

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF GETTYSBURG PROHIBITING ILLEGAL DISCHARGES INTO AND ILLICIT CONNECTIONS TO THE STORM DRAIN SYSTEMS, THE STORM SEWER SYSTEMS AND THE WATERCOURSES IN THE BOROUGH OF GETTYSBURG, ADAMS COUNTY, PENNSYLVANIA.**

**BE IT ENACTED AND ORDAINED** by the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania, by virtue of the power and authority vested in said Borough Council, as follows:

**SECTION 1. DEFINITIONS.** The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this section except where the context clearly indicates or requires a different meaning:

**BEST MANAGEMENT PRACTICES (BMPs)** – 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 storm water, receiving waters or storm water conveyance systems. Best Management Practices (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.

**BOARD** – The Code Enforcement Appeals Board of the Borough of Gettysburg, Adams County, Pennsylvania, as authorized in Chapter 1, Part 6.C. of the Code of Ordinances of the Borough of Gettysburg, Adams County, Pennsylvania.

**BOROUGH** – The Borough of Gettysburg, Adams County, Pennsylvania.

**BOROUGH COUNCIL** – The Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania.

**CLEAN WATER ACT** – The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any amendments thereto.

**CONSTRUCTION ACTIVITY** – Activities subject to PA Code Chapter 102 Earth Disturbance Requirements or National Pollutant Discharge Elimination System (NPDES) construction permits. PA Code Chapter 102 requires an erosion and sediment control plan to be developed and implemented for earth disturbance activities which result in a total earth disturbance of five thousand (5,000) square feet or more. NPDES Stormwater Phase II

permits will be required for construction projects resulting in land disturbance of one (1) acre or more. Such construction activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition activities on premises in or adjacent to the Borough of Gettysburg.

**DEP** – The Pennsylvania Department of Environmental Protection.

**GETTYSBURG BOROUGH STORM WATER AUTHORITY (GBSWA)** – The Gettysburg Borough Storm Water Authority (GBSWA), organized under the Municipality Authorities Act, 53 Pa. C.S. § 5601 et seq., and charged with the administration and assessment of related fees in connection with the construction, operation, maintenance and repairs necessary for the implementation and operation of the Borough's municipal separate storm sewer system (MS4) program.

**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.

**ILLEGAL DISCHARGE** – Any direct or indirect non storm water discharge into a storm drain system, a storm sewer system or a watercourse, except as exempted in this Ordinance or Part.

**ILLICIT CONNECTIONS** – An illicit connection is defined as either of the following:

A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter a storm drain system or a storm sewer system, including, but not limited to any conveyances which allow any non storm water discharge, including sewage, processed wastewater and wash or gray water to enter a storm drain system or a storm sewer system and any connections to the storm drain system or storm sewer system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency.

B. Any drain or conveyance connected from a commercial or industrial land use to a storm drain system or storm sewer system which has not been documented in plans, maps or equivalent records and approved by the Borough of Gettysburg.

**INDUSTRIAL ACTIVITY** – Activities subject to National Pollutant Discharge Elimination System (NPDES) industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** – Any conveyance or system of conveyances (including streets, ditches and pipes) that is: owned by the Borough; designed or used for collecting or conveying storm water; not a combined sewer (i.e., not intended for both sewage and storm water); and not part of the sanitary sewer system owned and operated by the Gettysburg Municipal Authority (GMA).

**PERSON** – Includes, but is not limited to an individual, unincorporated association, partnership, limited partnership, firm, corporation, limited liability company, joint venture, or any other legal entity whatsoever.

**POLLUTANT** – Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes, yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; wastes and residues that result from constructing a building or structure; and any noxious or offensive matter of any kind.

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

**STORM DRAIN SYSTEM or STORM SEWER SYSTEM** – Publicly or privately owned facilities by which storm water is collected and/or conveyed, including but not limited to any streets or roadways with drainage systems, municipal streets, alleys, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

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

**STORM WATER POLLUTION PREVENTION PLAN** – A document that 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.

**WASTE WATER** – Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

**WATERCOURSE** – A stream of water, river, brook, creek, canal, channel or ditch, whether natural or man-made.

**SECTION 2. APPLICABILITY.** This Ordinance shall apply to all water entering any storm drain system or storm sewer system in the Borough generated on any developed or undeveloped lands unless explicitly exempted by the Borough.

