



Town of Wenham  
Highway Department  
91 Grapevine Road  
Wenham, MA 01984

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DPW Director  
Bill Tyack

**BYLAW GOVERNING DISCHARGES  
TO THE MUNICIPAL STORM DRAIN SYSTEM**

**1.0 PURPOSE**

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

The regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Wenham's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The purpose of this Bylaw is to prevent pollutants from entering the Town of Wenham's municipal separate storm sewer system (MS4), require the removal of all such illicit connections; comply with state and federal statutes and regulations relating to stormwater discharges, and to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement

**2.0 DEFINITIONS**

**AUTHORIZED ENFORCEMENT AGENCY:** The Board of Selectmen (hereinafter the Board) or its employees, officers or agents designated to enforce this bylaw.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

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

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts from any source.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Bylaw

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7 of this bylaw.

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Wenham.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

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

**PERSON or USER:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include without limitation:

1. paints, varnishes, and solvents;
2. oil and other automotive fluids;
3. non-hazardous liquid and solid wastes and yard wastes;
4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. dissolved and particulate metals;
8. animal wastes;
9. rock, sand, salt, soils;
10. construction wastes and residues; and
11. and noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

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

**STORMWATER:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

**SURFACE WATER DISCHARGE PERMIT:** A permit issued by the Massachusetts Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

**WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **3.0 APPLICABILITY**

This Bylaw applies to any and all flows entering the municipally owned storm drainage system, stormwater discharges, and/or indirect stormwater discharges.

### **4.0 AUTHORITY**

This Bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

Nothing in this Bylaw is intended to replace the requirements or authority of any other bylaw, state, federal or superceding authority.

### **5.0 ADMINISTRATION**

The Authorized Enforcement Agency shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the Authorized Enforcement Agency to employees, officers or agents of the Town Administrator, Department of Public Works, Board of Health, Conservation Commission, Planning Board or other Town Department.

### **6.0 REGULATIONS**

The Authorized Enforcement Agency may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Authorized Enforcement Agency to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### **7.0 PROHIBITED ACTIVITIES**

**Illicit Discharge** - No person shall dump, discharge, cause or allow to be discharged any pollutant, or non-stormwater discharge into the municipal storm drain system, watercourse, waters of the Commonwealth or abutting property.

**Illicit Connection** - No person shall construct, use, allow, maintain or continue any connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

**Obstruction of the Municipal Storm Drain System** – No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Planning Board

### **8.0 EXEMPTIONS**

This article shall not apply to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to the municipal storm drain system.

1. Waterline Flushing.
2. Flows from potable water sources.
3. Springs.
4. Natural flows from riparian habitats and wetlands.
5. Diverted stream flows.
6. Rising groundwater.

7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater.
8. Uncontaminated groundwater discharge from a residential sump pump.
9. Water from exterior foundation drains, footing drains (not including active or pipelines), crawl space pumps, or air conditioner condensation.
10. Discharges from landscape irrigation or lawn watering.
11. Water from individual residential car washing.
12. Discharges from dechlorinated swimming pool water (less than one part per million chlorine) provided it is allowed to stand for one week prior to draining, or tested for chlorine levels with a pool test kit prior to draining, and the pool is drained in such a way as to not cause a nuisance.
13. Discharges from street sweepers of minor amounts of water during operations.
14. Discharges or flows resulting from fire fighting activities.
15. Dye testing, provided written notification is given to the Authorized Enforcement Agency prior to the time of the test, preferably at least 72 hours prior to the start of the testing.
16. Non-stormwater discharges permitted under an National Pollutant Discharge Elimination System (NPDES) Permit, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver or order and applicable laws and regulations.
17. Discharges for which advanced written approval is received from the Authorized Enforcement Agency if necessary to protect public health, safety, welfare or the environment.

## **9.0 EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

- A. The Authorized Enforcement Agency may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, and welfare of the environment.
- B. Any user that denies the Authorized Enforcement Agency reasonable access to the user's premises for the purpose of inspection, monitoring, records examination, or sampling of non-stormwater or stormwater discharges is subject to discharge termination.
- C. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Authorized Enforcement Agency may take such steps as deemed necessary, including immediate severance of the sewer or storm drain connection, to prevent or minimize damage to the municipal storm drain system, its receiving stream, or endangerment to any individuals. The Authorized Enforcement Agency may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Authorized Enforcement Agency that the period of endangerment has passed.

## **10.0 NOTIFICATION OF SPILLS**

Notwithstanding any other requirements of local, state or federal 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 at that facility operation which is resulting or may result in illegal discharge of pollutants that person shall take all necessary steps to ensure containment, and cleanup of the release.

In the event of a release of oil or hazardous materials, the person shall immediately notify the Wenham Fire and Police Departments, Department of Public Works and Board of Health. In the event of a release of non-hazardous material, said person shall notify the Department of Public Works no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the Department of Public Works within three business days thereafter.

If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## 11.0 Enforcement

The Authorized Enforcement Agency or an authorized agent of the Authorized Enforcement Agency shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. **Civil Relief** - If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Authorized Enforcement Agency 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.
- B. **Orders** – The Authorized Enforcement Agency or an authorized agent of the Authorized Enforcement Agency 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.
- C. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Wenham may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- D. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Wenham, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Authorized Enforcement Agency within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Authorized Enforcement Agency affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.
- E. **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 \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. **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 Authorized Enforcement Agency, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Authorized Enforcement Agency deems reasonably necessary.
- G. **Appeals** - The decisions or orders of the Authorized Enforcement Agency shall be final. Further relief shall be to a court of competent jurisdiction.
- H. **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.

## 12.0 Severability

- A. 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.

### **13.0 Transitional Provisions**

- A. Residential property owners shall have 90 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.