

Town of Ridgefield
Illicit Discharge and Connection Stormwater Ordinance

SECTION 1. PURPOSE/INTENT

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Ridgefield (the "Town") through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the storm drainage system of the Town which is defined as a Small 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 storm water discharges by any user.
- 2) To prohibit Illicit Connections and Illegal Discharges, as defined herein, 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

SECTION 2. DEFINITIONS

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

Authorized Enforcement Agency: Town of Ridgefield (Town), and/or other employees or designees of the Town's First Selectman, including the Department of Public Services (DPS), or the Water Pollution Control Authority (WPCA), designated to enforce this ordinance.

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, operation procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 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 its quantity, concentration, or physical, chemical, or infectious characteristics

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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, or private storm water discharge directly or indirectly onto/into a Town accepted roadway or right of way (ROW) or any municipal storm drainage system except as exempted in Section 7 of this ordinance.

Illicit Connections: An illicit connection is defined as any of the following:

- a.) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had 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 drain system which has not been documented in plans, maps, or equivalent records and approved by the Town or;
- c.) Any private site or building drainage pipe outlet discharging directly or indirectly into/onto
a
Town accepted roadway or ROW surface or;
- d.) Any non-permitted private site or building drainage pipe connection having been made to
a
Town storm drainage system servicing a Town accepted roadway/ROW.

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 a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to water 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 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.

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Pollutant: Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid 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 wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System: Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutter, 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 (SWPPP): A document which describes the BMPs 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.

Stormwater Management Plan: A document designed to reduce the discharge of pollutants from the Small MS4 (the Town) to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the federal Clean Water Act.

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

SECTION 3. APPLICABILITY

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

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SECTION 4. RESPONSIBILITY FOR ADMINISTRATION

The Town 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 First Selectman to persons or entities acting in the beneficial interest of or in the employ of the Town.

SECTION 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 circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 6. ULTIMATE RESPONSIBILITY

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

SECTION 7. DISCHARGE PROHIBITIONS

Prohibition of Illegal Discharges

No person shall discharge or cause to be discharged into the municipal storm drainage system, wetlands, 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 as follows:

1. The following discharges are exempt from discharge prohibitions established by this Ordinance providing they contain no Pollutants: water line flushing, 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 groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated / typically less than one part per million chlorine) firefighting (non-training) activities, and any other water source not containing Pollutants. Allowance of these discharges under this Ordinance does not relieve the person initiating such discharge/s from obtaining other

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environmental permits that may be required under Federal, State, or Local law.

2. Discharges specified in writing by the Town as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge but requires a verbal notification to the Town 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 the Connecticut Department of Energy and Environmental Protection (DEEP), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections

1. The construction, use maintenance or continued existence of Illicit Connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION 8. SUSPENSION OF MS4 ACCESS

Suspension due to Illicit Discharges in Emergency Situations

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

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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 will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town for a reconsideration and hearing within fifteen (15) days of the receipt of said notice of termination.

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

SECTION 9. INDUSTRIAL, COMMERCIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial, commercial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to allowing discharges to the MS4.

SECTION 10. MONITORING OF DISCHARGES

1. Applicability

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

2. Access to Facilities

- (1) The Town 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 that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town.
- (2) Facility operators shall allow the Town 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.

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- (3) The Town shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Town to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Town has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Town access to a permitted facility are a violation of a stormwater discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial, commercial or construction activity commits an offense if the person denies the Town reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.
- (7) If the Town 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 any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Town may seek issuance of a search warrant or injunctive relief from any court of competent jurisdiction.

SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The Town may adopt requirements identifying BMPs for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system, wetlands or watercourses through the use of these structural and non- structural BMPs. Further, any person responsible for a property or premises, which is, or may

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be, the source of an Illegal 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 or commercial activity, to the extent practicable, shall be considered to comply with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) or stormwater management plan (SMP) as necessary for compliance with requirements of the National Pollutant Discharge Elimination System NPDES permit.

SECTION 12. WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, in whole or in part, 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.

