

CITY OF ESSEX JUNCTION, VT**MUNICIPAL CODE****CHAPTER 20
REGULATION OF STORMWATER MANAGEMENT****SECTION 2001. PURPOSE:**

The purpose of this ordinance is to protect the public health, safety, and welfare of the City of Essex Junction through the regulation of stormwater discharges to the Municipal Separate Storm Sewer (hereafter "MS4") as required by federal and state law and surface water in the City.

This includes:

- a) Adverse effects of erosion and stormwater discharge from new development and redevelopment
- b) Illicit discharges
- c) Impacts from impervious surfaces
- d) Adverse impacts on water quality
- e) Flood risk reduction

SECTION 2002. INTENT:

The intent of this ordinance is to allow no increase in stormwater runoff because of land development activity.

SECTION 2003. APPLICATION:

Any discharge of stormwater from developed property in the City shall be subject to the provisions of this division.

Required Approvals:

- a) No owner of Developed Property in the City shall change or alter, or allow to be changed or altered, the discharge of stormwater from such property without first obtaining a permit or approval required under this or any other City Ordinance, state law, or federal law. As used herein, change or alter shall mean an act done that will result in a direct or indirect impact on the contribution of stormwater into the Public Stormwater System.
- b) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public storm drain or appurtenance thereof.

SECTION 2004. RELATION TO OTHER ORDINANCES

If the provisions of these regulations conflict with the provisions of another valid and enforceable Ordinance(s), the stricter provisions shall prevail.

SECTION 2005. ADMINISTRATION

Except where specifically noted in this Ordinance, the Water Quality Superintendent shall administer, implement, and enforce the provisions of this Ordinance. The powers and duties granted to and held by the Water Quality Superintendent in Chapters 19-21 of the City of Essex Junction Municipal Code may be delegated by the Water Quality Superintendent, at the Superintendent's discretion, to another qualified employee of the City of Essex Junction if the delegation is deemed appropriate and necessary by the Superintendent to achieve the intent and purpose of these Chapters.

SECTION 2006. DOCUMENTS REFERENCED

- 1) City of Essex Junction Land Development Code Sections 512-514

SECTION 2007. DEFINITIONS

“Authorization to Discharge Permits” shall mean permits issued by the State of Vermont to discharge stormwater into receiving water bodies, which may or may not be valid permits at the time of adoption of this Ordinance.

“Best Management Practices” or “BMPs” shall mean any structural or non-structural site improvements recognized as the most effective and practical means to prevent and reduce stormwater volumes and flows to achieve water quality goals. BMPs include measures to prevent pollution and measures to mitigate pollution. BMPs include schedules of activities, prohibitions of practices, pollution prevention, education practices, natural resource protection, maintenance and operating procedures, management and treatment practices, and measures to control site runoff, spills, or leaks and reduce pollution.

“Construction” shall mean any clearing, grading, earthmoving, or excavating activity that results in land disturbance; the erection, placement, or assembly of any building or structure or additions thereto on any parcel; the moving and placement of any building, structure or materials onto any parcel.

“Department of Stormwater” shall mean the employees, contractors, or designees of the City of Essex Junction Water Quality Superintendent.

“Developed Property” shall mean any property that is altered from a natural state by construction, or installation of improvements such as buildings, structures, or other impervious surfaces.

“Illicit Connections” shall mean any drain or conveyance, whether on the surface or subsurface which allows an illegal discharge to enter the MS4, including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, laundry, 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 state agency or by the City.

“Illicit Discharge” shall mean any direct or indirect non-stormwater discharge to the storm drain system.

“Impaired waterways” means rivers, lakes, or streams that do not meet one or more water-quality standards, and therefore, are considered too polluted for their intended uses.

“Municipal Separate Storm Sewer System” and “MS4” shall mean a collection system or conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by the City of Essex Junction or another designated MS4 entity that discharges to surface waters or groundwater; (ii) designed or used for collecting or conveying or discharging stormwater and groundwater entering the system; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR, Section 122.2.

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” shall mean a permit issued by the Environmental Protection Agency or the State of Vermont 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” shall mean any discharge to the MS4 that is not composed entirely of stormwater.