**SECTION 3. ADMINISTRATION.** The Borough shall administer, implement and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Borough may be delegated to employees, agents or other designated representatives of the Borough; or such powers or duties may be delegated by the Borough to the Gettysburg Borough Storm Water Authority (GBSWA), its employees, agents or other designated representatives.

**SECTION 4. MINIMUM STANDARDS.** The standards contained in this Ordinance are minimum standards. Compliance therewith does not ensure the absence of contamination, pollution or unauthorized discharge of pollutants.

**SECTION 5. PROHIBITION OF ILLEGAL DISCHARGES.**

A. No person shall discharge or cause to be discharged into a storm drain system, a storm sewer system or any watercourse in the Borough any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. Any discharge in violation of this section shall be considered an illegal discharge.

B. The commencement, conduct or continuance of any illegal discharge to the storm drain system or storm sewer system is prohibited except as described as follows:

(1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains or storm sewers, uncontaminated pumped groundwater, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air-conditioning condensation, natural springs, noncommercial washing of vehicles, residential car washing (only permitted if a cleaning agent is not utilized), natural riparian habitat or wetland flows and firefighting activities.

(2) Discharges specified, in writing, by the Borough as being necessary to protect public health, safety and welfare.

(3) Dye testing, conditioned upon verbal notification to the Borough and confirmation of receipt of the same prior to the time of the test.

(4) Any non storm water discharge permitted under a NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of DEP, 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 storm drain system.

**SECTION 6. PROHIBITION OF ILLICIT CONNECTIONS.** The construction, use, maintenance or continued existence of illicit connections to a storm drain system or storm sewer system is prohibited.

A. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permitted under law or practices applicable or prevailing at the time of connection.

B. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the Municipal Separate Storm Sewer System (MS4), or allows such a connection to continue.

**SECTION 7. SUSPENSION OF MS4 ACCESS.**

A. **Suspension due to illegal discharges in emergency situations.** The Borough, the Commonwealth of Pennsylvania and the United States of America 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, to the health or welfare of persons, or to the MS4 or waters of the Commonwealth of Pennsylvania or of the United States of America. If the violator fails to comply with the suspension order issued in an emergency, the Borough may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the Commonwealth of Pennsylvania or of the United States of America, or to minimize danger to persons, including without limitation, entering the property for the purpose of disconnecting and/or performing emergency maintenance or repairs to storm drains or storm sewers. In the event the Borough must disconnect or perform emergency maintenance and/or repairs, the Borough may file and attach a municipal lien on the property which is causing the illegal discharge for any such emergency work, maintenance or repairs performed by the Borough or at its direction.

B. **Suspension due to the detection of illegal discharge or illicit connection.** Any person discharging to the MS4 in violation of this Ordinance or Part may have MS4 access terminated if such termination would abate or reduce an illegal discharge or illicit connection. The Borough will notify a violator of the proposed termination of MS4 access. The violator may petition the Borough for a reconsideration and hearing.

C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the authorized enforcement agency.

## **SECTION 8. INDUSTRIAL OR CONSTRUCTION ACTIVITY**

**DISCHARGES.** Any person subject to an industrial or construction activity NPDES storm water 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 Borough prior to allowing discharges to the MS4.

## **SECTION 9. MONITORING OF DISCHARGES.**

A. Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to facilities.

(1) The Borough shall be permitted to enter and inspect property and facilities subject to regulation under this Ordinance or Part as often as may be necessary to determine compliance with this Ordinance or Part. If a discharger has security measures in force which require proper identification and clearance before entry into the premises, the discharger shall make the necessary arrangements to allow access to the Borough, its representatives, agents or contractors.

(2) Facility operators shall allow the Borough ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES permit to discharge storm water and the performance of any additional duties as defined by state and federal law.

(3) The Borough shall have the right to place at any permitted facility such devices as are necessary as determined by the Borough or its professional consultants to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Borough has the right to require the discharger 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 discharger at its own expense. All devices used to measure storm water flow and quality shall be properly calibrated in order to ensure accuracy of the device.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Borough and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Borough access to a permitted facility is a violation of a storm water discharge permit and of this Ordinance or Part. An operator of a facility with a NPDES permit to discharge storm water associated with industrial activity

comments an offense if the Borough is denied reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance or Part.

(7) If the Borough has been refused access to any part of the premises from which storm water is discharged, and the Borough's representative is able to demonstrate probable cause to believe that there may be a violation of this Ordinance or Part, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or Part or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

#### **SECTION 10. PREVENTION, CONTROL AND REDUCTION OF STORM WATER POLLUTANTS BY USE OF BEST MANAGEMENT PRACTICES (BMPs).**

The Borough will adopt requirements identifying best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system or waters of the Commonwealth of Pennsylvania or of the United States of America. The owner or operator of a commercial or industrial establishment or facility shall provide, at the expense of the owner or operator, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain or storm sewer system or any watercourse through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illegal discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed as compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevent plan as necessary for compliant with requirements of the NPDES permit.

