

The following is Chapter 133 of the Ordinances of the Town of North Haven approved and adopted by the June 25, 2018 Special Town Meeting. The Chapter will take effect fifteen (15) days after this publication.

Chapter 133

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[HISTORY: Originally adopted by the Town of North Haven 6-25-2018 Special Town Meeting.]

§ 133-1. Declaration of purpose.

The purpose of this Ordinance, which shall be known as the “Illicit Discharge and Connection to Stormwater Drainage Systems Ordinance,” is to provide for the health, safety, and general welfare of the citizens of the Town of North Haven through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (“MS4”) to comply with requirements of the National Pollutant Discharge Elimination System (“NPDES”) permit process. The objectives of this Ordinance are:

- (1) To prohibit and eliminate illicit connections and discharges to the municipal separate storm sewer system and
- (2) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with the Ordinance.

§ 133-2. Definitions.

For the purposes of this Chapter, the following shall mean:

BEST MANAGEMENT PRACTICES (BMPs) - Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state consistent with state, federal or other equivalent and technically supported guidance. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

THE CLEAN WATER ACT - The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY - Any activity associated with construction at a site including, but not limited to, clearing and grubbing, grading, excavation, demolition, and dewatering.

HAZARDOUS MATERIALS - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL CONNECTION - An illegal connection is defined as either of the following:

- (a) Any pipe, open channel, drain, or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the storm drain system including but not limited to any conveyances which allow any Non-Stormwater Discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said pipe, open channel, drain, or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or
- (b) any pipe, open channel, drain, or conveyance connected to the Municipal Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE - Any direct or indirect Non-Stormwater Discharge to the storm drain system, except as exempted in Section 133-6 of this Chapter.

INDUSTRIAL ACTIVITY - Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) or Connecticut General Statutes § 22a-430b.

MUNICIPAL SEPARATE STORM SEWER SYSTEM – Any facility designed or used for collecting and/or conveying Storm Water, including but not limited to any roads with drainage systems, highways, municipal streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, Structural Stormwater Controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is owned or maintained by the Town of North Haven.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT - A permit issued by the Connecticut Department of Energy and Environmental Protection (CTDEEP) under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE - Any discharge to the storm drain system that is not composed entirely of storm water. See definitions of Stormwater and Stormwater Runoff.

PERSON - Any individual, association, organization, partnership, firm, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, or other entity recognized by law.

POLLUTANT - Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; oil and other automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers, cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; silt, sand and/or exposed earth and wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

PREMISES - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORMWATER DRAINAGE SYSTEM – See Municipal Separate Storm Sewer System.

STORMWATER OR STORMWATER RUNOFF – Any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN - A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

WASTEWATER - Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

§ 133-3. Applicability.

This Ordinance shall apply to all water entering the Stormwater Drainage System throughout the Town of North Haven.

§ 133-4. Responsibility for administration.

The Director of Public Works, in consult with the Town Engineer, the Land Use Administrator, the Zoning and Inland Wetlands Enforcement Officer, and any other appropriate Town official of the Town of North Haven, shall administer, implement, and enforce the provisions of this Ordinance. The Director of Public Works may delegate his/her powers and duties under this Ordinance to an authorized designee.

§ 133-5. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, this Chapter does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 133-6. Discharge Prohibitions.

A. Prohibition of illicit discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under his/her/its control to throw, drain, or otherwise discharge into the Municipal Separate Storm Sewer 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 commencement, conduct, or continuance of any Illegal Discharge to the Stormwater Drainage System is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Ordinance: uncontaminated ground water discharges including, but not limited to, pumped ground water; foundation and footing drains; water from crawl space pumps, basement pumps, and air conditioning condensation; irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street wash water associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), springs, diverted stream flows, and flows from natural riparian habitats and wetlands.

(2) Any non-stormwater discharge to the MS4 authorized by a permit issued pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes is also authorized under this Ordinance.

(3) Discharges specified in writing by the Director of Public Works or his/her designee as being necessary to protect public health and safety.

B. Prohibition of illegal connections.

The construction, connection, use, maintenance, or continued existence of any Illegal Connection to the storm drain system is prohibited.

This prohibition expressly includes, without limitation, Illegal Connections made in the past,

regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A Person is considered to be in violation of this Ordinance if the Person connects any drain or conveyance that has not been documented in approved plans, maps, or equivalent, or expressly permitted to the Municipal Separate Storm Sewer System, or allows such a connection to continue.

§ 133-7. Suspension of MS4 access.

