any provision herein which is in conflict with the

Connecticut General Statutes is hereby repealed, it being understood that said statutes shall take precedence over this ordinance.

Sec. 18 - Statutory Authorization

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7) of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Sec. 19 - Effective Date

This ordinance shall become effective ten (10) days after publication in a newspaper having a circulation in Windsor.

APPROVED AS TO FORM:

Vincent W. Oswecki, Jr.
Town Attorney

ATTEST:

Town Clerk

Distributed to Town Council _____

Public Hearing Advertised _____

Public Hearing _____

Adopted _____

Advertised _____

Effective Date _____