

ARTICLE 84

ILLICIT DISCHARGE BY-LAW

Section 1 Purpose

- A. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:
1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 2. contamination of drinking water supplies;
 3. alteration or destruction of aquatic and wildlife habitat; and
 4. flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of water bodies and groundwater resources within the Town of Natick and to safeguard the public health, safety, and welfare and the natural resources of the Town.

- B. The objectives of this By-law are:
1. To prevent pollutants from entering the Town of Natick's municipal storm drain system;
 2. To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
 3. To require the removal of all such illicit connections;
 4. To comply with state and federal statutes and regulations relating to stormwater discharges; and
 5. To establish the legal authority to ensure compliance with the provisions of this By-law through inspection, monitoring, and enforcement.

Section 2 Definitions

For the purposes of this By-law, the following shall mean:

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 from any source.

Groundwater: Water beneath the surface of the ground including confined or unconfined aquifers.

Illicit Connection: A surface or subsurface drain or means of 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 By-law.

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 Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7, subsection B.1, of this By-law.

Municipal Storm Drain System Or Municipal Separate Storm Sewer System (Ms4): 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 Natick.

National Pollutant Discharge Elimination System (Npdes) Storm Water 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: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth 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 considered toxic or detrimental to humans or the environment and may be introduced into the municipal storm drain system or into any water watercourse or waters of the Commonwealth.

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.

Stormwater: Stormwater runoff, snow melt runoff, and surface water runoff and drainage

Surface Water Discharge Permit: A permit issued by the Department of Environmental Protection 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, stream, underground stream, pond or lake.

Waters Of The Commonwealth: All waters within the jurisdiction of the Commonwealth, 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.

Section 3 Applicability

This By-Law shall apply to flows entering the municipal storm drainage system.

Section 4 Authority

This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the Federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register, as amended.

Section 5 Responsibility for Administration

The Natick Board of Health shall administer, implement and enforce this By-Law. The Board of Health and its agents may consult with and request assistance from the Department of Public Works, and/or other Town departments for the purpose of administration, implementation, and enforcement of this By-law.

Section 6 Regulations

The Natick Board of Health may promulgate rules and regulations to effectuate the purposes of this By-law. Failure by the Natick Board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-law.

Section 7 Prohibited and Exempt Activities

A. Prohibited Activities

1. **Illicit Discharges** - No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth.
2. **Illicit Connections** - No person shall construct, use, allow, maintain, or continue any illicit 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.
3. **Obstruction of 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 Natick Board of Health.

B. Exemptions

1. Discharge or flow resulting from fire fighting activities;
2. Discharges from Town of Natick snow and ice removal and control operations.

3. The following non-stormwater discharges or flows are exempt from this By-Law, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - a. Municipal waterline flushing;
 - b. Flow from potable water sources;
 - c. Springs;
 - d. Natural flow from riparian habitats and wetlands;
 - e. Diverted stream flow;
 - f. Rising groundwater;
 - g. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - h. Discharge from landscape irrigation or lawn watering;
 - i. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - j. Water from individual residential car washing and temporary fund-raising car wash events;
 - k. Discharge from *dechlorinated* swimming pool water (less than one ppm chlorine). provided test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town By-Laws;
 - l. Discharge from street sweepers of minor amounts water during operations;
 - m. Winter roadway and parking lot sanding and salting operations associated with maintaining public safety;
 - n. Dye testing, provided verbal notification is given to the Natick Board of Health prior to the time of the test;
 - o. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
 - p. Discharge for which advance written approval is received from the Natick Board of Health as necessary to protect the public health, safety, welfare or environment.
4. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Natick Town Administrator, Select Board or Board of Health.

Section 8 Emergency Suspension of Storm Drainage System Access

The Natick Board of Health 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 discharge of pollutants that presents 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 Natick Board of Health may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 9 Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the 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 Natick's Fire and Police Departments and Natick Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Natick Board of Health no later than the next business day. The reporting person shall provide to the Natick Board of Health written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or facility operator shall also 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.

Section 10 Enforcement

- A. **Authorized Agent** - The Director of Public Health or an authorized agent of the Director of Public Health shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. **Civil Relief** - If a person violates the provisions of this By-Law or any regulations, permit, notice, or order issued thereunder, the Natick Board of Health 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.
- C. **Orders** - The Natick Board of Health or an authorized agent of the Natick Board of Health may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the municipal storm drain system; (b) performance of monitoring, analyses, and reporting; (c) a requirement that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

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 shall 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 Natick may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.

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, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Natick Board of Health 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 Natick Board of Health 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.

- D. **Criminal Penalty** - Any person who violates any provision of this By-Law or any regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, in which case the Natick Board of Health or an authorized agent of the Natick Board of Health shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. **Entry to Perform Duties under this By-Law** - To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Natick Board of Health, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and regulations and may make or cause to be made such examinations, surveys or sampling as the Natick Board of Health deems reasonably necessary
- G. **Appeals** - All decisions or orders of the Natick Board of Health shall be final. Further relief shall be to a court of competent jurisdiction.
- H. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 11 Severability

The provisions of this By-Law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid for any reason, the remaining provision shall continue in effect to the extent permitted by law.

Section 12 Transitional Provisions

Residential property owners shall have one hundred eighty (180) days from the effective date of the By-Law to comply with its provisions or petition the Natick Board of Health for an extension.