

**TOWN OF HAMPSTEAD, NEW HAMPSHIRE**  
**MS4 ILLICIT DISCHARGE, DETECTION, AND ELIMINATION ORDINANCE**  
*Adopted June 24, 2019*

**IV-15.0 PURPOSE AND INTENT**

The purpose of the MS4 Illicit Discharge, Detection, and Elimination (IDDE) Ordinance is to provide for the health, safety, and general welfare of the citizens of Hampstead 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. 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 storm water 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.

This ordinance is adopted under the authority granted to the Board of Selectmen in RSA 41:11, 47:17, and the Selectmen acting as the Board of Health under RSA 147:1 and 147:14. The ordinance will also be submitted to voters at the March 2020 Town Meeting as a Zoning Ordinance. For consistency, this ordinance utilizes the numbering of the Zoning Ordinance.

**IV-15.1 DEFINITIONS**

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

Authorized Enforcement Agency: Employees or designees of the Board of Selectmen designated to enforce this ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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.

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Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 15.4 of this ordinance.

Illicit Connections: An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water 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 drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity: Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4): The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Town of Hampstead and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State 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-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; 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; wastes and residues that result from constructing a building or structure; 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.

Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Storm Water Management 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 Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

#### **IV-15.2 APPLICABILITY**

This ordinance shall apply to all water, pollutants or other substances entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Board of Selectmen.

#### **IV-15.3 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.

#### **IV-15.4 DISCHARGE PROHIBITIONS**

##### **A. Prohibition of Illegal Discharges.**

1. 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 storm water.
2. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows unless it is determined that the activity is causing an adverse impact:
  - a. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
  - b. Discharges or flow from firefighting, and other discharges specified in writing by the Board of Selectmen as being necessary to protect public health and safety.
  - c. Discharges associated with dye testing; however, this activity requires a verbal notification to the Board of Selectmen prior to the time of the test.
3. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

**B. Prohibition of Illicit Connections.**

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain 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 the sanitary sewer system upon approval of the Board of Selectmen.
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Board of Selectmen 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 Board of Selectmen.

**IV-15.5 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES**

**Submission of Notice of Intent (NOI) to the Town of Hampstead**

1. 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 Board of Selectmen prior to the allowing of discharges to the MS4.
2. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Board of Selectmen at the same time the operator submits the original Notice of Intent to the EPA as applicable.
3. The copy of the Notice of Intent may be delivered to the Board of Selectmen either in person or by mailing it to:  
Notice of Intent to Discharge Storm Water  
Town of Hampstead, New Hampshire, Board of Selectmen  
11 Main Street, Hampstead, NH 03841
4. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Board of Selectmen.

**IV-15.6 SURFACE WATER PROTECTION**

Every person owning property through which surface waters or a watercourse passes, or such person's lessee, shall keep and maintain that part of the surface waters or 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.

#### **IV-15.7 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES**

The Board of Selectmen 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 United States. The owner or operator of such activity, operation, or facility 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 that 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 MS4. 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 storm water management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

#### **IV-15.8 NOTIFICATION OF SPILLS**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such 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 Board of Selectmen 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 Board of Selectmen within 1 business day 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 3 years.

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

#### **IV-15.9 VIOLATIONS, ENFORCEMENT, AND PENALTIES**

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 ordinance and in IDDE Administrative Ordinance or may be restrained by injunction or otherwise abated in a manner provided by law. Those remedies include civil penalties, criminal prosecution, compensatory

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actions, suspension of MS4 access, and abatement actions.

### **SECTION 16. REMEDIES NOT EXCLUSIVE**

The remedies listed in these procedures are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Board of Selectmen to seek cumulative remedies.

The Board of Selectmen may recover all attorneys' fees court costs and other expenses associated with enforcement of these procedures, including sampling and monitoring expenses.

### **SECTION 17. SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance 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 ordinance.

### **SECTION 18. ADOPTION OF ORDINANCE**

This ordinance shall be in full force and effective under final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

The Town of Hampstead IDDE Administrative Ordinance is available in the Board of Selectmen's Office at Town Hall, 11 Main Street, Hampstead, NH 03841.

PASSED AND ADOPTED this 24 day of June, 2019, by the following vote:  
Motion by Selectman S. Murphy with a second by Selectman J. Guthrie. The motion passed unanimously 3-0-0.