

# **TOWN OF ALLENSTOWN - ILLICIT DISCHARGE ORDINANCE**

## **Section 1. Purpose & Intent**

The Purpose is to protect water quality in the Town of Allenstown 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 NPDES 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 Allenstown.

### **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 Allenstown 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 of the Governing Body (Allenstown Board of Selectmen) 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 Allenstown 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 Allenstown 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 – 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.

## **Section 5 – NOTIFICATION**

### **§ 5.1 – 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 Allenstown 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 Allenstown 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 Allenstown 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.

Additionally, any discharge that fits in the allowed discharge category above that nonetheless is a significant contributor of pollutants to the MS4 would also be considered an illicit discharge.

### **§ 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 Allenstown.

The Highway Department shall have the authority to levy fines, per violation, per day. The Board of Selectmen shall collect the fines on behalf of the Town of Allenstown.

The Highway Department shall have the authority to enter private property to conduct investigations into alleged illicit discharges. Such investigations shall be within 48 hours of the Highway Department becoming aware of the potential discharge and shall be determined between the Road Agent and the property owner though as soon as practical.

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 Allenstown may order anyone responsible for an illicit connection violation 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.

An illicit discharge and/or illegal connection shall be removed by the responsible party immediately; there is no “grace period between the identification the discharge/connection and removal. Failure to remove the discharge/connection can, at the discretion of the Highway Department of the Town of Allenstown, result in an immediate fine in accordance with Section 7.6 below, until such discharge/connection is removed.

#### **§ 7. 6– Fines**

The Highway Department of the Town of Allenstown has the authority to levy civil fines for violations. Civil fines may be imposed not to exceed \$1,000 per day for each occurrence and may be imposed for every day the violation continues.

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Board of Selectmen Chair

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Date

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Town Clerk / Tax Collector

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Date