A. Suspension due to emergency situation.

The Director of Public Works or his/her designee may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town of North Haven may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

B. Suspension due to 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 Director of Public Works will notify a violator of the proposed termination of its MS4 access. The violator may petition the Director of Public Works 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 Director of Public Works or his/her designee.

§ 133-8. Industrial or Construction activity discharges.

Any Person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works or his/her designee prior to the allowing of discharges to the MS4.

§ 133-9. Right of entry and inspections.

The Director of Public Works or his/her designee shall be permitted to enter and inspect properties and facilities subject to regulation under this Ordinance to determine compliance therewith. Any entry and inspection shall occur at a reasonable time, after written of intent to enter and inspect, including the date and time of the planned entry, is delivered to the property owner and any occupant of the property.

If the Director of Public Works or his/her designee has reason to believe that an Illicit Discharge or Illegal Connection has either occurred or is ongoing at any property or facility and that such Illicit Discharge or Illegal Connection constitutes an immediate danger to public health or public safety, the Director of Public Works or his/her designee may enter and inspect the property or facility without prior notice to the property owner and occupant(s).

In the event of unnecessary delay or refusal of access to inspect any part of premises from which stormwater is discharged, the Director of Public Works or his/her designee may seek issuance of a search warrant from any court of competent jurisdiction.

§ 133-10. Monitoring.

If an Illicit Discharge or Illegal Connection has either occurred or is ongoing at any property or facility, then the Director of Public Works or his/her designee shall have the right:

- A. To set up on any such property or facility any and all devices as are necessary in his/her opinion to conduct monitoring and/or sampling of the facility's storm water discharge.
- B. To require the owner of the property or operator of the facility to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Director of Public Works and his/her designee. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition at the property owner or facility operator's expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- C. To require the property owner or facility operator to provide continuous safe and easy access to the property or facility, including by requiring removal of any temporary or permanent obstruction at he/she/its expense, and /or by providing such security pass or other documentation as may be required.

§ 133-11. Requirement to prevent, control, and reduce storm water pollutants by use of best management practices.

The Director of Public Works will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan ("SWPP") as necessary for compliance with requirements of the NPDES permit.

§ 133-12. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive

vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§ 133-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any Person responsible for a facility, operation, or activity or responsible for emergency response for a facility, operation, or activity has information of any known or suspected release of Pollutants or Non-Stormwater Discharges which may result in or are resulting in Illicit Discharges or Pollutants discharging into Stormwater, the Municipal Separate Storm Sewer System, State Waters, or U.S. Waters, 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.

In the event of a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

In the event of a release of non-hazardous materials, said person shall notify the Director of Public Works in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said Person shall also take immediate steps to ensure no recurrence of the discharge or spill.

§ 133-14. Violations, enforcement, and costs 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 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.

In the event the violation constitutes an immediate danger to public health or public safety, the Director of Public Works or his/her designee is authorized to enter the subject private property, without giving prior notice, to take any and all measures to abate the violation and/or restore the property and seek costs of the abatement as outlined below.

B. Enforcement.

(1) Citation of notice of violation.

Whenever the Director of Public Works or his/her designee finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Director of Public Works or his/her designee may order compliance by written Citation of Notice of Violation to the owner, and occupant(s) if different, where the violation occurred, to be delivered via USPS certified mail, return receipt requested

and by first-class mail.

The Citation of Notice of Violation shall contain:

- (a) The name and address of the alleged violator;
- (b) The address if available or a description of the building, structure, or land upon which the violation(s) is occurring, or has occurred;
- (c) A statement specifying the nature of the violation(s);
- (d) A description of the remedial measures necessary to restore compliance with the Ordinance and a time schedule for the completion of such remedial action. It is not the responsibility of the Town to formulate or design any remedial systems.
- (e) A statement of the penalty(ies) that shall or may be assessed against the Person to whom the Citation of Notice of Violation is directed;
- (f) A statement that the determination of violation(s) may be appealed to a Hearing Officer(s), designated to hear such appeals pursuant to the Connecticut General Statutes, by filing a written notice of appeal within ten (10) days from the date of the Citation of Notice of Violation itself.
- (g) A statement that if no notice of appeal is received within ten (10) of the date of the Citation of Notice of Violation, then an assessment and judgement shall be entered; and
- (h) A statement that such judgment may issue without further notice.

The Citation of Notice of Violation may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of Illicit Discharges and Illegal Connections;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of Stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine or costs to cover administrative and abatement costs;
- (f) Suspension of any discharge to the MS4 system consistent with Section 133-7 of this Ordinance;
- (g) The implementation of source control or treatment BMPs; and
- (h) The reporting of the violation to the Connecticut Department of Energy and Environmental Protection and/or the United States Environmental Protection Agency.

