

**AN ORDINANCE PROVIDING REGULATION TO ELIMINATE ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS TO STORM WATER DRAINAGE SYSTEMS FOR CONTROLLING THE INTRODUCTION OF POLLUTANTS INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORWICH** that Chapter 21 of the Norwich Code of Ordinances be amended by the addition of an Article VII – Sections 21-135 through 21-156 as more particularly set forth herein

**SECTION 21-135. PURPOSE/INTENT.**

The purpose of this Article is to provide for the public health and safety, the environment, and the general welfare of the citizens of Norwich through the regulation of Non-Storm Water Discharges to the Storm Drainage System to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of Pollutants into the Municipal Separate Storm Sewer System in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- (a) To prohibit and eliminate Illicit Discharges and Illegal Connections to the Municipal Separate Storm Sewer System; and
- (b) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Article.

**SECTION 21-135.1. APPLICABILITY**

The provisions of this Article shall apply to all water entering the Municipal Separate Storm Sewer System throughout the City of Norwich. The Director of Public Works together with such employees of the Department of Public Works of the City of Norwich as he may designate shall administer, implement, and enforce the provisions of this Article.

**SECTION 21-136 DEFINITIONS.**

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

Authorized Enforcement Agency: The Director of Public Works and such employees of the Administrative and Engineering Division of the Department of Public Works as he may designate in writing to do so shall be authorized to enforce this Article.

Best Management Practices (BMPs): Any schedules of activities, practices prohibitions of practices, structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants into waters of the state consistent with state, federal or other equivalent and technically supported guidance. Best Management Practices also include treatment

requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

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

Construction/Demolition Activity. Any activity associated with construction or demolition at a site including, but not limited to, clearing and grubbing, grading, excavation, and dewatering.

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.

Illicit Discharge. Any direct or indirect Non-Storm Water Discharge to the Municipal Separate Storm Sewer System, except as exempted by Sections 21-137 or 21-140 of this Article.

Illegal Connections. An Illegal Connection – shall consist of either of the following: a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the Storm Drainage System including but not limited to any conveyances which allow any Non-Storm Water 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 had been previously allowed, permitted, or approved; or b) any pipe, open channel, drain or conveyance connected to the Municipal Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by the Authorized Enforcement Agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) or C.G.S. §22a-430b.

Municipal Separate Storm Sewer System means any facility designed or used for collecting and/or conveying Storm Water, including but not limited to any roads with drainage systems, highways, municipal streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, Structural Storm Water Controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is owned or maintained by the City of Norwich.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the Connecticut Department of Energy and Environmental Protection (CT DEEP) under authority designated 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-Storm Water Discharge. Any discharge to the Storm Drainage System that is not composed entirely of Storm Water.

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, cooking oil or grease; detergents, (biodegradable or otherwise); degreasers; non-hazardous liquid and solid wastes and yard wastes; 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 the construction or demolition of a building or structure; and noxious or offensive matter of any kind.

Pollution means the contamination or other alteration of any water's physical, chemical, or biological properties by the addition of any constituent and includes, but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, and other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

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

Storm Water Runoff or Storm Water means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Drainage System see Municipal Separate Storm Sewer 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 human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water Management Plan. A plan including any documents, which describes the Best Management Practices and activities to be implemented by a Person or business to identify sources of pollution and contamination at a site and the actions to eliminate or reduce Pollutant discharges to the Municipal Separate Storm Sewer System.

Structural Storm Water Control means a structural Storm Water management facility or device that controls Storm Water Runoff and changes the characteristic of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

Wastewater. Any water or other liquid, other than uncontaminated Storm Water.

**SECTION 21-137. EXEMPTION.**

This Article shall apply to all water entering the Storm Drainage System generated on any developed and undeveloped Premises unless explicitly exempted by an Authorized Enforcement Agency.

**SECTION 21-138. SEVERABILITY.**

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence,

or paragraph of this Article or the application thereof to any Person, establishment, or circumstances shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Article, and such invalidity shall not affect the remaining provisions or application of this Article.

**SECTION 21-139. ULTIMATE RESPONSIBILITY.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore this Article does not intend or imply that compliance by any Person will ensure that there will be no contamination, Pollution, or not result in an unauthorized discharge of Pollutants.

**SECTION 21-140. DISCHARGE PROHIBITIONS.**

Prohibition of Illicit Discharges.

