

TOWN OF ALLENTOWN

CO 217: REGULATION OF DISCHARGES INTO STORM WATER DRAINAGE SYSTEM

CO 217.01 Purpose

The purpose of this ordinance is to:

- A. Provide for the health, safety, and general welfare of the citizens of the Town of Allentown (Town) by controlling discharges to the Town's storm water system and to maintain, protect and preserve the Storm Water System of the Town;
- B. Enable the Town to comply with the requirements of the Town's Municipal Separate Storm Sewer System General Permit (MS4 Permit) issued by the United States Environmental Protection Agency (EPA) under the National Pollution Discharge System (NPDES) program and applicable regulations for storm water discharge.

CO 217.02 Definitions

For the purpose of this Ordinance, the terms listed below are defined as follows:

- A. Discharge: "Discharge" includes any spilling, leaking, pumping, pouring, emptying, dumping, conveying, or otherwise disposing.
- B. Enforcement Authority: "Enforcement Authority" means the Road Agent, or his or her designee, which may include individuals or companies with expertise in environmental engineering, who shall administer, implement, and enforce the provisions of this Ordinance.
- C. Person: "Person" means any individual, firm, corporation, trust, partnership, municipality, State agency, Federal agency, or other legal entity.
- D. Pollutant: "Pollutant" means 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, solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinance, and accumulations so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and waste; 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.
- E. Premises: "Premises" means any building, lot, parcel of land, parking areas or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Town from which discharges into the Storm Drainage System are or may be created, initiated, originated, or maintained.

- F. Storm Drainage System: “Storm Drainage System” means the 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. The privately owned and maintained service pipe extending from the Premises to the municipally owned main pipe, culvert, manhole, or other device in the public right of way shall not be considered part of the Storm Drainage System.
- G. Storm Water: “Storm Water” means any natural precipitation including rain water runoff, snowmelt runoff, and surface runoff and drainage. “Stormwater” has the same meaning as “Storm Water.”

CO 217.03 Applicability

This Ordinance shall apply to all Discharges into the Storm Drainage System.

CO 217.04 Allowed Discharges

As provided in the MS4 Permit, and incorporating any amendments to the MS4 Permit that may be made from time to time, the following Discharges are allowed:

- A. Stormwater as defined.
- B. Water-line flushing;
- C. Landscape irrigation;
- D. Diverted stream flows;
- E. Rising groundwater;
- F. Uncontaminated groundwater infiltration (as defined by 40 C.F.R. § 35.2005(20));
- G. Uncontaminated pumped groundwater;
- H. Discharges from potable water sources;
- I. Air conditioning condensation;
- J. Irrigation water, springs;
- K. Uncontaminated water from crawl space pumps;

- L. Uncontaminated water from footing drains;
- M. Lawn watering runoff;
- N. Individual resident car washing;
- O. Flows from riparian habitats and wetlands;
- P. De-chlorinated swimming pool discharges;
- Q: Street wash waters (where spills/leaks of pollutants have not occurred, unless all spilled material has been removed and detergents are not used);
- R: Residential building wash waters without detergents;
- S. Discharges or flows from fire-fighting activities, unless otherwise identified as a significant source of pollutants to the waters of the United States;
- T. Discharges authorized under a separate permit or license issued by the United States Environmental Protection Agency (EPA) or New Hampshire Department of Environmental Services (DES) including but not limited to a National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.

CO 217.05 Prohibited Discharges

All discharges not allowed under CO 217.04 are prohibited. Discharges may be prohibited notwithstanding that the Town approved the connections, drains, or conveyances by which a Person Discharges into the Storm Drainage System.

CO 217.06 Protection from Damage

No Person shall maliciously, willfully, recklessly, or negligently break damage, destroy, deface or otherwise tamper with, any pipe, drain, equipment, or other part of the Storm Drainage System.

CO 217.07 Monitoring and Inspections

In order to ensure compliance with this Ordinance, the Enforcement Authority may enter upon and inspect any Premises subject to this Ordinance with the consent of the Premises owner, tenant, or otherwise authorized Person, or without consent pursuant to RSA 595-B. The Enforcement Authority shall have the power to inspect the Premises and connections thereon to the Storm Drainage System and to conduct monitoring, sampling, and testing as often as may be necessary to determine compliance with this Ordinance.

CO 217.08 Enforcement and Fines

- A. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
1. Disconnection of the Premises to the Storm Drainage System;
 2. The cessation of Discharges, practices or operations in violation of this Ordinance;
 3. At the Person's expense, the abatement of non-allowed Discharges and the restoration of any affected property; and/or
 4. To extent authorized by law, the payment of fines, the payment of the Town's remediation costs, and of the Town's reasonable administrative costs and attorneys' fees and costs.
- B. Penalties/Fines/Injunctive Relief.
1. Any Person who knowingly violates the provisions of this Ordinance may be fined in an amount not to exceed \$1,000. Each day in which any such violation shall continue shall be deemed a separate offense.
 2. To the extent authorized by law, any Person who violates this Ordinance shall be responsible for any and all fines, penalties, damages, and costs, including, but not limited to attorneys' fees and costs incurred by the Town for violation of federal and state environmental laws and regulations caused by or related to that Person's violation of this Ordinance. This responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this Section.
 3. Any Person who violates this Ordinance may be subject to orders for injunctive relief and shall be responsible for the Town's attorneys' fees and costs related thereto if injunctive relief is ordered by the Court.
- C. Consent Agreements. The Enforcement Authority may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance, for the purpose of eliminating violations of this Ordinance, and of recovering fines, costs and fees without court action.
- D. Ultimate Responsibility of Discharger. The standards set forth herein 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 authorized Discharge of Pollutants into water of the United States caused by such Person. This Ordinance shall not create liability on the part of the Town or any officer agent or

employee therefore for any damages that result from any Person's reliance on this Ordinance or any administrative decisions lawfully made hereunder.

- E. Restoration/Remediation/Losses. The Enforcement Authority shall also have the right to levy an assessment of costs related to the restoration or impacted property, the remediation of non-permitted discharges, and such other quantifiable losses and damages caused by any non-permitted Discharge.
- F. Nothing in this ordinance precludes the Town's Zoning Enforcement Officer from exercising concurrent enforcement powers arising from the Town's planning, subdivision, site review, and zoning regulations as they may relate to Storm Water.

CO 217.09 Severability

The provisions of this Ordinance are 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, clauses, sentences, or paragraphs or application of this Ordinance.

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