



ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

CITY COUNCIL

_____ A.D. 2019

Be it ordained by the City Council of the City of Danbury:

That the Code of Ordinances of Danbury, Connecticut is hereby amended by adding Chapter 49 consisting of twenty new sections, which said sections read as follows:

Section 49-1. Short Title.

The provisions of this article shall be known and may be cited as the “Illicit Discharge and Connection Ordinance.”

Section 49-2. Purpose and intent.

(a) The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Danbury through the regulation of non-stormwater 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 (or “MS4”) in order to comply with requirements of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (or “MS4 Permit”) issued by the Connecticut Department of Energy and Environmental Protection (or “CTDEEP”).

(b) The objectives of this ordinance are to:

- (1) Regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;
- (2) Prohibit and eliminate illicit connections and discharges to the MS4;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the MS4; and,
- (4) Establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.
- (5) Enact law and regulation in furtherance of the specific requirements of CT DEEP and in compliance thereof.

Section 49-3. Definitions.

In the construction of this ordinance, the following definitions shall be applied, unless the context clearly indicates otherwise:

Best Management Practices or “*BMPs*”. The term “Best Management Practices” or “BMPs” means those 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.

Certified Mail, Return Receipt Requested. The term “*Certified Mail, Return Receipt Requested*” means the method of mail delivery offered by the United States Postal Service that requires proof of receipt, which may include mail, electronic, and digital methods of receiving the return receipt, as well as all methods of receiving the return receipt identified by the Mailing Standards of the United States Postal Service in Chapter 500 of the Domestic Mail Manual or any subsequent corresponding

document of the United States Postal Service and shall also include delivery by any express delivery carrier that provides a dated delivery receipt.

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

Construction Activity. The term “Construction Activity” means those activities subject to the Connecticut Erosion and Sedimentation Control Act or the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities issued by the Connecticut Department of Energy and Environmental Protection. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Director. The term “Director” means the Director of the Danbury Department of Public Works or the Director’s designee.

Discharge. The term “Discharge” means any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the MS4 or waters of the state.

Discharger. The term “Discharger” means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.

Hazardous Materials. The term “Hazardous Materials” means 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.

Illicit Connections. The term “Illicit Connections” means either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-stormwater discharge including sanitary sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 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,
- (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit Discharge. The term “Illicit Discharge” means any unpermitted discharge to the MS4 or waters of the state that does not consist entirely of stormwater or uncontaminated ground water except as otherwise provided in section 9 of this ordinance or except those allowable non-stormwater discharges identified in the MS4 Permit when such non-stormwater discharges are not significant contributors of pollution to a discharge from an identified MS4.

Industrial Activity. The term “Industrial Activity” means those activities subject to the General Permit for the Discharge of Stormwater Associated with Industrial Activity issued by the Connecticut Department of Energy and Environmental Protection.

Maximum Extent Practicable or “*MEP*”. The term “Maximum Extent Practicable or “MEP” means a technology-based standard established by Congress in the Clean Water Act, Section 402(p)(3)(B)(iii). Since no precise definition of MEP exists, it allows for maximum flexibility on the part of MS4 operators. When trying to reduce pollutants to the MEP there must be a serious attempt to comply and practical solutions may not be lightly rejected. Factors such as the conditions of receiving waters, specific local concerns, MS4 size, climate, implementation schedules, current ability to finance the program, beneficial uses of receiving water, hydrology, geology and capacity to perform operation and maintenance should be considered in determining whether permittee has complied with this general permit to the Maximum Extent Practicable.

Municipal Separate Storm Sewer System or “*MS4*”. The term “Municipal Separate Storm Sewer System” or “MS4” means the system of conveyances (including highways, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, inlets, retention and detention basins, natural and human made or altered drainage channels, reservoirs, pumping facilities, and structural stormwater controls) owned, operated or maintained by the City of Danbury and designed or used for collecting or conveying stormwater and that is not used for collecting or conveying sanitary sewage or combined stormwater and sanitary flows.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. The term “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the Connecticut Department of Energy and Environmental Protection under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States or waters of the state, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge. The term “Non-Stormwater Discharge” means any discharge to the MS4 or waters of the state that is not composed entirely of stormwater.

Person. The term “Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. The term “Pollutant” means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; cooking grease; oil and other automotive fluids; soap, detergent, degreaser, solvent, or any other harmful cleaning substance; any release from a petroleum storage tank (or “PST”), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge meets all state and federal standards and requirements; non-hazardous liquid and solid wastes and yard wastes including food preparation waste, leaf litter, and grass clippings; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sanitary 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. The term “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Stormwater. The term “Stormwater” means any waters consisting of rainfall runoff, including snow or ice melt during a rain event.

