



TOWN OF NEWTON, NH
OFFICE OF THE SELECTMEN



Illicit Discharge Detection and Elimination Ordinance

Adopted September 17, 2019

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TOWN OF NEWTON - ILLICIT DISCHARGE ORDINANCE

Section 1. Purpose & Intent

The Purpose is to protect water quality in the Town of Newton while providing for the health, safety and general welfare of the citizens of Town. The intent is to prohibit illicit discharges that often contain pathogens, nutrients, surfactants and various toxic pollutants by setting up and enforcing an Illicit Discharge and Detection Elimination program.

Section 2. Definitions

ENVIRONMENTAL PROTECTION AGENCY (EPA)

The Federal agency responsible for implementing the Federal Water Pollution Control Act, (3 U.S.C. § 1251 et seq.) AKA the “Clean Water Act”.

ILLICIT CONNECTIONS

An Illicit, unauthorized or illegal connection that drains into or is connected to the Municipal Separate Storm Sewer System (MS4), shall mean any pipe, drain, open channel or conveyance connected from a residential, 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 federal, state or local enforcement agency.

ILLICIT DISCHARGE

Any direct or indirect non-storm water discharge to the Municipal Separate Storm Sewer System (MS4), excepting discharges pursuant to a specific NPDEOS permit and firefighting activities.

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)

Are publicly owned and operated facilities by which storm water is collected including but not limited to roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, piped storm drains, pumping facility retention or detention basins, reservoir or other drainage structure that that are owned and/or maintained by the Town of Newton.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

The water quality program setup as part of the Clean Water Act, implemented by the EPA, to authorize the discharge of pollutants into surface waters of the United States.

NON-STORMWATER DISCHARGE

Discharge to the municipal storm drain system not composed entirely of stormwater.

OUTFALL

The point at which stormwater flows out from a point source discernible, confined and discrete conveyance.

OWNER

A person with a legal or equitable interest in the property.

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 State of New Hampshire or the United States.

Section 3 – REGULATIONS

The Town of Newton may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions definitions, enforcement, fees, procedures and administration of this IDDE Bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation at least fourteen (14) days prior to the hearing date. Failure of the Town of Newton to issue such rules or regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

Such regulations, rules and/or guidance may include without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the Town of Newton without the requirement of a public hearing as detailed in this bylaw. Administrative review approval shall comply with all other provisions of this Bylaw.

Section 4 – SERVERABILITY

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.

Section 5 – NOTIFICATION

§ 7.1 – Notification of Spills or Other Non-Stormwater Discharges

1. As soon as any person responsible for a facility, site activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges which are resulting or may result in illicit discharges or pollutants discharging into the Town of Newton municipal storm system, state waters or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release so as to minimize the effects of the discharge.
2. If the substance poses an immediate health or safety concern the Town of Newton and the State of New Hampshire Emergency Services shall be immediately notified.
3. If the substance does not pose an immediate health or safety concern than the Town of Newton Health Department should be notified as soon as possible, however, no later than twenty-four (24) hours post event.

Section 6 – TRANSITIONAL PROVISIONS

Residential property owners shall have 60 days from the effective date of this bylaw to comply with its provisions provided good cause is shown for the failure to comply with the Ordinance during that period.

Section 7 – Illicit Discharge and Detection Elimination (IDDE)

§ 7.1 – Applicability

Illicit discharges enter the system through either direct connections (such as wastewater piping either mistakenly or deliberately connected to the storm drains) or by indirect connections. Indirect connections can include failing individual sewage disposal systems, cracked sanitary pipes, spills collected by drain outlets or by dumping an illicit discharge directly into the storm basin.

The Illicit discharges result in high levels of pollutants including heavy metals, toxics, oil and grease, solvents, nutrients, viruses and bacteria being released directly into the receiving waters of the State or the United States. The MS4 drainage system is not designed to accept, process, or discharge such non-stormwater wastes. The pollutant levels from these illegal discharges degrade the receiving water quality and threaten aquatic, wildlife and human health.

§ 7.2 – Prohibition of Illicit Discharges

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater

The following items are not considered as Illicit Discharges:

- Water line flushing
- Uncontaminated ground water infiltration
- Uncontaminated pumped ground water
- Discharges from potable water sources except landscape irrigation and lawn watering
- Foundation & footing drains including crawl space pumps
- Air conditioning condensation
- Diverted/pumped stream flows, Springs & riparian habitats and wetlands and rising groundwater
- Dechlorinated swimming pool discharges
- Discharge from Street Sweeping
- Dye testing as long as the officials are made aware prior to the test
- Non-stormwater discharge permitted under an NPDES permit, waiver or waste discharge order administered under the authority of the US EPA, provided that the discharge is in full compliance with the requirements of the permit, waiver or order and applicable laws and regulations

- Discharge for which advanced written approval is received from the Highway Department and the Planning Board.

§ 7.3. – Prohibition of Illicit Connections

- a. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
- b. 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.
- c. 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.

§ 7. 4– IDDE Responsibility for Administration

The Highway Department shall administer, implement and enforce the provisions of the IDDE ordinance and shall prepare the associated regulations. Regulations can be more stringent but must be at least as stringent as the MS4s. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Board of Selectmen to persons or entities acting in the beneficial interest of or in the employ of the Town of Newton.

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

§ 7. 5– IDDE Enforcement of Prohibitions

The Highway Department of the Town of Newton may order anyone responsible for an illicit connection or discharge to an MS4 to:

1. Eliminate it
2. Take measure to minimize the discharge of pollutants until such time as the illicit connection or discharge shall be eliminated and
3. Remediate the contamination

Board of Selectmen Chair

Date

Town Clerk / Tax Collector

Date