SECTION 13. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges or Pollutants discharging into stormwater, the storm drainage system, or waters 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 a release of Hazardous Materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Ridgefield, Office of the First Selectman, 400 Main Street, Ridgefield, CT 06877 within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

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SECTION 14. ENFORCEMENT

1. Notice of Violation

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

- a) The performance of monitoring, analyses, and reporting;
 - b) The elimination of Illicit Connections or Illegal Discharges;
 - c) That violating discharges, practices, or operations shall cease and desist;
 - d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of an affected property;
 - e) Payment of a fine to cover administrative and remediation costs, and any other fines or penalties permitted herein or by the General Statutes;
- and
- f) 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 with the established deadline, the work may be done by the Town or a contractor, and the expense thereof shall be charged to the violator.

SECTION 15. APPEAL OF NOTICE OF VIOLATION

- a) Any person receiving a Notice of Violation may appeal the determination of the Town.
- b) A written notice of appeal must be received within fifteen (15) days from the date of the Notice of Violation. Such notice shall inform the person cited: (1) Of the allegations against him or her and the amount of the fines, penalties, costs or fees due; (2) that he or she may contest his or her liability before a citation hearing officer by delivering in person or by mail written notice within fifteen days of the date thereof; (3) that if he or she does not demand such a hearing, an assessment and judgment shall be entered against him or her; and (4) that such judgment may issue without further notice.

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For purposes of this section, notice shall be presumed to have been properly sent if such notice was mailed to such person's last-known address on file with the tax collector. If the person to whom such notice is issued is a registrant, the municipality may deliver such notice in accordance with section 7-148ii, provided nothing in this section shall preclude a municipality from providing notice in another manner permitted by applicable law.

- c) Filing of a request for appeal shall stay the action by the Town. If a request for appeal is not made within the fifteen-calendar day period, the action of the Town is final.

- d) If the person who is sent notice pursuant to subsection (b) of this section wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by the First Selectman. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within fifteen (15) days of the date of the first notice provided for in subsection (b) of this section shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in subsection (f) of this section.

- e) Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. A Hearing on the appeal before a hearing officer, appointed by the First Selectman shall take place within thirty (30) days from the date of receipt of the notice of appeal, provided that the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance.

If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The person requesting the hearing may testify concerning the facts, circumstances and nature of his/her appeal and may present supporting documentation. The hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate, but shall be informal in nature. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation.

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The hearing officer shall announce his or her decision at the end of the hearing. If he or she determines that the person is not liable, he or she shall dismiss the matter and enter his or her determination in writing accordingly. If he or she determines that the person is liable for the violation, he or she shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the municipality.

- f) The decision of the hearing officer shall be final.
- g) If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court together with the entry fee.
- h) A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal in accordance with Conn. Gen. Stat. § 7-152c (g). An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with the court entry fee.

SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within fifteen (15) days of the decision of the municipal authority upholding the decision of the Town, then representatives of the Town may enter upon the subject private property and are authorized, if needed to take any and all measures necessary to abate the violation and/or stabilize the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Town or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 17. COST OF ABATEMENT OF THE VIOLATION

Within a minimum of thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

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Any person violating any of the provisions of this article shall become a liable to the Town by reason of such violation.

SECTION 18. INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Town may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. The Town shall be entitled to collect its reasonable attorneys' fees, costs and expenses in any action commenced for injunctive relief or otherwise to enforce the provisions of this Ordinance.

SECTION 19. COMPENSATORY ACTION

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

SECTION 20. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this 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 a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. In any civil action commenced under this Ordinance for any purposes, the Town shall be entitled to collect its reasonable attorneys' fees and costs.

SECTION 21. CRIMINAL PROSECUTION/PENALTIES/CIVIL ACTION

Any person that has a violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to all criminal penalties provided by law.

The Town may impose a fine against any person who violates the provisions of this Ordinance in an amount not to exceed \$100 for per day for each day a violation remains unremedied after the time provided for in an initial notice of violation.

The Town may recover all attorneys' fees court costs and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

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SECTION 22. 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 to seek cumulative remedies.

SECTION 23. ADOPTION OF ORDINANCE

This Ordinance shall be in full force and effect fifteen (15) days after publication as provided for in the Town Charter. All prior ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

Adopted by the Town of Ridgefield Board of Selectmen

Rudy Marconi, First Selectman

Endorsed for approval on

Ordinance effective date: