



Mayor and Commissioners
of the Town of Elkton

Ordinance 1 - 2019

BY: Mayor and Commissioners
INTRODUCED: April 17, 2019
ADOPTED: May 1, 2019

AN ORDINANCE concerning

**The Code of the Town of Elkton
Title 13
Chapter 13.18
Stormwater Drainage Systems**

FOR THE PURPOSE of adding a new chapter to the Code of the Town of Elkton, specifically relating to the regulation of stormwater drainage in compliance with the Town of Elkton's *Municipal Separate Storm Sewer Systems (MS4)* permit and in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit.

WHEREAS, Article XI-E., Constitution of the State of Maryland; Section 4-103(b)(3), Subtitle 1, Title 4, Division II, Local Government Article, Annotated Code of Maryland; and the Charter and Code of the Town of Elkton provide the authority under which the Board of Commissioners may adopt, repeal, and/or amend the ordinances of the Town of Elkton; and

WHEREAS, Chapter 13.18 shall regulate the contribution of pollutants to the MS4 by stormwater discharges by any user; prohibit illicit connections and discharges to the MS4; and establish the legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Chapter; and

WHEREAS, the Town of Elkton's MS4 permit and the enforcement of Chapter 13.18 shall be delegated to the Department of Public Works.

NOW, THEREFORE, the Mayor and Commissioners of the Town of Elkton hereby ordain that:

Chapter 13.18 – Stormwater Drainage Systems, shall be added to Title 13, Code of the Town of Elkton, as follows:

TITLE 13
CHAPTER 13.18
STORMWATER DRAINAGE SYSTEMS

Sections:

13.18.010 Purpose and Intent

13.18.020 Definitions

13.18.030 Applicability

13.18.040 Responsibility for Administration

13.18.050 Compatibility with Other Regulations

13.18.060 Limitations on Liability

13.18.070 Discharge and Connection Prohibitions

13.18.080 Watercourse Protection

13.18.090 Industrial and Construction Activity Discharges

13.18.100 Compliance Monitoring

13.18.110 Notification of Spills

13.18.120 Violation - Penalty

13.18.010 Purpose and Intent

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the Town by the regulation of non-stormwater discharges to the stormwater drainage systems in the town and to the maximum extent feasible as required by federal and state law. This Chapter establishes methods for controlling the introduction of pollutants into the municipal separate stormwater drainage systems (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

- A. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the MS4.
- C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Chapter.

13.18.020 Definitions

For the purpose of this Chapter, the following terms shall have the meanings set forth below:

A. Best Management Practices (BMPs)

The schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater drainage systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

B. Clean Water Act

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

C. Construction Activity

Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

D. Department of Public Works (“Department” or “Department of Public Works”)

Employees or designees of the Town of Elkton’s Department of Public Works designated to enforce this Chapter.

E. Hazardous Materials

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.

F. Illegal Discharge

Any direct or indirect non-stormwater discharge to the stormwater drainage systems, except as exempted in § 13.18.070 of this Chapter.

G. Illicit Connections

An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the stormwater drainage system, including, but not limited to, any conveyances that allow any non-stormwater discharge, including, but not necessarily limited to, sewage, process wastewater, and wash water, to enter the stormwater drainage systems and any connections to the stormwater drainage systems from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the Town; or
2. Any drain or conveyance connected from a commercial or industrial land use to the stormwater drainage systems that have not been documented in plans, maps, or equivalent records and/or approved by the Town.

H. Industrial Activity

Activities subject to NPDES industrial stormwater permits as defined in 40 CFR 122.26(b) (14).

I. Municipal Separate Storm Sewer System (MS4)

The system of conveyances, including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and other stormwater drainage systems owned and operated by the Town and designed or used for collecting or conveying stormwater and that is not used for collecting or conveying sewage.

J. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit

A permit issued by the Environmental Protection Agency (EPA) or by a State, under authority delegated pursuant to 33 U.S. C. § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable to an individual, group or general area.

K. Non-Stormwater Discharge

Any discharge to the stormwater drainage system that is not composed entirely of stormwater.

L. Person

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.

M. Pollutant

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents, petroleum hydrocarbons, automotive fluids, cooking grease, detergents (biodegradable or otherwise), nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations that may cause or contribute to pollution, floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, 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.

N. Premises

Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking areas.

O. Stormwater Drainage System

Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with stormwater drainage systems, municipal streets, gutters, curbs, inlets, piped stormwater drains, pumping facilities, retention and detention basins, ponds, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

P. Stormwater

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Q. Wastewater

Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

R. Watercourse

A specific body or channel of water which is part of the waters of the State.

