

ARTICLE XXVI

DISCHARGES TO THE MUNICIPAL STORM SEWER SYSTEM

DEFINITIONS

Authorized Enforcement Agency:	The Billerica Board of Health, its employees, or agents designated to enforce this By-law.
Best Management Practice (BMP):	An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
Clean Water Act:	The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as may be amended from time to time.
Discharge of Pollutants:	The addition, from any source, of any pollutant, or combination of pollutants, into the municipal storm sewer system or into the waters of the United States or Commonwealth.
Groundwater:	Water beneath the surface of the ground.
Illicit Connection:	A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm sewer 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 sewer system that is not composed entirely of stormwater, except as exempted in Section 5. 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 5.1, of this By-law.
Impervious Surface:	Any material or structure on or above the ground that prevents water from infiltrating into the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.
Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System or Municipal Storm Sewer System:	A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains); A. Owned or operated by a State, city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or drainage district, or similar entity or an Indian tribe or an authorized tribal organization or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; B. Designated or used for collecting or conveying storm water; C. Which is not a combined sewer; and D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

National Pollutant Discharge Agency, Elimination System (NPDES) Storm Water Discharge Permit:	A permit issued by the United States Environmental Protection Agency, or jointly with the Commonwealth, that authorizes the discharge of pollutants to waters of the United States.
Non-Stormwater Discharge:	Discharge to the municipal storm sewer 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 or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation: <ul style="list-style-type: none"> A. Paints, varnishes, and solvents, B. Oil and other automotive fluids, C. Non-hazardous liquid and solid wastes and yard wastes, D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations, and floatables, E. Pesticides, herbicides, and fertilizers, F. Hazardous materials and wastes; sewage, fecal coliform and pathogens, G. Dissolved and particulate metals, H. Animal wastes, I. Rock, sand, salt, and soils with the exception of winter salting & sanding, J. Construction wastes and residues, and K. Noxious or offensive matter of any kind
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.
Recharge:	The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
Stormwater:	Rainfall runoff, snow melt runoff, and surface water runoff and drainage. Runoff shall mean rainfall or snowmelt water flowing over the ground surface.
Surface Water Discharge Permit:	A permit issued by the Department of Environmental Protection (DEP) 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: chemical,	Any material, which because of its quantity, concentration, or 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 or underground stream.
Waters of the Commonwealth:	All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.
Wastewater:	Any sanitary waste, sludge, or septic tank or cesspool overflow, and process wastewater.

1. APPLICABILITY

This By-law shall apply to flows entering the municipal separate storm sewer system.

2. RESPONSIBILITY FOR ADMINISTRATION

The Board of Health shall administer, implement and enforce this By-law. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board of Health.

3. REGULATIONS

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

4. PROHIBITED ACTIVITIES

- 4.1 Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a stormwater BMP on public or private property, into a watercourse, or into the waters of the Commonwealth.
- 4.2 Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm sewer system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- 4.3 Obstruction of Municipal Storm Sewer System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer system without prior written approval from the Board of Health.

5. EXEMPTIONS

- 5.1 Discharge or flow resulting from fire fighting activities.
- 5.2 The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm sewer system:
 - A. 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. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation,
 - I. Discharge from landscape irrigation or lawn watering,
 - J. Water from individual residential car washing,

- chlorine)
and the
- K. Discharge from dechlorinated swimming pool water (less than one ppm provided the water is allowed to stand for one week prior to draining pool is drained in such a way as not to cause a nuisance or erosion,
 - L. Discharge from street sweeping,
 - M. Dye testing, provided verbal notification is given to the Board of Health prior to the time of the test,
 - N. Non-stormwater discharge permitted under a 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
 - O. Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, and welfare, or the environment.

6. **EMERGENCY SUSPENSION OF STORM SEWER SYSTEM ACCESS**

The Board of Health may suspend municipal storm sewer 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 public health, safety, or welfare, or the environment. In the event any person fails to comply with an emergency suspension order, the Board of Health may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

7. **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 storm sewer 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 the municipal fire and police departments and Board of Health and Department of Public Works, Engineering Division. In the event of a release of non-hazardous material, the reporting person shall notify the Board of Health no later than the next business day. The reporting person shall provide to the 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 operator shall retain onsite a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years from the date of the spill.

8. **ENFORCEMENT**

The Board of Health, or its authorized agent, shall enforce this By-law, resultant regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- 8.1 Civil Relief. If a person violates the provisions of this By-law, regulations, permit, notice, or order issued thereunder, the Board of Health may seek injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

8.2 Orders.

- A. The Board of Health, or its authorized agent, may issue a written order to enforce the provisions of this By-law or the regulations thereunder, at the expense of the violator or property owner, which may include,
 - (a) elimination of illicit connections or discharges to the MS4,
 - (b) performance of monitoring, analyses, and reporting,

- (c) that unlawful discharges, practices, or operations shall cease and desist, and
(d) remediation of contamination in connection therewith.
- B. If the enforcing agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must 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 Billerica may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- C. 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 of Billerica, including administrative costs. The violator, or property owner, may file a written protest objecting to the amount, or basis of costs, with the 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 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.
- 8.3 Criminal Penalty. Any person who violates any provision of this By-law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300 per offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 8.4 Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Billerica may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, in which case the Board of Health, or other authorized agent, of the Town shall be the enforcing person. The penalty for the first violation shall be a written warning and/or a \$100 fine. The penalty for the second violation shall be a \$200 fine. The penalty for the third and subsequent violations shall be a \$300 fine. Each day, or part thereof, that such violation occurs, or continues, shall constitute a separate offense.
- 8.5 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 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 Board of Health deems reasonably necessary.
- 8.6 Appeals. The decisions or orders of the Board of Health shall be final. Further relief shall be to a court of competent jurisdiction.
- 8.7 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.
- 9. TRANSITIONAL PROVISIONS**
Residential property owners shall have 180 days from the effective date of this By-law to comply with its provisions.

SEVERABILITY

It is hereby declared that sections, paragraphs, sentences, clauses and phrases of these By-Laws are severable and if any phrase, clause, sentence, paragraph or section of these By-Laws shall be declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of these By-Laws.

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