

ORDINANCE NO. 2495

AN ORDINANCE OF THE CITY OF SALISBURY, MARYLAND AMENDING CHAPTER 13- PUBLIC SERVICES, OF THE SALISBURY MUNICIPAL CODE BY ADDING CHAPTER 13.32- ILLICIT DISCHARGES, TO ADD PROVISIONS RELATED TO PROHIBITED DISCHARGES AND ILLICIT CONNECTIONS INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM AND FOR ENFORCEMENT TO ESTABLISH COMPLIANCE WITH THOSE REGULATIONS.

WHEREAS, the United States Environmental Protection Agency (EPA) through 40 CFR Part 122 has revised the regulations governing regulated small municipal separate storm sewer systems (MS4); and

WHEREAS, the City of Salisbury is a regulated small municipal separate storm sewer system through a General Permit issued by the Maryland Department of the Environment (MDE); and

WHEREAS, the General Permit for Discharges from Small Municipal Separate Storm Sewer Systems identifies the Minimum Control Measures for implementation to achieve permit compliance; and

WHEREAS, Illicit Discharge Detection and Elimination is one of the six Minimum Control Measures defined in the General Permit; and

WHEREAS, the General Permit requires that regulated municipalities adopt an ordinance that prohibits illicit discharges into the storm sewer system and establish legal means for gaining access to private property to investigate and eliminate illicit storm drain system discharges; and

WHEREAS, the City of Salisbury recognizes the necessity to regulate the contribution of illicit discharges and pollutants to the municipal separate storm sewer system; and

WHEREAS, the City desires to prevent non-storm water discharges, generated as a result of spills, inappropriate connections, dumping or disposal, to the municipal separate storm sewer system; and

WHEREAS, the City Council of the City of Salisbury, Maryland, desires to amend Chapter 13, to add definitions related to the municipal separate storm sewer system and illicit discharges, and to establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this chapter and compliance with the revised EPA regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that Chapter 13 be amended by the addition of Section 13.32 as set forth herein:

Chapter 13.32

ILLICIT DISCHARGES

Sections:

- 13.32.010 Purpose and Objectives
- 13.32.020 Definitions
- 13.32.030 Prohibited Discharges into System
- 13.32.040 Exempt Discharges
- 13.32.050 Prohibition of Illicit Connections
- 13.32.060 Access and Inspection/Monitoring of Properties and Facilities
- 13.32.070 Enforcement Actions

13.32.010 Purpose and Objectives

- A. The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City of Salisbury through the regulation of non-storm water discharges to the storm drainage system. This chapter establishes definitions for illicit discharges and prohibits illicit discharges into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit.
- B. The objectives of this chapter are:
 - 1. To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user;
 - 2. To prohibit Illicit Discharges and Connections to the municipal separate storm sewer system;
 - 3. To prevent non-stormwater discharges to the municipal separate storm sewer system generated as a result of spills, inappropriate dumping or disposal; and
 - 4. To establish legal authority to carry out all inspection, monitoring and enforcement necessary to ensure compliance with this chapter.

13.32.020 Definitions

- A. “Best Management Practice” means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding and/or reduce pollutants.
- B. “Construction Activity” is an activity subject to NPDES Construction Permits, including construction projects resulting in land disturbance of one (1) acre or more, and projects resulting in less than one (1) acre of disturbance if part of a larger development plan. Such activities include, but are not limited to clearing and grubbing, grading, excavating and demolition.
- C. “Hazardous Materials” are 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.

- D. “Illicit Connections” are defined as any drain or conveyance, whether on the surface or subsurface, which allow any illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by City, State or Federal Agencies.
- E. “Illicit Discharge” is any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this chapter.
- F. “Industrial Activity” is an activity subject to NPDES Industrial Permits. The Stormwater discharges associated with Industrial Activities are defined in 40 CFR, Section 122.26 (b)(14).
- G. “Municipal Separate Storm Sewer System” (MS4) is the storm drain system of conveyances, owned and operated by the City, designed or used for collecting or conveying stormwater.
- H. “National Pollutant Discharge Elimination System” (NPDES) Storm Water Discharge Permit is a permit issued by Environmental Protection Agency or by the State of Maryland Department of the Environment, that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual property, or on general area-wide basis. The permit contains limits on what can be discharged, and monitoring and reporting requirements.
- I. “Non-Storm Water Discharge” is any discharge to the storm drain system that is not composed entirely of storm water.
- J. “Oil” refers to any kind of oil in any form, including but not limited to petroleum, fuel oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.
- K. “Pesticide” is a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.
- L. “Pollutant” is anything which causes or contributes to pollution. Pollutants may include, but are not limited to paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes (including grass clippings); refuse, rubbish, garbage, litter or other discarded or abandoned objects, 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 and pet waste; wastes and residues that result from constructing a building or structure; and, noxious or offensive matter of any kind.

- M. “Premises” refers to any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking.
- N. “Storm Drainage System” refers to the facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, best management practices, natural and human-made or altered drainage channels, reservoirs and other drainage structures.
- O. “Stormwater Pollution Prevention Plan” is a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems and/or receiving waters to the maximum extent practicable in complying with the General Permit For Discharges of Stormwater Associated With Industrial Activity.

13.32.030 Prohibited Discharges into System

- A. The specific prohibitions and requirements in this section do not include all the discharges prohibited, but are provided to address specific discharges that are frequently found or are known to occur. No person shall release or allow to be released any of the following substances into the municipal separate storm sewer system:
 1. Any new or used petroleum product.
 2. Any industrial waste.
 3. Any hazardous substance or hazardous waste, including household hazardous waste.
 4. Any domestic sewage or septic tank waste, grease trap or grease interceptor waste, holding tank waste, waste oil bins, or grit trap waste.
 5. Any garbage, rubbish or other waste.
 6. Any new or used paints, including latex-based paints, oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products.
 7. Any yard waste that has been moved or gathered by a person.
 8. Any wastewater that contains soap, detergent, degreaser, solvent, or surfactant-based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment.
 9. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent, or any surfactant based cleaner.
 10. Any wastewater from commercial floor, rug, or carpet cleaning.

11. Any wastewater from the wash down or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant, or other cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum hazardous substance has occurred, unless all such materials have been previously removed.
 12. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blowdown from a boiler.
 13. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material.
 14. Any runoff, wash down water or waste from any animal pen, kennel, fowl or livestock containment area or any pet wastes generally.
 15. Any swimming pool, fountain or spa water or other water containing a harmful level of chlorine per Maryland Department of the Environment regulations.
 16. Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine (>0.1 ppm) at the point of entry into the municipal separate storm sewer system or surface waters.
 17. Any contaminated runoff from a vehicle wrecking or storage yard.
 18. Any substance or material that will damage, block, or clog the municipal separate storm sewer system.
 19. Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by leaking petroleum storage tank; or any discharge of pumped, confined, or treated wastewater from the remediation of any such petroleum storage tank release, unless the discharge has received an NPDES permit from the state.
 20. Any other discharge that causes or contributes to causing the City to violate a state water quality standard, the City's NPDES stormwater permits, or any state-issued discharge permit for discharges from its municipal separate storm sewer system.
- B. No person shall release or cause to be released into the municipal separate storm sewer system any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures.
- C. All pesticides, herbicides, and fertilizers shall be used in accordance with manufacturer recommendations. Pesticides, herbicides and fertilizers shall be stored, transported and disposed of in a manner to prevent release to the municipal separate storm sewer system.
- D. No person shall tamper with, destroy, vandalize, or render inoperable any Best Management Practices that have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any Best Management Practices that have been required by City or by other local, state, or federal jurisdictions.

13.32.040 Exempt Discharges

- A. Unless identified as a significant source of pollutants to waters of the State, the following non-storm water discharges are examples of activities allowed to enter the municipal separate storm sewer system.
1. Water line flushing performed by a government agency.
 2. Drainage of municipal water storage tanks.
 3. Discharges or flows from firefighting activities.
 4. Individual residential vehicle washing.
 5. Irrigation water.
 6. Uncontaminated groundwater infiltration to separate storm sewer.
 7. Dechlorinated swimming pool discharges in compliance with Maryland Department of the Environment regulations.

13.32.050 Prohibition of Illicit Connections

- A. No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the City of Salisbury any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste.
- B. The construction, use, maintenance or continued existence of any illicit connections to the storm drain system is prohibited.
- C. This prohibition expressly includes, without limitation, any 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. A person is considered to be in violation if the person connects a line conveying sewage to the municipal separate storm sewer system or allows such a connection to continue.
- E. Any owner or person responsible for a property or premises, which is, or may be, the source of an illicit discharge, shall be required to implement, at the owner's or person's expense, the Best Management Practice necessary to prevent the further discharge of pollutants to the municipal storm sewer system. Compliance with all terms and conditions of a valid National Pollutant Discharge Elimination System permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section.

13.32.060 Access and Inspection/Monitoring of Properties and Facilities

- A. Right of Entry: When the City has reasonable cause to believe that an illicit discharge code violation exists or when entry is required for periodic inspections and monitoring to determine compliance, then the City is authorized to enter the structure or premises at reasonable times to inspect.

- B. Prior to inspection, the City must make reasonable efforts to locate the owner or other person having charge or control of the structure or premises to request entry. If entry is refused or not obtained, the City is authorized to pursue recourse as provided by law.

13.32.070 Enforcement Actions

- A. Notification of Violation. Whenever the City finds that any user has violated or is violating any local, state or federal illicit discharge requirements or any condition of this chapter, the City shall serve the user with a written notice of violation stating the standard or requirement violated and the nature of the violation. The City may require the user to respond within thirty (30) days of the notice of violation with a plan for the satisfactory correction thereof which shall be submitted, if required, to the City by the user. The City may require written proof of proper disposal of prohibited items, such as waste manifests.
- B. Compliance Orders. When the City finds that a user has violated or continues to violate this chapter, the City may issue an order to the user responsible for the illicit discharge, directing that the user come into compliance. Compliance orders may also contain other requirements to address the noncompliance, including self-monitoring and management practices. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.
- C. Cease and Desist Orders. When the City finds that a user is violating this chapter, the City may issue an order to the user directing it to cease and desist all such violations and directing the user to immediately comply with all requirements and to take such appropriate remedial or preventive action as may be needed to properly address a violation, including halting operations and/or terminating the illicit discharge.
- D. Supplemental Enforcement Action. The City may assess a fee to the user responsible for an illicit discharge that results in expenses to the City, that exceed the cost of normal operations, as compensation to the City for said expenses. These fees may include, but shall not be limited to cleanup, disposal and repair costs. All labor shall be assessed at the hourly rate of the employee(s) involved with an additional thirty percent (30%) for overhead.
- E. Judicial Enforcement Remedies. If any person discharges an illicit discharge into the City's municipal separate storm sewer system contrary to the provisions of this chapter or any order of the City, an action for appropriate legal and/or equitable relief may be commenced.
 - 1. Injunctive Relief.
 - a. In General. The City may bring an action for an injunction against any person who violates any provision of this chapter or any rules, regulation, order, or permit adopted or issued under this chapter.
 - b. Findings. In any action for an injunction under this section, any finding by a Court after hearing is prima facie evidence of each fact the court determines.

- c. Grounds. On a showing that any person is violating or is about to violate this subtitle or any rule, regulation, order, or permit adopted or issued by the City, the court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.
 - d. Emergency. If an emergency arises due to imminent danger to the public health or welfare, or imminent danger to the environment, the City may take any emergency action necessary to stop or limit the danger and the City may also seek an immediate injunction to stop any illicit discharge, pollution or other activity that is causing the danger.
 - 2. Civil Penalties. Any user who is found to have violated or continues to violate an order of the City or who has violated or continues to violate any provision of this chapter and the orders, rules and regulations issued hereunder shall be guilty of a municipal infraction and shall be liable for a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the user and/or person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.
 - 3. Criminal Prosecution.
 - a. Any person who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six months or by both.
 - b. Any user who willfully or through gross negligence violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six months or by both.
 - c. Any user who willfully or through gross negligence introduces any substance into the municipal separate storm sewer system which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six months or by both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- F. Remedies Nonexclusive. The provisions in this section are not exclusive. The City reserves the right to take such other lawful action as is necessary to prevent or remedy any violation. Further, the City is empowered to institute more than one enforcement action against any noncompliant user. These actions may be taken concurrently.


G. Enforcement Appeals. Any person may petition the City to reconsider the terms of an Enforcement Action within thirty (30) days of its issuance.

1. Failure to submit a timely petition shall be deemed to be a waiver of the enforcement appeal.
2. In its petition, the appealing party must indicate the enforcement provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the enforcement action.
3. The effectiveness of the enforcement action shall not be stayed pending the appeal.
4. If the City fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider or modify an enforcement action shall be considered final enforcement action for the purposes of judicial review.
5. Aggrieved parties seeking judicial review of the final enforcement action decision must do so by filing a complaint with the Wicomico County District Court within thirty (30) days of the final enforcement action decision.

BE IT FURTHER ORDAINED that this ordinance shall take effect immediately upon adoption.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 9th day of July, 2018, and thereafter, a statement of the substance of the Ordinance having been published as required by law, was finally passed by the Council on the 23rd day of July, 2018.

ATTEST:


Kimberly R. Nichols, City Clerk



Muir Boda, City Council Vice-President

Approved by me this 6th day of AUGUST, 2018


Jacob R. Day, Mayor



City of
Salisbury
Jacob R. Day, Mayor

To: Julia Glanz, City Administrator
From: Amanda Pollack, P.E., Director of Infrastructure and Development 
Date: June 19, 2018
Re: Ordinance – Illicit Discharges to the Municipal Separate Storm Sewer System (MS4)

The City of Salisbury is a regulated Small Municipal Separate Storm Sewer System (MS4) through a General Permit issued by the Maryland Department of the Environment. EPA and MDE have been working to revise the MS4 permit requirements. A draft permit was issued in December 2016. The final determination for the new small municipal permits (also known as MS4 Phase II permits) was issued on April 27, 2018 with an effective date of October 31, 2018.

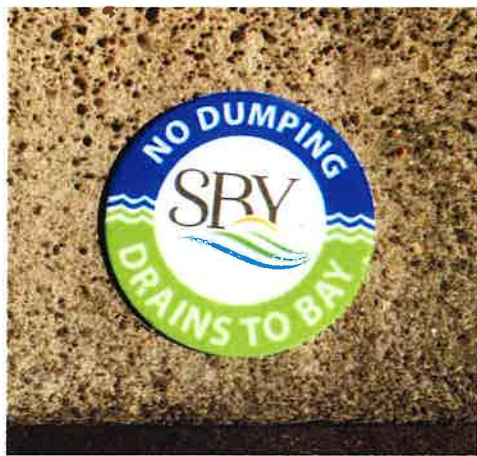
Salisbury Infrastructure and Development has been working towards achieving compliance with the new permit since the draft was issued. One item that differs from our previous General Permit is the language regarding Illicit Discharge Detection and Elimination. The draft General Permit states:

“... all permittees must: ...

- 2. Adopt an ordinance or other regulatory means that prohibits illicit discharges into the MS4;*
- 3. Establish and document legal means for gaining access to private property to investigate and eliminate illicit discharges (e.g., ordinance, easements); ...”*

The attached Ordinance provides language to add to Chapter 13 of the Code to define Illicit Discharges, provide access for inspection and maintenance, and identify enforcement methods.

Unless you or the Mayor has further questions, please forward a copy of this memo and the Ordinance to the City Council. For reference, attached is a one page fact sheet about Illicit Discharges. This information is on the City's website.



What is an Illicit Discharge?

Any activity that results in a discharge to the City of Salisbury stormwater system or receiving waters that is not composed entirely of stormwater

Examples of Illicit Discharges

- Sanitary wastewater
- Paint
- Petroleum products
- Commercial car wash water
- Auto or household toxins
- Pet waste
- Yard waste
- Garbage or rubbish
- Industrial waste
- Effluent from septic tanks
- Radiator flushing
- Laundry wastewater

What is the City of Salisbury doing to identify illicit discharges?

Investigating all outfalls. When dry weather flow is detected, conduct an investigation to look for illicit discharges, identify what the illegal pollutant is, track the pollutant to its source, and determine how to eliminate the pollutant.



Why are IDDE Efforts Necessary?

The City of Salisbury is required under a National Pollutant Discharge Elimination System Permit to find and eliminate these problems to comply with the federal Clean Water Act.

Illicit discharges enter the storm sewer system most commonly through these three ways:

1. Direct connections from wastewater pipes.
2. Indirectly from infiltration by cracked sanitary pipes or spills.
3. Oil, household waste, pesticides/fertilizers and pet waste dumped on purpose.

The result is untreated discharges that contain pollutants, including oil, heavy metals, bacteria, and excess nutrients from fertilizer, which can harm our water quality, wildlife, and human health.

The following are allowable discharges:

Allowable Discharge

- Water line flushing
- Emergency fire fighting
- Irrigation water
- Lawn watering
- Uncontaminated groundwater
- Residential vehicle washing
- Dechlorinated swimming pool discharge
- Drainage of municipal water storage tanks

Report illicit discharges to:
410-548-3170
infdev@salisbury.md