No Person shall discharge or cause to be discharged into the Municipal Separate Storm Sewer System or into 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 Storm Water.

The commencement, conduct, or continuance of any Illicit Discharge to the Municipal Separate Storm Sewer System is prohibited except as follows:

The following discharges are exempt from discharge prohibitions established by this Article:

- (a) uncontaminated ground water discharges including, but not limited to, pumped ground water, foundation drains, water from crawl space pumps and footing drains; uncontaminated irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street wash water associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), springs, diverted stream flows and flows from riparian habitats and wetlands.
- (b) Any Non-Stormwater Discharge to the Municipal Separate Storm Sewer System authorized by a permit issued pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes, as amended.

Prohibition of Illegal Connections.

- (a) The construction, use, maintenance or continued existence of Illegal Connection to the Storm Drainage System is prohibited.
- (b) This prohibition expressly includes, without limitation, any Illegal Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A Person is considered to be in violation of this Article if the Person connects a line conveying sewage to the Municipal Separate Storm Sewer System, or allows such a connection to continue

unless permitted pursuant to the Storm Management Plan.

**SECTION 21-141.                   SUSPENSION OF MUNICIPAL SEPARATE  
STORM SEWER SYSTEM ACCESS.**

Suspension due to Illicit Discharges in Emergency Situations

The Director of Public Works or his designee may, without prior notice, suspend Municipal Separate Storm Sewer System discharge access to any 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, safety, or welfare of the public, to the Municipal Separate Storm Sewer System, or to the Waters of the United States. If the Director of Public Works or his designee issues a suspension order, or if any Person fails to comply with a suspension order issued hereunder, the Authorized Enforcement Agency may take such steps as it deems necessary to prevent or minimize risk or damage to the environment, the public, the Municipal Separate Storm Sewer System, the Waters of the United States, or to minimize risks and dangers to Persons.

Suspension due to the Detection of Illicit Discharge

Any Person discharging to the Municipal Separate Storm Sewer System in violation of this Article may have their Municipal Separate Storm Sewer System access terminated if such termination will abate or reduce an Illicit Discharge. The Authorized Enforcement Agency will notify any Person in violation of the proposed termination of its Municipal Separate Storm Sewer System access. Any Person in violation may petition the Authorized Enforcement Agency for a reconsideration and hearing.

A Person commits an offense if the Person reinstates Municipal Separate Storm Sewer System access to Premises terminated pursuant to this Section, without the prior approval of the Authorized Enforcement Agency.

**SECTION 12-142.                   INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES  
PURSUANT TO NPDES STORM WATER DISCHARGE PERMIT.**

Any Person who is subject to an industrial or construction activity NPDES Storm Water Discharge Permit shall comply with all provisions of such Permit. Such Person shall be required to submit proof of compliance with such Permit to the Authorized Enforcement Agency on a form acceptable to the Director of Public Works prior to the permitting of discharges to the Municipal Separate Storm Sewer System.

**SECTION 12-143.                   MONITORING OF DISCHARGES.**

(a) Applicability.

This section applies to all Premises, or facilities that have discharges into the Municipal Separate Storm Sewer System associated with industrial activity, including Construction/Demolition activity.

(b) Access to Premises; Right of Entry; Inspections.

(1) The Director of Public Works or his designee shall be permitted to enter onto and inspect any Premises subject to regulation under this Article as often as may be necessary to determine compliance with this Article.

(2) All Persons owning or operating Premises or facilities subject to regulation under this Article shall permit the Director of Public Works or his designee access to all parts of the Premises or facility for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge Storm Water, and the performance of any additional duties as defined by state and federal law.

(3) The Director of Public Works or his designee shall have the right to, and be permitted to, set up such devices as are necessary in the opinion of the Authorized Enforcement Agency to conduct monitoring and/or sampling of Storm Water discharge.

(4) The Director of Public Works or his designee may require any Person discharging Storm Water subject to regulation under this Article to install monitoring equipment as necessary to detect and eliminate any Illicit Discharge. Sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by such Person at such Person's expense. All devices used to measure Storm Water flow and quality shall be properly calibrated to ensure their accuracy.

(5) All Persons causing or responsible for any temporary or permanent obstruction to safe and easy access to the Premises to be inspected and/or sampled shall promptly remove the same at the written or oral request of the Director of Public Works or his designee and such obstruction shall not be replaced. The costs of clearing such obstructions shall be borne by such Person.

