



TOWN OF FRANKLIN

DEPARTMENT OF PUBLIC WORKS

257 Fisher Street
Franklin, MA 02038

March 15, 2019

Mr. Jeffrey Nutting, Town Administrator
Town of Franklin
355 East Central Street
Franklin, MA 02038

Re: Discharges to the Municipal Storm Drain System

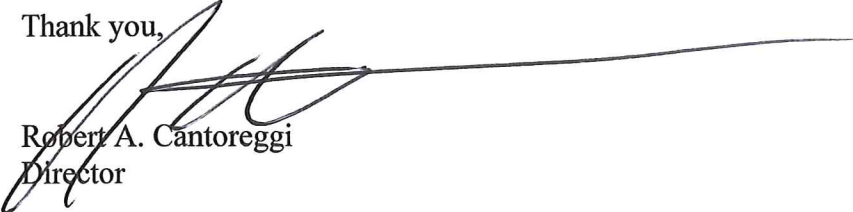
Dear Jeff,

As you are aware the Town is required to create by-laws regarding Illicit Discharges to the Municipal Storm Drain System to be in compliance with an NPDES Storm Water Discharge Permit.

The purpose of these by-laws are to regulate illicit connections and discharges to the municipal storm drain system in order to protect the Town of Franklin's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

Attached is the Draft Proposal which has been reviewed and approved by DPW and Mark Cerel.

Thank you,



Robert A. Cantoreggi
Director

CC: Jamie Helen, Assistant Town Administrator
Mark Cerel, Town Council
Deacon Perrotta, Director of Operations
Carlos Rebelo, Highway and Grounds Superintendent
Laurie Ruszala, Water and Sewer Superintendent
Mike Maglio, Town Engineer
Kate Sjoberg, GIS Coordinator
File

**TOWN OF FRANKLIN
BYLAW AMENDMENT 19-838**

**A BYLAW TO AMEND THE FRANKLIN TOWN CODE AT
CH. 153 STORMWATER MANAGEMENT**

BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT: Chapter 153 of the Code of the Town of Franklin Stormwater Management is hereby amended by adding a new Article IV Discharges to the Municipal Storm Drain System, as follows:

ARTICLE IV. DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM.

§153-19. Purpose.

The purpose of this article is to regulate illicit connections and discharges to the municipal storm drain system in order to protect the Town of Franklin's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. This article seeks to meet that purpose through the following objectives:

- A. to prevent pollutants from entering the Town of Franklin's municipal separate storm sewer system (MS4);
- B. to prohibit illicit connections and unauthorized discharges to the MS4;
- C. to require the removal of all such illicit connections;
- D. to comply with state and federal statutes and regulations relating to stormwater discharges; and
- E. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

§153-20. Definitions.

The definitions in Article I. Section 153-2 are applicable to this article (Article IV) as well as the following additional definitions:

BEST MANAGEMENT PRACTICE (BMP) – An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff or prevent pollutants from entering stormwater runoff.

CLEAN WATER ACT – The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS – The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER – Water beneath the surface of the ground.

ILLCIT CONNECTION – A surface or subsurface drain or conveyance, including any connections from indoor drains, sinks, or toilets, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

ILLCIT DISCHARGE – Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in §153-23. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT – A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE – Discharge to the municipal storm drain 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 considered toxic to humans or the environment and may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation: 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, ordnances, accumulations and floatables; pesticides, herbicides, and fertilizers; hazardous materials and wastes, as hereinafter defined; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; rock, sand, salt, soils; construction wastes and residues; and 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.

STORMWATER – Runoff from precipitation or snow melt.

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 – Any material, which because of its quantity, concentration, chemical, 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 water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

§153-21. Applicability.

This article shall apply to flows entering the municipal storm drain system.

§153-22. Prohibited Activities.

- A. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- C. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Director of Public Works.

§153-23. Exemptions.