“Parcel” and “Property” shall mean any lot, subdivided piece of land, unit of land, any subset of land, land owned in common, or a condominium unit or condominium association in the City of Essex Junction that could legally be sold as a separate entity as of January first of the year the fee is based on, and has a separate parcel identification number, map identification number or is identified as a separate parcel. Included in this definition are all roadways owned by the City, the State, and the Federal Government.

“Stormwater” shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

“Stormwater Runoff” shall mean flow on the surface of the ground, resulting from precipitation.

“Stormwater Treatment Practice (STP)” shall mean measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source stormwater pollution inputs to stormwater runoff and water bodies.

“Structural” BMPs are devices engineered and constructed to provide treatment and temporary storage of stormwater runoff.

“Unpermitted stormwater discharges” means a system discharging stormwater to a stream or watercourse that has never been issued any type of authorization to discharge stormwater by either the City or the State of Vermont.

“Water Quality Superintendent” shall mean the person who manages the stormwater and wastewater departments. Also referred to as the Superintendent in this document.

SECTION 2008. TECHNICAL REVIEW

In the event the Superintendent or Zoning Administrator finds, in the discharge of their duties under this Ordinance, that they require the assistance of qualified professionals in stormwater management, erosion control, engineering, or related fields to determine compliance with the provisions of this Ordinance, the Superintendent or Zoning Administrator, as applicable, may require an independent review of one or more aspects of a permit, plan or application, with the cost of the review to be paid by the applicant or permittee.

SECTION 2009. COMPLIANCE WITH EXISTING PERMITS

It shall be a violation of this Ordinance of any owner of Developed Property that is subject to any local, state, or federal permit requirements regarding the discharge of stormwater to fail to comply with such permit requirements.

SECTION 2010. WATERCOURSE PROTECTION

No person shall deposit or cause to be deposited in a watercourse or on the land impacted by runoff to the watercourse any trash, yard debris, or any other material that would pollute and adversely alter the natural flow of water through or can erode into 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. Natural riparian buffers and manmade watercourses established as part of a development and required by the City regulation shall be maintained.

SECTION 2011. PROHIBITION

- a) Under the authority set forth in 24 VSA Chapter 59 and 24 VSA § 2291 Subsection 14, it is hereby declared that it shall be a public nuisance for anyone to contribute pollutants, illegally connect, or illegally discharge into the Municipal Separate Storm Sewer System (MS4), or otherwise discharge non-stormwater discharges in violation of the requirements of this Ordinance.
- b) Illicit discharge-No person shall throw, deposit, or leave in or upon any premise, parcel, driveway, parking area, street, alley, sidewalk, stormwater systems or surface water in the City of Essex Junction, any object or material, including but not limited to refuse, rubbish, garbage, animal waste, litter, yard waste, or other abandoned objects, that may cause or contribute to pollution, or interfere with the operation, maintenance, and access to the MS4. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempt.
- c) Illicit connection- the construction, use, maintenance, or continued existence of illicit connections to the MS4 are prohibited. 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.
- d) The prohibition in this section shall not apply to any non-stormwater discharges permitted under the NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and written approval must be granted for any discharge to the MS4 by the Water Quality Superintendent.
- e) The following discharges are exempt:
 - a. Water line flushing with De-chlorinated Water
 - b. Landscape irrigation

- c. Diverted stream flows
- d. Uncontaminated groundwater, either naturally rising or pumped
- e. Uncontaminated groundwater infiltration into stormwater drains
- f. Discharges from potable water sources
- g. Uncontaminated foundation drains
- h. Air conditioning condensate
- i. Irrigation water
- j. Springs
- k. Uncontaminated water from crawl space pumps
- l. Uncontaminated water from footing drains
- m. Lawn watering
- n. Individual residential car washing
- o. Flows from riparian habitats and wetlands
- p. De-chlorinated swimming pool discharges
- q. Street wash water
- r. Discharges or flows from firefighting activities occurring during emergencies not involving hazardous materials or oil.
- s. Dye testing if approved by the City Engineer.

