

## **CHAPTER 9-01 - ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)**

### **9-01-01 Authority, Purpose, and Intent**

This ordinance is enacted under the authority of RSA 149-I:6 and to comply with the General Permits for Stormwater Discharges From Small Municipal Separate Stormwater Sewer Systems in New Hampshire issued by the United States Environmental Protection Agency. The purpose of the Illicit Discharge Detection and Elimination (IDDE) Ordinance is to protect water quality in the Town of Stratham while providing for the health, safety, and general welfare of the citizens of the Town of Stratham through the regulation of non-stormwater discharges to the stormwater drainage system to the maximum extent practicable as required by federal and state law. The IDDE ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the EPA National Pollutant Discharge Elimination System (NPDES) and MS4 permit process. The objectives of this ordinance are to:

1. Regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
2. Prohibit illicit connections and discharges to the MS4.
3. Establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

### **9-01-02 Definitions.**

For the purposes of this ordinance, the following terms shall mean:

#### **Authorized Enforcement Agency**

Employees or designees of the Select Board designated to enforce this ordinance.

#### **Environmental Protection Agency (US 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 Connection**

An illicit, unauthorized or illegal connection that drains into or is connected to the Municipal Separate Storm Sewer System (MS4), shall mean either of the following:

1. Any pipe, drain, open channel or other conveyance that has the potential to allow an illicit discharge to enter the MS4 system. Including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the stormwater drainage system. This includes any connections to the stormwater drainage 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.
2. Any pipe, drain, open channel, or conveyance connected from a residential, commercial, or industrial land use, to the stormwater drainage 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-stormwater discharge to the Municipal Separate Storm Sewer System (MS4), excepting discharges pursuant to a specific NPDES permit and firefighting activities.

**Infiltration**

The act of conveying the surface water into the ground, to permit the groundwater to be recharged resulting in the reduction of stormwater runoff from a project site.

**Municipal Separate Storm Sewer Systems (MS4)**

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that discharge to waters of the State of New Hampshire or the United States and are:

1. Owned or operated by the Town of Stratham;
2. Designed or used for collecting or conveying stormwater;
3. Not a combined sewer; and
4. Not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

**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 stormwater drainage system not composed entirely of stormwater.

**Outfall**

The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the State of New Hampshire or of the United States.

**Owner**

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

**Pollutant**

Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste.

**Stormwater Runoff**

Any water coming from rainfall, snowmelt or irrigation systems etc. that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.

**9-01-03 Applicability**

Illicit discharges enter the system through either direct connections (such as wastewater piping either mistakenly or deliberately connected to the stormwater drainage system) 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 stormwater drainage system.

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 illicit discharges degrade the receiving water quality and threaten aquatic, wildlife, and human health.

#### **9-01-04 Compatibility with other Regulations**

The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control

#### **9-01-05 Discharge Prohibitions**

##### **A. Prohibition of Illicit Discharges**

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater.

The following items are not considered as Illicit Discharges:

- Air conditioning condensation
- Dechlorinated swimming pool discharges
- Discharges from potable water sources
- Foundation & footing drains including crawl space pumps
- Individual residential car washing
- Discharges or flow from firefighting, and other discharges specified in writing by the Select Board as being necessary to protect public health and safety
- Discharge for which advanced written approval is received from the Department of Public Works
- Water line flushing
- Uncontaminated ground water infiltration
- Uncontaminated pumped ground water
- Diverted/pumped stream flows, Springs & riparian habitats and wetlands and rising groundwater
- Discharges associated with dye testing, however this activity requires a verbal notification to the Stratham DPW prior to the time of the test
- Discharge from Street Sweeping
- 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

## **B. Prohibition of Illicit Connections**

1. The construction, use, maintenance, or continued existence of illicit connections to the stormwater drainage system is prohibited.
2. The prohibition in #1 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 system or allows such a connection to continue.
4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or a sanitary sewer system upon approval of the Select Board.
5. Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the stormwater drainage system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Select Board requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system or other stormwater discharge point be identified. Results of these investigations are to be documented and provided to the Select Board.

## **9-01-06 Notification of Spills or Other Non-Stormwater Discharges**

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 from the subject property or pollutants discharging from the subject property into the Town of Stratham municipal storm system, waters of the State of New Hampshire, 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.

If the substance poses an immediate health or safety concern, the Town of Stratham and the State of New Hampshire Emergency Services shall be immediately notified.

If the substance does not pose an immediate health or safety concern, the Town of Stratham Department of Public Works should be notified as soon as possible, however, no later than twenty four (24) hours post event.

Failure to provide notification of a release as provided above is a violation of this ordinance.

## **9-01-07 IDDE Enforcement of Prohibitions**

The Town of Stratham Select Board 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.

## **9-01-08 Violations, Enforcement, and Penalties**

### **A. Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

Any person who violates this ordinance shall be subject to a civil penalty under RSA 149-I:6. In the event the violation constitutes an immediate danger to public health or public safety, the Select Board or its representatives is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Select Board is authorized to seek costs of the abatement.

### **B. Warning Notice and Fines.**

When the Select Board finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Select Board may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice.

If the violation is not addressed to the Town's satisfaction within the time prescribed in the Warning Notice, the Select Board shall be authorized, at its discretion, to enforce fines not to exceed \$275 per day.

### **C. Suspension of MS4 Access due to the Detection of Illicit Discharge**

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Select Board will notify a violator of the proposed termination of its MS4 access. The violator may petition the Select Board for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Select Board.

Adopted July 8, 2024

By: Select Board Members Allison Knab and Joseph Anderson