(6) Unreasonable delays in allowing the Director of Public Works, or his designee, access to a Premises shall be a violation of a Storm Water discharge permit and of this Article. A Person allowed by a NPDES permit to discharge Storm Water associated with industrial activity shall commit an offense if such Person denies the Director of Public Works or his designee reasonable access to the Premises for the purpose of conducting any activity authorized or required by this Article.

(7) If the Director of Public Works or his designee has been refused access to any part of a Premises from which Storm Water is discharged, and has probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, or the environment the Director of Public Works or his designee may seek the issuance of a search warrant from any court of competent jurisdiction.

**SECTION 21-144. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The Authorized Enforcement Agency shall adopt regulations and establish requirements identifying Best Management Practices for any activity or operation on any Premises, which may cause or contribute to Pollution or contamination of Storm Water, the Storm Drainage System, or the Waters of the United States. Any Person owning or operating a commercial or industrial facility

or establishment shall provide, at such Person's own expense, such reasonable precautions and protections against accidental discharge of Pollutants, prohibited materials, and other wastes into the Municipal Separate Storm Sewer System, or into watercourses, through the implementation and use of the structural and non-structural Best Management Practices.

Any Person responsible as owner, tenant, or operator of any Premises, which is, or is at risk of becoming, the source of an Illicit Discharge may be required for the protection of the public and for the elimination of Pollution to implement, at said Person's expense, additional structural and non-structural Best Management Practices to prevent or reduce the discharge of Pollutants into the Municipal Separate Storm Sewer System.

Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Storm Water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section provided these Best Management Practices shall be part of a Storm Water Pollution Prevention Plan (SWPP) when necessary for compliance with requirements of the NPDES permit.

#### **SECTION 21-145. WATERCOURSE PROTECTION.**

Every Person owning or occupying as a tenant any Premises through which a watercourse passes, shall keep and maintain the watercourse within the Premises free of trash, debris, excess vegetation, and other obstacle or obstacles that would pollute, contaminate, or significantly retard the natural flow of water through the watercourse. Any such Person shall also maintain all existing structures owned or controlled by such Person within or adjacent to a watercourse, so that such structures will not represent or become a hazard to the use, function, or physical integrity of such watercourse.

#### **SECTION 12-146. NOTIFICATION OF SPILLS.**

Notwithstanding any other requirements of law, any Person responsible for requesting an emergency response for a Premises shall, upon becoming aware of or having reasonable cause to suspect the release of materials which may as a consequence result in an Illicit Discharge, or the introduction of Pollutants into Storm Water, into the Municipal Separate Storm Sewer System, or into the Waters of the United States, be required to initiate and take all necessary steps to ensure the discovery, containment, and cleanup of such release.

In the event of such a release of Hazardous Materials such Person shall notify the Director of Public Works within 48 hours. Any notifications made by phone or delivered in person must be confirmed by a written notice delivered or mailed to the Director of Public Works within 72 hours of the initial notification. Whenever the discharge of Hazardous Materials or of other prohibited materials emanates from a commercial or industrial operation, any Person owing or operating the same shall retain an on-site written record of the discharge, and of all actions taken to address the same and to prevent any recurrence. Such records shall be required to be retained for at least three years from the date of recording.

#### **SECTION 21-147. VIOLATIONS, ENFORCEMENT, PENALTIES, AND CITATION PROCESS**

(a) Violation.

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Article. Any Person who has violated or continues to violate the provisions of this Article, may be subject to the enforcement actions outlined in this section and sections 1-8 and 1-9 of the Norwich Code of Ordinances, as well as any additional enforcement actions outlined in this Article, or may be restrained by injunction or otherwise abated in the manner provided by law. The provisions of section 1-9 of the Norwich Code of Ordinances requiring the issuance of a written warning providing notice of the specific violation before the issuing of a citation shall not apply to citations issued pursuant to this Article.

In the event a violation constitutes an immediate danger to public health or public safety, the Director of Public Work, or his designee is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Director of Public Works is authorized to seek cost of the abatement as outlined in Section 21-150.