SECTION 2012. NOTIFICATION OF SPILLS

Property owners or citizens responsible for facility operation and management who know or suspect the release of materials that may result in an illegal discharge to the stormwater system must immediately notify proper emergency response agencies. Release of non-hazardous materials shall be notified to the Water Quality Superintendent, Public Works Superintendent, or their designee.

SECTION 2013. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY USE OF BEST MANAGEMENT PRACTICES

Any person or entity owning, occupying, or having an interest in a property from which there has been an illicit discharge may be required to implement, at said person's or entity'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 discharge of stormwater associated with industrial activity to the extent practicable shall be deemed in compliance with the provisions of this Section.

SECTION 2014. POWER TO INSPECT

Duly authorized representatives of the City of Essex Junction shall be permitted to enter and inspect all properties subject to regulation under this Ordinance for the purposes of inspection, observation, measurement, sampling, and testing as often as needed to determine compliance. Authorized persons shall have the right to set up devices as necessary to conduct monitoring and or sampling of any regulated discharge from a property, Authorized persons may also examine and copy records of a property owner, agent, or manager that must be kept under the conditions of an NPDES permit to discharge stormwater.

SECTION 2015. OPERATION AND MAINTENANCE

All stormwater systems shall have a written, and approved, enforceable operation and maintenance agreement, duly recorded in the City land records with a copy sent to the Water Quality Superintendent, to ensure the system functions as designed. The maintenance agreement shall include a schedule for when and how often maintenance will occur and plans for annual inspections by a qualified individual to ensure proper performance of the facility between scheduled cleanouts. Where required, an annual report, which certifies the system has been inspected and maintained in accordance with submitted plans, must be submitted to the Water Quality Superintendent by September 1st of each year. City Staff may elect to audit some of the permits annually.

SECTION 2016. SUSPENSION

The City may, without notice, suspend MS4 discharge access to a person or entity when such suspension is necessary to stop an actual or threatened discharge that presents or may present danger to the environment, health, and welfare of the MS4.

SECTION 2017. ENFORCEMENT REMEDIES GENERALLY

An action, injunction, or other enforcement proceeding may be instituted in the Vermont Superior Court, Civil Division, by the City of Essex Junction to prevent, restrain, correct, or abate any violation or activity causing a violation or threatening to cause. The relief sought may include the right to enter onto private property to abate or correct the violation, to restrain any activity that would create further or future threatened violations, or to compel a person or persons to perform abatement or remediation of the violation; and to seek fines, penalties or damages for all costs, including reasonable attorney's fees, incurred by the City of Essex Junction in pursuing and obtaining such relief. In addition to any other remedies authorized in law or equity, the City of Essex Junction may seek an order specifically requiring:

- a) The elimination of illicit connections and/or non-stormwater discharges to the MS4;
- b) The discontinuance of practices, activities, or operations that lead to violations of this Ordinance;
- c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property/parcel;
- d) The implementation of source control or treatment through the use of best management practices; the performance of monitoring, analysis, and reporting.

SECTION 2018. PENALTY

Any person violating any of the provisions of Chapters 19-20 of the City of Essex Junction Municipal Code ("this Ordinance") shall be subject to a civil penalty of Five Hundred Dollars (\$500) for each violation. Each day that any violation of any of the provisions of this Ordinance or a permit issued hereunder continues shall constitute a separate offense. The City may recover all attorney's fees, court costs, and other expenses associated with the enforcement of this Ordinance including sampling and monitoring expenses.

SECTION 2019. APPEALS TO CITY COUNCIL

Any interested person who believes that the staff has committed an error in making a decision or taking an action may appeal such act or decision to the City Council by filing a written Notice of Appeal with the City Clerk within 15 calendar days of the subject action or decision. The Notice of Appeal must identify the decision or action appealed from and identify the issues on appeal.

The Council shall conduct a duly warned Public Hearing. The Council shall take testimony and consider all relevant evidence before it and issue a written decision. A party aggrieved by a decision of the City Council may appeal the decision to the Vermont Superior Court, Civil Division, within 30 days of the date of the decision pursuant to Vermont Rule of Civil Procedure 75.

SECTION 2020. ULTIMATE RESPONSIBILITY

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

SECTION 2021. 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, it shall not affect the validity or application of other provisions of this Ordinance.