Stormwater Management Plan. The term “Storm Water Management Plan” means a document which describes the BMPs and activities to be implemented by the City of Danbury, a person, or business to identify sources of pollution or contamination and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. The term “Wastewater” means any water or other liquid, other than uncontaminated stormwater, discharged from a facility or property.

Section 49-4. Applicability.

This ordinance shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the Director.

Section 49-5. Responsibility for administration.

The Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Director under this ordinance may be delegated in writing by the Director to persons or entities acting in the beneficial interest of or in the employ of the City of Danbury.

Section 49-6. Compatibility with other ordinances.

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. If any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, then whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 49-7. 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, property or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Section 49-8. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance with its terms by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants to the MS4.

Section 49-9. Discharge Prohibitions. Exceptions.

49-9.1. Prohibition of illicit discharges. Exceptions.

(a) General prohibition. No person shall intentionally, negligently or irresponsibly throw, drain, or otherwise discharge or cause to be discharged, or allow others under its control to throw,

drain, or otherwise discharge into the MS4 or into the waters of the state any materials, including but not limited to pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct or continuance of any illicit discharge to the MS4 or waters of the state is prohibited except as to the following exceptions:

- (1) The following discharges are exempt from prohibitions established by this ordinance, provided that such non-stormwater discharges are controlled to the Maximum Extent Practicable, do not contribute to a violation of water quality standards, are documented in the Stormwater Management Plan and are not significant contributors of pollutants to any identified MS4:
 - (i) uncontaminated ground water discharges, including, but not limited to, pumped ground water, foundation drains, water from crawl space pumps and footing drains;
 - (ii) irrigation water, including but not limited to, landscape irrigation, and lawn watering runoff;
 - (iii) residual street wash water associated with street sweeping;
 - (iv) discharges or flows from firefighting activities (except training);
 - (v) 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 riparian habitats and wetlands.
- (2) Discharges associated with dye testing used in the mapping of the MS4 or verification of discharge sources are exempt, provided that notification is given to the Director prior to the time of the test.
- (3) 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, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

(b) The exceptions described in paragraph 9.1(a) hereof shall not apply if the discharge or flow in question has been determined by the Director to contribute to a violation of water quality standards or to be a source of pollutants discharged to the MS4 or to the waters of the state, written notice of such determination has been provided to the discharger via hand delivery or certified mail, return receipt requested to the property owner at the mailing address shown on the most recent applicable tax list from the municipal assessor, and the discharge has continued for more than ten (10) business days beyond such notice. The certified mail return receipt or certificate of mailing shall constitute proof of notification for the purposes of establishing the ten day period.

49-9.2. Prohibition of Illicit Connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (b) This prohibition 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.
- (c) A person is considered to be in violation of this ordinance if the person connects a line conveying sanitary sewage to the MS4, or allows such a connection to continue.

(d) 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 Director. All costs associated with eliminating the improper connection and with redirecting flows in a manner approved by the Director shall be borne by the property owner.

(e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the MS4, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from the Director requiring that such locating be completed. Such notice shall 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 MS4, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director.

Section 49-10. Industrial or construction activity discharges; submission of Permit Registration to Danbury.

(a) Any person subject to the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities or the General Permit for the Discharge of Stormwater Associated with Industrial Activity, issued by the Connecticut Department of Energy and Environmental Protection, shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director prior to the allowing of discharges to the MS4.

(b) The operator of a facility, including a construction site, subject to the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities or the General Permit for the Discharge of Stormwater Associated with Industrial Activity shall submit a copy of the permit registration to the Director at the same time the operator submits the permit registration to the Connecticut Department of Energy and Environmental Protection.

(c) It shall be a violation of this ordinance to operate a facility that discharges stormwater associated with construction activity or industrial activity without having first submitted a copy of the permit registration to do so to the Director.

Section 49-11. Compliance monitoring.

49-11.1. Right of entry: Inspection and sampling.

(a) The Director shall be permitted to enter and inspect properties or facilities subject to regulation hereunder as often as may be necessary to determine compliance with this ordinance. Except in cases of an emergency representing an imminent or substantial danger to the health, safety or welfare of persons or the environment, the Director shall endeavor to provide prior reasonable notice to the property owner and/or occupant.

(b) If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Director.

(c) Dischargers shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records relevant to any CTDEEP stormwater permit and the performance of any additional duties as defined by state or federal law.

(d) The Director shall after providing reasonable prior notice, have the right to set up on any property such devices as are necessary in the opinion of the Director to conduct monitoring or sampling of the property's stormwater discharge.

(e) The Director shall, as may be deemed reasonable, have the right to require the discharger to install monitoring equipment as necessary. Sampling and monitoring equipment located on any property or within any facility shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy, and calibration records shall be made available to the Director upon request.

