

70-20-7



City of Methuen, Massachusetts

OFFICE OF THE MAYOR

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Methuen, Massachusetts 01844

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Neil Perry
Mayor

ORDER # 942

AN ORDINANCE GOVERNING ILLICIT CONNECTIONS AND DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM

WHEREAS, Stormwater runoff from municipal drainage systems is a significant cause of water pollution and flow in lakes, ponds, streams, rivers, wetlands and groundwater aquifers and thereby poses a potential hazard for public drinking water supplies, environmental habitat and flood control management; and

WHEREAS, The City of Methuen, as outlined in the National Pollutant Discharge Elimination System (NPDES) Small MS4 Permit issued for Massachusetts urbanized communities by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection, is obligated to undertake a series of minimum control measures to protect water resources in managing its municipal stormwater system; and

WHEREAS, Among the minimum control measures specified under the MS4 Permit is the requirement for municipalities to develop and implement an Illicit Discharge Detection and Elimination (IDDE) Program that includes establishing local regulatory authority to prohibit illicit discharges and authorize investigation, repair and enforcement; and

WHEREAS, The City of Methuen has received from the U.S. Environmental Protection Agency an Order for Compliance under Section 309 of the Clean Water Act mandating that Methuen by June 30, 2020 adopt the required legal mechanisms, including an ordinance establishing regulatory authority to control discharges and connections to the Methuen municipal Stormwater system.

NOW THEREFORE, BE IT ORDAINED By the City Council of the City of Methuen that the Methuen Municipal Code is hereby amended by adoption of Chapter 29 "Ordinance Governing Illicit Connections and Discharges to the Municipal Storm Drain System" and attached hereto.

FURTHER, The City Council amends Chapter 9A-2 and Chapter 17 of the Methuen Municipal Code to incorporate enforcement and non-criminal disposition (ticketing) provisions referenced in Chapter 29 as adopted.

Order #942

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METHUEN, MA

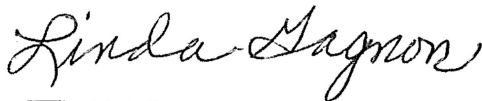
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First Read: April 21, 2020

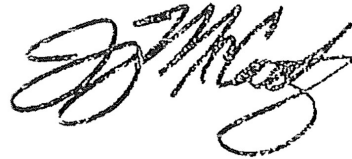
Adopted: May 19, 2020

Effective: June 18, 2020

I do hereby certify that at a meeting of which a quorum was present, the foregoing ordinance was adopted by the Methuen City Council by an 8 to 1 vote on May 19, 2020.



Council Clerk




James McCarty, Council Chair

Approved under MHRC Sec. 3-6

Date: _____

Approved: _____


Neil Perry, Mayor

THE MUNICIPAL CODE
OF
METHUEN, MASSACHUSETTS

CHAPTER 29

**ORDINANCE GOVERNING ILLICIT CONNECTIONS AND DISCHARGES TO THE
MUNICIPAL STORM DRAIN SYSTEM**

<u>Section</u>	<u>Item</u>
Sec. 29-1	Purpose
Sec. 29-2	Authority
Sec. 29-3	Definitions
Sec. 29-4	Responsibility for Administration
Sec. 29-5	Regulations
Sec. 29-6	Prohibited Activities
Sec. 29-7	Notifications of Releases
Sec. 29-8	Enforcement
Sec. 29-9	Compatibility with other City Laws and Ordinances
Sec. 29-10	Severability

Section 29-1. Purpose

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. The purpose of this Ordinance is to provide for protection of Methuen's waterbodies and groundwater and the health, safety, and general welfare of the citizens of the City of Methuen through the regulation of illicit connections and discharges to the municipal storm drain system.

C. The objectives of this Ordinance are to:

1. Prevent pollutants and other prohibited materials from entering the City of Methuen's municipal storm drain system;
2. Prohibit illicit connections and illicit discharges to the municipal storm drain system;
3. Require the removal of all such connections and discharges;
4. Comply with state and federal statutes and regulations relating to stormwater discharges; and
5. Establish legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement.

Section 29-2. Authority

This Ordinance is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

Section 29-3. Definitions

For the purposes of this Ordinance, the following shall mean:

- A. **Department:** Methuen Department of Public Works
- B. **Best Management Practice (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.
- C. **Director:** The Director of Public Works of the City of Methuen or his/her designee.
- D. **Hazardous Material:** 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.
- E. **Illicit Connection:** Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the municipal storm drain system, including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the municipal storm drain system and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection was previously allowed, permitted or approved before the effective date of this Ordinance.

F. Illicit Discharge: Any direct or indirect non-stormwater discharge (including dumping) to the municipal storm drain system except as exempted in Section 29-5 of this Ordinance.