(b) Citation of Notice of Violation

Whenever the Director of Public Work, or his designee finds that a Person has violated a prohibition or failed to meet a requirement of this Article, the Director of Public Works or his designee may order compliance by written citation delivered in person or by the United States Postal Services by certified mail, return receipt requested to such Person or to the occupant or owner of the Premises if different. Such citation shall contain the following:

- (1) The name and address of such violators;
- (2) The address when available or a description of the building, structure, Premises, or parcel of land upon which the violation is occurring or has incurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action. It shall not be the responsibility of Norwich, the Director of Public Works or his designee to formulate or design any remedial systems;
- (5) A statement of the amount of the fines, penalties, costs or fees due;
- (6) A statement that the cited person may contest liability before a hearing officer by delivering in person or by mail written notice within 10 days from the date of receipt of the written citation;
- (7) A statement that if a hearing is not demanded, an assessment and judgment shall be entered against the cited person;
- (8) A statement that such judgment may issue without further notice.

Such citation or any notice of violation may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of Illicit Discharges and Illegal Connections;
- (3) That the violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of cost to cover administrative and abatement cost;
- (6) The implementation of pollution prevention practices acceptable to Norwich;

- (7) The suspension of any discharge to the Municipal Separate Storm Sewer System consistent with Section 21-141 of this Article;
- (8) The implementation of source control and/or implementation of Best Management Practices in treatment;
- (9) The reporting of the violation to the Connecticut Department of Energy and Environmental Protection (CTDEEP) and/or the United States Environmental Protection Agencies (EPA).

If abatement of a violation and/or restoration of affected Premises is required, the citation shall set out a time deadline within which the required remediation or restoration must be completed. When such abatement or elimination of the violation is not possible within 60 days of source confirmation, a schedule for the abatement of the violation and/or restoration of the affected premises must be established for a period not to exceed 180 days.

**SECTION 21-148. APPEAL AND ENFORCEMENT OF CIATATION.**

The provisions of Section 1-9 of the Norwich Code of Ordinances with respect to the appeal from or the enforcement of citations shall apply to citations issued pursuant to this Article.

**SECTION 21-149. ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the citation, or, in the event of an appeal, upon a decision upholding the decision of the Authorized Enforcement Agency, the Director of Public Works or his designee with such contractual support that they may require, may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any Person, owner, agent or Person in possession of any Premises to refuse to allow entrance upon the Premises for the purposes set forth herein.

**SECTION 21-150. COST OF ABATEMENT OF THE VIOLATION.**

Within 30 days after abatement of the violation, the owner of the Premises will be notified of the cost of abatement, including administrative costs. The owner of the Premises may file a written protest to the Director of Public Works objecting to the assessment or to the amount of the assessment within 30 days. A hearing on the abatement assessment appeal shall be scheduled before a hearing officer within 60 days from the date of receipt of the notice of appeal. The alleged violator or his designee may be present at such hearing to present their position as to why the assessment or the amount of the assessment is unfair or unwarranted.

If the amount due is not paid within 30 days after receipt of notice of the same, or an appeal is taken but not sustained, the charges shall become a special assessment against the property and shall constitute a lien on the property in the amount of the assessment after the expiration of the appeal period.

**SECTION 21-151. INJUNCTIVE RELIEF.**

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Article. If a Person has violated and continues to violate the provisions of this

Article, the Director of Public Works or his designee may seek a preliminary and permanent injunction restraining the Person from activities which would create any further violation or compel the Person to perform abatement or remediation of the violation.

**SECTION 21-152. COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, or remedies authorized by this Article, the Director of Public Works or his designee may require any Person in violation of this Article to engage in alternative compensatory actions, such as, but not limited to, storm drain stenciling, waterway cleanup, and attendance at compliance workshops.

**SECTION 21-153. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any provisions of this Article is a threat to public health, safety, and welfare, and to the environment and may be summarily abated or restored at the expense of the Person in violation, and/or abated by injunctive or other equitable relief as provided by law.

**SECTION 21-154. CRIMINAL PENALTIES.**

For the intentional and flagrant violation of this Article, the Director of Public Works may refer the violation to the United States Environmental Protection Agency (EPA) for enforcement penalties under Sections 309 and 311 of the Clean Water Act.

Any Person violating or continuing to violate this Article shall be liable to criminal prosecution to the extent available at law, and Norwich may recover its cost associated with the enforcement of this Article, including sampling and monitoring expenses in connection with the same.

**SECTION 21-155. REMEDIES NOT EXCLUSIVE.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law and the Director of Public Works or his designee may seek cumulative remedies.

**SECTION 21-156. ADOPTION OF ARTICLE.**

This Article shall take effect on the 10th day of its passage and publication.

Mayor Peter Albert Nystrom  
President Pro Tem Bill Nash  
Alderswoman Stacy Gould