

# Chapter 5

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## Illicit Discharge Control

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### **Sec. 3-5-1 Purpose.**

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the **Town of Westport** and protect waters of the state through the regulation of illicit discharges to the municipal separate storm sewer system as required by federal and state law. This Chapter establishes methods for controlling the discharge of pollutants into the municipal separate storm sewer system owned or operated by **Town of Westport** in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code. The objectives of this Chapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system associated with discharges from any user of the municipal separate storm sewer system.
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

### **Sec. 3-5-2 Definitions**

For the purposes of this Chapter, the following definitions are applicable:

- (1) **“Authorized agency”** means employees or designees of the director or directors of the municipal agency or agencies of the **Town of Westport** designated to administer or enforce this Chapter.
- (2) **“Illicit connection”** means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal separate storm sewer system and any connections to the municipal separate storm sewer system from indoor drains and sinks.
- (3) **“Illicit discharge”** means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges authorized by a WPDES permit or other discharges not requiring a WPDES permit.
- (4) **“Municipal separate storm sewer” or “MS4”** means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:
  - a. Owned or operated by the **Town of Westport**.
  - b. Designed or used for collecting or conveying storm water.
  - c. Which is not a combined sewer conveying both sanitary wastewater and storm water.
  - d. Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (5) **“Non-storm water discharge”** means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water.
- (6) **“Storm water”** means surface runoff and drainage of rainfall and snow or ice melt.
- (7) **“Waters of the state”** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, well, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

### **Sec. 5-3-3 Applicability**

This Chapter shall apply to all discharges to the MS4 and to all activities that can reasonably be expected to result in a discharge to the MS4.

### **Section 5-3-4 Responsibility for Administration**

The **Town of Westport** shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed by this Chapter upon the authorized agency may be delegated by the Town Board Chair to persons or entities acting in the beneficial interest of or in the employ of the Town.

**Sec. 5-3-5 Severability**

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

**Sec. 5-3-6 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 discharges.

**Sec. 5-3-7 Discharge Prohibitions**

**(a) Prohibition of Illicit Discharges.**

No person shall discharge or cause to be discharged into the MS4 or waters of the state of 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 storm water. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited. The following non-storm water discharges or flows are generally not considered illicit discharges if done so in a non-polluting manner: water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool water, street wash water and fire fighting.

**(b) Prohibition of Illicit Connections.**

- (1) The construction, use maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) 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.
- (3) A person is considered to be in violation of this Chapter if the person connects a line conveying sanitary waste to eh MS4, or allows such a connection to continue.

**Sec. 5-3-8 Monitoring of Discharges**

**Access to Facilities.**

The authorized agency shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger

has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized agency.

### **Sec. 5-3-9 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 illicit discharges or pollutants discharging into storm water, the MS4, or water of the state, 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 authorized agency 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 authorized agency within three business days of the phone notice.

### **Sec. 5-3-10 Enforcement, Penalties, and Remedies**

- (a) *Violations.* It shall be unlawful for any person to violate any provision of this Chapter. Each and every day during which the violation continues shall constitute a separate offense. The Town may institute appropriate action of proceedings to enjoin violations of this Chapter.
- (b) *Penalties.* Any person who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and also pay the costs of prosecution for each violation, including the Town's reasonable and actual attorneys fees and disbursements incurred in the prosecution of such violations.