

Title 16 – Chapter 12

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VIOLATIONS, ENFORCEMENT, AND PENALTIES

16-12-1 VIOLATIONS.

- (a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
- (b) In the event the violation constitutes an immediate danger to public health or public safety, the Town Board is authorized to enter upon the subject private property, without giving prior notice, to take any and all measure necessary to abate the violation. The Town Board is authorized to seek costs of the abatement.

16-12-2 WARNING NOTICE.

- (a) When the Town Board finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town Board may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the Town Board to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

16-12-3 NOTICE OF VIOLATION.

- (a) Whenever the Town Board finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Town Board may order compliance by written notice of violation to the responsible person.
- (b) The Notice of Violation shall contain:
 - (1) The name and address of the alleged violator;
 - (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (6) A statement that the determination of violation may be appealed to the Town Board by filing a written notice of appeal within 3 days of service of notice of violation, and
 - (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.
- (c) Such notice may require without limitation:
 - (1) The performance of monitoring, analyses, and reporting.
 - (2) The elimination of illicit connections or discharges.
 - (3) That violating discharges, practices, or operations shall cease and desist.
 - (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property.
 - (5) Payment of a fine to cover administrative and remediation costs, and
 - (6) The implementation of BMPs.

16-12-4 SUSPENSION OF MS4 ACCESS.

(a) Emergency Cease and Desist Orders.

(1) When the Town Board finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or water of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town Board may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

(a) Immediately comply with all ordinance requirements, and

(b) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(b) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Town Board may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Town Board may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town Board that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town Board within 5 days of receipt of the prerequisite for, taking any other action against the violator.

(c) Suspension due to Illicit Discharges in Emergency Situations.

(1) The Town Board may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Town Board may take such steps as deemed necessary to prevent or minimize

damage to the MS4 or waters of the United States, or to minimize danger to persons.

(d) Suspension due to the Detection of Illicit Discharge.

- (1) Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town Board will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town Board for a reconsideration and hearing.
- (2) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town board.

(e) Prosecution and Penalties.

- (1) Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violation described therein within the set time period specified by the Town Board, after the Town Board has taken one or more of the actions described above, the Town Board may impose a penalty of not less than \$100 nor more than \$500 for each day the violation remains un-remedied after receipt of the notice of violation.

16-12-5 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the Town Board. The notice of appeal must be received by the Town Clerk within 3 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal.

16-12-6 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected, pursuant to the requirements set forth in the Notice of Violation or, in the event of an appeal, the municipal authority upheld the decision of the Town, then representatives of the Town Board are authorized to enter upon the subject private property and authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

16-12-7 COST OF ABATEMENT OF THE VIOLATION.

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.

16-12-8 VIOLATIONS DEEMED A PUBLIC NUISANCE.

Any condition in violation of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

16-12-9 REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town Board to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.