S. Waters of the State

1. Both surface and underground waters within the boundaries of the State of Maryland subject to its jurisdiction, including part of the Atlantic Ocean within the boundaries of the State, the Chesapeake Bay and its tributaries, ponds, lakes, rivers, streams, tidal and non-tidal wetlands, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage.

2. The floodplain of free-flowing waters determined by the Department of Natural Resources on the basis of the *one-hundred-year* flood frequency.

13.18.030 Applicability

This Chapter shall apply to all water entering the stormwater drainage system generated on any developed and/or undeveloped lands.

13.18.040 Responsibility for Administration

The Department of Public Works shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Department may be delegated in writing by the Director of the Department, or his/her duly authorized agent, to persons or entities acting on behalf of the Department.

13.18.050 Compatibility with Other Regulations

This Chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

13.18.060 Limitations on Liability

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

13.18.070 Discharge and Connection Prohibitions

A. Prohibition of illegal discharges.

1. No person shall discharge by any form or means, or cause or allow others under their control to discharge by any form or means, any pollutants or water containing any pollutants, *other than stormwater*, into the Town's stormwater drainage systems or watercourses that cause or contribute to a violation of applicable water quality standards.

2. The commencement, conduct or continuance of any illegal discharge to the stormwater drainage system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this Chapter:

i. Water line flushing, landscape irrigation, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air-conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and *dechlorinated* swimming pool discharges.

ii. Discharges or flow from firefighting and other discharges specified in writing by the Department of Public Works as being necessary to protect public health and safety.

iii. Discharges associated with dye testing; however, this activity requires a verbal notification to the Department of Public Works prior to the time of the test.

b. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), 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 for any discharge to the stormwater drainage system.

3. If any discharge contained within the above exemptions causes an adverse impact, as determined by the Department of Public Works, then the discharge shall not be considered exempt from this Chapter.

B. Prohibition of illicit connections.

1. The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system 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 sewage to the MS4 or allows such a connection to continue.

4. Improper connections in violation of this Chapter must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the Department of Public Works.

5. Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the stormwater drainage system, shall be located by the owner or occupant of that property upon receipt of written notice from the Department of Public Works requiring that such locating be completed. Such notice will 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 a stormwater drain, sanitary sewer or other, and that the outfall location or point of connection to the stormwater drainage system, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the Department of Public Works.

13.18.080 Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a water course so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

13.18.090 Industrial and Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department of Public Works prior to the allowing of discharges to the MS4.

13.18.100 Compliance Monitoring

A. **Right of entry; inspection and sampling.** The Department of Public Works 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, subject to the following: Prior to entering the property the Department of Public Works shall provide notice and obtain written permission from the property owner.

1. If a property owner has security measures in force which require proper identification and clearance before permitting entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Department of Public Works.

2. Facility operators shall allow the Department of Public Works ready access to all areas of the premises for the purpose of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater and the performance of any additional duties as defined by State and Federal law.

3. The Department of Public Works shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Department of Public Works to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The Department of Public Works has the right to require the property owner to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the property owner at the property owner's expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction that prohibits safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the property owner at the written or oral request of the Department of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the property owner.

6. Unreasonable delays in allowing the Department of Public Works access to a permitted facility are a violation of a stormwater discharge permit and of this Chapter. A person who is the property owner or operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Department of Public Works reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

B. Refusal by Owner to Provide Access for Inspection

It is a violation of this Chapter for a property owner or facility operator to refuse entry by the Department of Public Works to access any part of the premises from which stormwater is discharged or there is substantial belief and/or evidence of a stormwater and/or illicit discharge from the premises and there is a need by the Department of Public Works to inspect for an illicit discharge and to take a sample of a discharge.

13.18.110 Notification of Spills

A. 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 result or may result in illegal discharges or pollutants discharging into stormwater, the stormwater drainage system, or waters 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 nonhazardous materials, said person shall notify the Department of Public Works in person, by phone, by facsimile or by email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Public Works 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 prepare and 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 and shall be available to the Department of Public Works upon request.

B. Failure to provide notification of a release as provided above is a violation of this Chapter.

13.18.120 Violation – Penalty

A violation of this Chapter shall be a misdemeanor and a person convicted thereof before a Judge of the District Court shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment not to exceed Ninety (90) days, or both such fine and imprisonment.

END OF SECTION

DATE OF EFFECT

THIS ORDINANCE shall be effective on the 21st day of May, 2019.

Mayor and Commissioners
of the Town of Elkton

Mayor Robert J. Alt
Commissioner Jean A. Broomell
Commissioner Charles H. Givens, Sr.
Commissioner Robert M. Massimiano
Commissioner Earl M. Piner, Sr.