As previously stated, if abatement of a violation and/or restoration of affected property is required, the Citation shall set forth a deadline within which such remediation or restoration must be completed. Where elimination is not possible within sixty (60) days of source confirmation, a schedule for its elimination will be set for no more than one hundred eighty (180) days.

(2) Appeal of citation of notice of violation.

If the person who is sent a Citation of Notice of Violation pursuant to this Ordinance wishes to admit liability for any alleged violation, he/she/it may, without requesting a hearing, pay the full amount of the fines, penalties, costs, or fees admitted to in person or by mail to the Town of North Haven.

Any person receiving a Citation of Notice of Violation may appeal the determination of the Director of Public Works or his/her designee. The notice of appeal must be received by the Director of Public Works within ten (10) days from the date of the Citation of Notice of Violation.

Hearing on the appeal before a Hearing Officer(s) shall take place not less than fifteen (15) days from nor more than thirty (30) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final. The Hearing Officer(s) shall grant any reasonable request by an interested party for a postponement provided there is good cause shown for the request. A copy of the initial Citation of Notice of Violation issued by the Director of Public Works shall be filed and retained by the Town of North Haven and shall be deemed to be a business record and evidence of the facts contained therein.

A Person wishing to contest his liability shall appear at the hearing and may present evidence on his/her/its behalf. The Director of Public Works or his/her designee shall also be required to appear if the Person so requests and may present evidence on behalf of the Town of North Haven. If such person fails to appear, the Hearing Officer(s) may enter an assessment by default against him upon a finding of proper notice and liability under the Ordinance. The Hearing Officer(s) shall conduct the hearing in the order and form and with such methods of proof as deemed appropriate by the Hearing Officer(s). The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath and affirmation. The Hearing Officer(s) shall announce a decision at the end of the hearing. If it is determined that the Person is not liable, the matter shall be dismissed and the determination shall be recorded in writing accordingly. If it is determined that the Person is liable for the violation, appropriate fines, penalties, costs, or fees against such Person as provided for under the Ordinance shall be entered and assessed.

If such assessment is not paid on the date of its entry, the Hearing Officer(s) shall send by first-class mail a notice of assessment to the Person found liable and shall file, not less than thirty (30) days or more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court pursuant to Connecticut General Statutes Section 7-152c and shall follow the contained therein.

Any person who does not deliver or mail written demand for a hearing within ten (10) days of the date of the Citation of Notice of Violation shall be deemed to have admitted liability, and the Director of Public Works or his/her designee shall certify such person's failure to respond to the Hearing Officer. The Hearing Officer shall thereupon enter and assess the fines, penalties, costs, and/or fees provided for in this Ordinance,

(3) Enforcement measures after appeal

If the violation has not been corrected pursuant to the requirements set forth in the Citation of Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the Hearing Officer(s) upholding the decision of the Director of Public Works or his/her designee, then the Director

of Public Works or his/her designee may enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the Director of Public Works, his/her designee, or a designated contractor to enter upon the premises for the purposes set forth above.

C. Costs and Penalties

(1) Costs of abatement of the violation

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest to the Hearing Officer(s) objecting to the amount of the assessment within thirty (30) days. A hearing on the abatement assessment appeal before the Hearing Officer(s) shall take place within sixty(60) days from the date of receipt of the notice of appeal.

If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on the appeal appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Town of North Haven by reason of such violation.

(2) Civil penalties.

In the event that the alleged violator fails to take the remedial measures set forth in the Citation of Notice of Violation or otherwise fails to cure the violations described herein within ten (10) days, or such greater period as the Director of Public Works or his/her designee deems appropriate, and after the Director of Public Works has taken one or more of the actions described above, the Director of Public Works may impose a penalty not to exceed \$100.00 per day for each day the violation remains not remedied after receipt of the Citation of Notice of Violation.

(3) Criminal penalties.

The Director of Public Works may refer intentional and flagrant violations of this Ordinance to the United States Environmental Protection Agency for enforcement penalties under the Clean Water Act.

§ 133-15. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 133-16. Remedies not exclusive.

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Town of North Haven to seek cumulative remedies.

§ 133-17. Compatibility with other laws and severability.

This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. 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 which are different from those imposed by any other ordinance, rule, regulation, or other provision of law, the provision which is more restrictive or imposes greater protective standards for human health and the environment shall control.

The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, paragraph, sentence, or clause of this Ordinance or the application thereof to any person, establishment, or circumstances is held to be invalid by a court of competent jurisdiction such invalidity shall not affect the other provisions or application of this Ordinance.