Discharges or flows resulting from firefighting activities are exempt from the prohibition of non-stormwater discharges. The following additional non-stormwater discharges or flows are exempt from the prohibition of non-stormwater discharges provided that the source is not a significant contributor of a pollutant to the municipal storm drain 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 that enters the storm drain system;
- G. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20);
- H. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space or basement sump pumps, or air conditioning condensation provided they are uncontaminated and do not cause a nuisance or safety hazard;
- I. Discharge from landscape irrigation or lawn watering;
- J. Water from individual residential car washing;
- K. Uncontaminated water used for dust control;
- L. Water discharge from street sweeping activities;
- M. Dye testing, provided verbal notification is given to the Director of Public Works prior to the time of the test;
- N. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all other applicable Town Bylaws;
- O. Non-stormwater discharge permitted under an 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 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
- P. Discharge for which advance written approval is received from the Director of Public Works as necessary to protect public health, safety, welfare, or the environment.

§153-24. Emergency Suspension of Storm Drainage System Access.

The Director of Public Works may suspend municipal storm drain 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 the public health, safety, welfare or the environment.

§153-25. 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 drainage 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, police, and public works departments. In the event of a release of non-hazardous material, the reporting person shall notify the Director of Public Works no later than the next business day. The reporting person shall provide to the Director of Public Works 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 of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§153-26. Enforcement.

The Director of Public Works, or an authorized employee or agent, shall administer, implement and enforce Chapter 153, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Civil Relief – If a person violates the provisions of this by-law, permit, notice, or order issued thereunder, the Director of Public Works may seek equitable relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders – The Director of Public Works, or an authorized employee or agent, may issue a written order to enforce the provisions of this Chapter, which may include:
 - 1) elimination of illicit connections or discharges to the MS4;
 - 2) performance of monitoring, analyses, and reporting;
 - 3) that unlawful discharges, practices, or operations shall cease and desist; and
 - 4) remediation of contamination in connection therewith.

If the enforcing person 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 Franklin will pursue all options available to it, including imposition of fines, performance of remediation work at violator/property owner's expense and institution of court action. property owner shall be liable for the payment of all expenses incurred by the Town in connection therewith including all court costs and attorney's fees incurred in any enforcement or collection action, and unpaid expenses shall constitute a lien on the property to the extent provided by law.

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 Franklin, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Director of Public Works 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 Director of Public Works 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. Chapter- 59, Section 57 after the thirty-first day at which the costs first become due.

- C. Criminal Penalty – Any person who violates any provision of this Chapter, order or permit issued thereunder, shall be punished by a fine of \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Non-Criminal Disposition – As an alternative to criminal prosecution or civil action, the Town of Franklin may elect to utilize the non-criminal disposition procedure set forth in General Laws, Chapter 40, Section 21D. The Director of Public Works or his designee and the Franklin Police Department are each designated enforcement agent for purpose of said statute. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. 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 Director of Public Works, or authorized employees, agents, officers, may enter upon privately owned property for the purpose of performing their duties under this Chapter and may make or cause to be made such examinations, surveys or sampling as the Director of Public Works deems reasonably necessary.
- F. Appeals – The decisions or orders of the Director of Public Works shall be final. Further relief shall be by appeal to a court of competent jurisdiction.
- G. Remedies Not Exclusive – The remedies listed in Chapter 153 are not exclusive of any other remedies available under any applicable federal, state or local law.

§153-27. Severability.

The provisions of Chapter 153 are hereby declared to be severable. If any provision, paragraph, sentence, or clause, 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.

§153-28. Transitional Provisions.

Residential property owners shall have 90 days following the effective date of Chapter 153 to comply with its provisions provided good cause is shown for the failure to comply with the Chapter during that period.

This bylaw amendment shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: _____, 2019

VOTED:
UNANIMOUS _____

YES _____ **NO** _____

A True Record Attest:

ABSTAIN _____

ABSENT _____

RECUSED _____

Teresa M. Burr
Town Clerk

Glenn Jones, Clerk
Franklin Town Council