G. Municipal Storm Drain System: Any drainage system that collects, conveys, and or manages stormwater owned or operated by the City of Methuen. The municipal storm drain system includes but is not limited to municipal roads, catch basins, manholes, gutters, curbs, sidewalks, inlets, piped storm drains, outfalls, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

H. 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.

I. 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 or may be introduced into any sewage treatment works or waters of the Commonwealth.

Pollutants shall include without limitation:

1. paints, varnishes, and solvents;
2. oil and other automotive fluids;
3. non-hazardous liquid and solid wastes and yard wastes;
4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes;
7. sewage, fecal coliform and pathogens;
8. dissolved and particulate metals;
9. animal wastes;
10. rock, sand, salt, soils, with the exception of winter salting and sanding in quantities that will not clog or otherwise impair the performance of the municipal storm drain system;
11. construction wastes and residues; and
12. noxious or offensive matter of any kind.

J. Stormwater: Any surface flow, runoff or drainage resulting entirely from any form of natural precipitation.

K. City: The City of Methuen, Massachusetts, including its employees and designees.

Section 29-4. Responsibility for Administration

The Director shall administer, implement, and enforce the provisions of this Ordinance as set forth herein. Any powers granted to or duties imposed upon the Director, except the power to hear appeal, may be delegated in writing by the Director to employees or agents of the City.

Section 29-5. Regulations

The Director may promulgate rules and regulations to effectuate the purposes of this Ordinance. Failure by the Director to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Ordinance.

Section 29-6. 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, into a watercourse, or into the waters of the Commonwealth.

The following non-stormwater discharges defined by 40 Code of Federal Regulations Section 122.26 are not considered illicit discharges, provided that the source is not a significant contributor of pollutants that cause or contribute to a violation of applicable water quality standards:

1. Water line flushing;
2. Landscape irrigation;
3. Diverted stream flows;
4. Rising ground water;
5. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
6. Uncontaminated pumped ground water;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensation;
10. Irrigation water, springs;
11. Water from crawl space pumps;
12. Footing drains;
13. Lawn watering;
14. Individual resident car washing;
15. Flows from riparian habitats and wetlands;
16. Dechlorinated swimming pool discharges;
17. Street wash water;
18. Residential building wash waters without detergents;
19. Discharges or flow resulting from firefighting activities;

20. Discharges associated with dye testing, provided that the discharger makes a verbal and written notification to the Department before the test; and
 21. Discharges permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency, or the Massachusetts Department of Environmental Protection, 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 by the Department for any discharge to the storm drain system.
- 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. Any temporary Stormwater BMPs employed to control and prevent erosion and sediment migration approved by the Community Development Board, Conservation Commission, Board of Health, or Department of Public Works is not considered an obstruction of the municipal storm drain system.

Section 29-7. Notification of Releases

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 at that facility or operation that are resulting or may result in discharge of a pollutant to the municipal storm drain system, that 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 material, that person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services in accordance with state and federal law. In the event of a release of non- hazardous material, that person shall notify the Department in person or by phone, facsimile or electronic mail no later than the next business day.

For all releases, the initial notification shall be confirmed by written notice addressed and mailed to the Department within two (2) business days.

Section 29-8. Enforcement

- A. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. The Director, and his/her designated agents, shall enforce this Ordinance and may pursue all civil and criminal remedies available, in accordance with local, state, and federal laws and regulations, for violations. Enforcement of this Ordinance shall follow the methods and process set forth in Chapter 9A of the Methuen Municipal Code.

Note for City Solicitor: This Ordinance must be added to Chapter 9A-2.

- B. Non-Criminal Disposition (Ticketing): Any person who fails to comply with the provisions of this Ordinance may be penalized through the non-criminal method of disposition as provided by Massachusetts General Laws, Chapter 40, Section 21D and Chapter 17 of the Methuen Municipal Code.

Note for City Solicitor:

Amend Chapter 17 to include fine amounts. See example below:

Violations and penalty. Any person who violates any provision of this section may be punished, under MGL c. 40 § 21D, as a noncriminal offense, by fines of:

1. First offense: \$100.

2. Second offense: \$200.

Additional offense: \$300.

Or under MGL c. 40, § 21D, by criminal complaint at the appropriate venue.

Each day or portion thereof during which a violation continues shall constitute a separate offense.

Section 29-9. Compatibility with Other City Laws and Ordinances

The requirements of this Ordinance are in addition to the requirements of any other ordinance, policy, rule, regulation or other provision of law. This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

Section 29-10. Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction determines that any provision is in violation of the laws, constitutions or regulations of the Commonwealth of Massachusetts or the United States of America, the remaining provisions shall not be affected thereby and shall continue in full force and effect.