(f) Any temporary or permanent obstruction to safe and easy access to the property to be inspected or sampled shall be promptly removed by the discharger at the written or oral request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

(g) Unreasonable delay in allowing the Director access to a property is a violation of this ordinance. A discharger shall be in violation of this ordinance if the discharger denies the Director reasonable access to the property, including but not limited to a permitted facility or construction site, for the purpose of conducting any activity authorized or required by this ordinance.

49-11.2. Search warrants.

If the Director has been refused access to any part of the premises from which stormwater is discharged and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

Section 49-12. Requirement to prevent, control and reduce stormwater pollutants by the use of Best Management Practices.

The Director shall adopt requirements identifying BMPs for any activity, operation or facility that may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the state. The owner or operator of such activity, operation or facility shall provide, at said person's expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or waters of the state 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 stormwater associated with construction activity or industrial activity, to the Maximum Extent Practicable, shall be deemed compliance with the provisions of this section. Such BMPs shall be part of a Stormwater Pollution Prevention Plan, as necessary, for compliance with requirements of the industrial stormwater general permit or a Stormwater Pollution Control Plan, as necessary, for compliance with the requirements of the construction stormwater general permit.

Section 49-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a property, facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which is resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the state, said person shall take all

necessary steps to ensure the discovery, containment, and cleanup of such release. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. 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 Director 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 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. The three-year retention period shall be extended automatically for the duration of any litigation or formally noticed administrative action concerning compliance with this ordinance. Failure to provide notification of a release as provided above constitutes a violation of this ordinance.

Section 49-14. Violations, enforcement and penalties.

49-14.1. 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 the violation 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 as well as all other emergency response personnel of the City of Danbury, including but not limited to members of the Danbury Police Department, the Danbury Fire Department and the Danbury Health Department are authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and restore the property. The Director is authorized to seek costs of the abatement as described in Section 17. Notwithstanding the foregoing, the Director shall make a reasonable attempt to provide notice to the owner prior to any such entry onto private property.

49-14.2. Warning notice.

When the Director finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Director 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 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. Subject to lawful restrictions, nothing in this subsection shall limit the authority of the Director to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

49-14.3. Notice of violation.

(a) When the Director finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or has failed to heed a written Warning Notice issued pursuant to the provisions of subsection 14.2 hereof, the Director may order compliance by written Notice of Violation to the responsible person. Any Notice of Violation issued hereunder may be accompanied by a citation. A Notice of Violation may be served by hand delivery or certified mail, return receipt requested.

(b) The Notice of Violation shall contain:

(1) The name and address of the alleged violator;

- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the Notice of Violation is directed and that each day of non-compliance occurring after the expiration of the deadline for completion of remedial action shall constitute a separate violation;
- (6) A statement that the determination of violation may be appealed to a citation hearing officer by filing a written notice of appeal within seven (7) days of service of Notice of Violation in accordance with the provisions of section 15 hereof; and,
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work may be done by a designated governmental agency or a contractor and the expense thereof charged to the violator.

(c) Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or illicit discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) The payment of a fine, together with charges to cover administrative and remediation costs;
- (6) The implementation of source control or treatment BMPs;
- (7) Alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, watercourse cleanup, or such other actions as the Director deems appropriate;
- (8) The reporting of the violation to the Connecticut Department of Energy and Environmental Protection or the United States Environmental Protection Agency, or both; and,
- (9) Suspension of any discharge to the MS4 consistent with subsection 14.5 of this ordinance.

(d) Notwithstanding the time schedule set forth in the Notice of Violation, all illicit discharges shall be eliminated as soon as possible. Where elimination of an illicit discharge is not possible within sixty (60) days of source confirmation, the schedule for its elimination shall not exceed 180 days (six (6) months). The Director shall cause a copy of each Notice of Violation to be recorded on the Danbury Land Records. Upon satisfactory correction of all violations identified in a Notice of Violation and upon the request of the property owner, the Director shall cause a release of said Notice of Violation to be recorded on the Danbury Land Records.

49-14.4. Consent orders.

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this ordinance or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified in the document. Such documents shall have the same force and effect as administrative orders issued pursuant to the provisions of this ordinance and shall be judicially enforceable.

49-14.5. Suspension of MS4 access.

49-14.5.1. Emergency Cease and Desist Orders.

(a) When the Director finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation or violations has or have caused or contributed to an actual or threatened discharge to the MS4 or waters of the state, which reasonably appears to present an imminent or substantial danger to the health or welfare of persons or to the environment, the MS4, or waters of the state, the Director may issue an emergency order directing the violator to immediately cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and terminating the discharge.

(b) Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate all illicit discharges. In the event of a failure to immediately comply voluntarily with the emergency order, the Director may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the state, or danger to persons or to the environment, including immediate termination of municipal water supply or sewer connections. Notwithstanding the foregoing, the Director shall make a reasonable attempt to provide notice to the owner prior to terminating municipal water supply or sewer connections. The Director may allow discharges to recommence when the person responsible for the illicit discharge has demonstrated to the satisfaction of the Director that the period of endangerment has passed. A person who is responsible, in whole or in part, for any discharge presenting imminent danger shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director within ten (10) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar to, or a prerequisite for, taking any other action against the violator.

