

ARTICLE 26

Bylaw Governing Illicit Discharges to the Municipal Storm Drain System

SECTION 1: PURPOSE

The purpose of this bylaw is to provide for the health, safety, and general welfare of the citizens of the Town of Leicester 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. The bylaw 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 bylaw are:

1. To prevent pollutants from entering Leicester's municipal separate storm sewer system;
2. To prohibit illicit connections and unauthorized discharges to the MS4;
3. To require the removal of all such illicit discharges;
4. To comply with state and federal regulations relating to storm water discharges; and
5. To establish legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

SECTION 2: DEFINITIONS

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

Authorized Enforcement Agency: The Town of Leicester's Board of Selectmen shall administer and implement this bylaw. The Town's Highway Department shall enforce this bylaw. Any powers granted to or duties imposed must be delegated in writing by the Board of Selectmen to the appropriate agents of the town, i.e. the employees of and agents of the Highway Department, the Board of Health, the Conservation Commission, District Water and Sewer Superintendents, Building Inspector, and Town Engineer.

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 storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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

Hazardous Material: 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-storm water discharge to the storm drain system, except as exempted in Section 5 of this bylaw.

Illicit Connections: An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and waste 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 an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR. Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by EPA 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 drain 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; 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 Drain System: Publically-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: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

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

SECTION 3: APPLICABILITY

This bylaw shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 4: RESPONSIBILITY FOR ADMINISTRATION

The Board of Selectmen shall administer and implement the provisions of this bylaw. The Highway Department shall enforce this bylaw. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Chairman of the Board of Selectmen to persons or entities acting in the beneficial interest of the Town of Leicester.

SECTION 5: DISCHARGE PROHIBITIONS

Prohibition of Illegal Discharges: No person shall discharge or cause to be discharged into the municipal separate storm sewer system (MS4) or watercourses any materials, including but not limited to pollutants or waters containing pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this bylaw:
 - Water line flushing or other potable water sources
 - Landscape irrigation or lawn watering
 - Diverted stream flows
 - Rising ground water
 - Uncontaminated ground water infiltration from storm drains
 - Uncontaminated pumped ground water
 - Foundation or footing drains
 - Crawl space pumps
 - Air conditioning condensation
 - Springs
 - Individual resident car washing

- Natural riparian habitat or wet-land flows
 - De-chlorinated Swimming pools
 - Street wash waters
 - Residential building wash waters without detergents
 - Firefighting activities
2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
 3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
 4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all 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 watercourse, or allows such a connection to continue.

SECTION 6: 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 storm water, the MS4 system, or water of the U.S. said person shall take all the 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 and the Leicester Highway Department. In the event of non-hazardous materials, said person shall notify the Leicester Highway Department 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 Leicester Highway Department within three business days of the phone notice. If the discharge of prohibited material 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.

SECTION 7: MONITORING OF DISCHARGES

Inspectors authorized by the Board of Selectmen shall be permitted to enter and inspect facilities subject to regulation under this bylaw as often as may be necessary to determine compliance with this bylaw. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized inspectors.

SECTION 8: ENFORCEMENT

The Board of Selectmen through the Highway Department shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief: If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board of Selectmen 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.

Orders: The Board of Selectmen or another authorized agent may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:

1. Elimination of illicit connections or discharges to the MS4;
2. Performance of monitoring, analyses, and reporting;
3. That unlawful discharges, practices, or operations shall cease and desist; and
4. Remediation of contamination in connection therewith.

If the enforcing body 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 or property owner fail to abate or perform remediation within the specified deadline, the enforcing body may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Criminal Penalty: Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$250.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Non-Criminal Disposition: As an alternative to criminal prosecution or civil action, the Board of Selectmen may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40,

§21D in which case the Highway Department shall be the enforcing Town department. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$250.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violations occurs or continues shall constitute a separate offense.

Entry to Perform Duties Under This Bylaw: To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Highway Department, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under the bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Department deems reasonably necessary.

Appeals: The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

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

SECTION 9: SEVERABILITY

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