49-14.5.2. Suspension due to Illicit Discharges in Emergency Situations

The Director 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 state. If the violator fails to comply with a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons or the environment. Notwithstanding the foregoing, the director shall make a reasonable attempt to provide notice to the owner prior to taking any action described in this subsection.

49-14.5.3. Suspension 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 Director will notify a violator of the proposed termination of its MS4 access. The violator may request reconsideration by the Director. A person shall be in violation of this ordinance if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Director.

49-14.6. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the Notice of Violation or otherwise fails to cure the violations described therein within seven (7) days, or such greater period as the Director shall deem appropriate, the Director may impose a penalty not to exceed two hundred and fifty dollars (\$250), depending on the severity of the violation. Each day that the violation continues after the expiration of the deadline for completion of remedial action established in the Notice of Violation shall constitute a separate violation. In addition to other available enforcement methods, any such enforcement action may be initiated through the issuance of a citation, in general accordance with the provisions of sections 2-2 and 2-3 of this Code. The liability imposed by this section shall be paid in full within thirty (30) days following issuance of the Notice of Violation or ten (10) days following the final disposition of any appeal, whichever is later. Interest shall be assessed on the unpaid balance thereof at the rate established for delinquent taxes, beginning on the thirtieth (30th) day following issuance of the Notice of Violation or ten (10) days following the final disposition of any appeal, whichever is later.

49-14.7. Transfer of ownership.

It shall be a violation of this ordinance for any owner or lessee who has received an order from the Director pursuant to the provisions of this ordinance or upon whom a Notice of Violation has been served to sell, transfer, mortgage, lease or otherwise convey to another person, title to or any interest in the subject property, until the provisions of the order or Notice of Violation have been complied with, or until any such grantee, transferee, mortgagee or lessee has unconditionally accepted responsibility for compliance with such order or Notice of Violation.

Section 49-15. Appeal of notice of violation.

Any person receiving a Notice of Violation or citation, or both, may appeal the determination of the Director. The notice of appeal must be received within seven (7) days from the date of the Notice of Violation or citation. Hearing on the appeal before a citation hearing officer in general accordance with the procedure described in section 2-3 of this Code shall take place within ten (10) days from the date of receipt of the notice of appeal. The decision of the citation hearing officer shall be final.

Section 49-16. Enforcement of measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within seven (7) days of the decision of the citation hearing officer upholding the decision of the Director, then representatives of the Director may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and restore the property. It shall be unlawful for any person in possession of any premises to refuse to allow the Director or any contractor authorized by the Director to enter upon the premises for the purposes set forth herein. Except in cases of an emergency representing an imminent or substantial danger to the health, safety or welfare of persons or the environment, the Director shall endeavor to provide prior reasonable notice to the property owner and/or occupant.

Section 49-17. Cost of abatement of the violation.

Within thirty (30) days after abatement of the violation, the owner of the property will be invoiced for the cost of abatement, including administrative charges. The property owner may file a written appeal to a citation hearing officer requesting a hearing to be held in general accordance with the procedure described in section 2-3 of this Code, objecting to the amount of the invoice within seven (7) days. The invoice shall be paid in full within thirty (30) days of issuance or ten (10) days

following final disposition of any appeal, whichever is later. Interest shall accrue on the unpaid balance at the rate established for delinquent taxes, beginning on the thirtieth (30th) day following issuance of the invoice described herein or ten (10) days following the final disposition of any appeal, whichever is later. If the liability imposed by this section is not paid within the time period established herein, then the total of all costs and charges shall become a special assessment against the property and shall constitute a lien on the property for the full amount thereof.

Section 49-18. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided for herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is hereby deemed to be a threat to public health, safety, and welfare, and is declared to be a public nuisance as may be defined and established by state statute, and may be summarily abated or restored at the expense of the violator, and a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be commenced.

Section 49-19. Criminal penalties.

In the event that any person violates this ordinance either knowingly or with criminal negligence, the Director may refer the matter to either the United State Environmental Protection Agency or the Connecticut Department of Energy and Environmental Protection for criminal enforcement in accordance with applicable federal or state law.

Section 49-20. 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 Director to seek cumulative remedies, including but not limited to judicially imposed civil penalties, injunctive relief and orders of specific performance. The Director may take any, all, or any combination of actions against a violator. The Director is empowered to take more than one enforcement action against any violator with respect to any given violation and may take such actions concurrently. The Director may recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

ORDINANCE
CITY COUNCIL

No: _____

Ordinance _____

Adopted by the City Council

Approved by Corporation Counsel:

Certified by Legislative Assistant:

Approved by the Mayor:

Mayor