**SECTION 11. 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 or impede the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

**SECTION 12. NOTIFICATION OF SPILLS.** Notwithstanding other legal duties and requirements, 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 are resulting or may result in illegal discharges or pollutants discharging into storm water, a storm drain or storm sewer system or into any waters of the Commonwealth of Pennsylvania or of the United States of America, 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 by and through emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency, in person, by telephone, by electronic mail or by facsimile transmission, no later than the next business day following the release or discharge. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Borough within three (3) business days of the telephone notification. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also 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 following the release or discharge.

### **SECTION 13. ENFORCEMENT; NOTICE OF VIOLATION.**

A. Whenever the Borough finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance or Part, the Borough may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- (1) The performance of monitoring, analyses and reporting;
- (2) The elimination of illicit connections or illegal 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 source control or treatment BMPs.

**SECTION 14. APPEAL OF NOTICE OF VIOLATION.** Any person receiving a notice of violation may appeal the determination of the Borough to the Code Enforcement Appeals Board of the Borough of Gettysburg consistent with Chapter 1, Part 6.C. of the Borough Code of Ordinances. The application for an appeal shall be filed with the Borough Secretary not later than thirty (30) days after the notice of violation is issued.

**SECTION 15. 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, within thirty (30) days of the Board's decision upholding the determination of the Borough, then representatives of the Borough shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the



violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Borough or representatives to enter upon the premises for the purposes set forth herein.

#### **SECTION 16. COST OF ABATEMENT OF VIOLATION.**

A. 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. The property owner may thereafter file a written protest objecting to the amount of the assessment within thirty (30) days. If the amount due is not paid within a timely manner as determined by the decision of the Borough or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a municipal lien on the property for the amount of the assessment.

B. Any person violating any of the provisions of this Ordinance or Part shall become liable to the Borough by reason of such violation. The liability shall be paid in not more than twelve (12) equal installment payments. Interest at the legal rate shall be assessed on the liability if paid in installment payments as aforesaid.

**SECTION 17. INJUNCTIVE RELIEF.** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance or Part. If a person has violated or continues to violate the provisions of this Ordinance or Part, the Borough may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**SECTION 18. COMPENSATORY ACTION.** In lieu of enforcement proceedings, penalties and remedies authorized by this Ordinance or Part, the Borough may impose upon a violator alternative compensatory actions, to include, but not limited to, storm drain or storm sewer stenciling, attendance at compliance workshops or cleanup activities.

**SECTION 19. VIOLATIONS DEEMED PUBLIC NUISANCE.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance or Part is a threat to public health, safety and welfare and is declared and deemed a public nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

**SECTION 20. PENALTY.** Any person who shall violate this Ordinance or Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000.00 and the costs of prosecution. Each day that a violation of this Ordinance or Part continues shall constitute a separate offense.

**SECTION 21. RECOVERY OF EXPENSES.** The Borough may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance or Part, either criminal or civil, including sampling and monitoring expenses or other costs of investigation incurred by the Borough.

**SECTION 22. REMEDIES NOT EXCLUSIVE.** The remedies set forth in this Ordinance or Part are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Borough to seek any cumulative remedies.

**SECTION 23: SEVERABILITY.** The provisions of this Ordinance or Part are severable, and if any section, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of that court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Borough Council of the Borough of Gettysburg that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included in this Ordinance or Part.

**SECTION 24: REPEALER.** All other ordinances or parts of ordinances inconsistent herewith are hereby repealed insofar as the same affect this Ordinance.

**SECTION 25. EFFECTIVE DATE.** This Ordinance shall take effect upon enactment.

**THIS ORDINANCE DULY ENACTED AND ORDAINED** according to law on this 10<sup>th</sup> day of June, 2019, at a duly advertised general monthly business meeting of the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania.

**BOROUGH OF GETTYSBURG**

By: \_\_\_\_\_  
Susan C. Naugle  
President of Borough Council

ATTEST:

By: \_\_\_\_\_  
Sara L. Stull, Secretary

**APPROVED** this \_\_\_\_ day of June, 2019.

By: \_\_\_\_\_  
Theodore H. Streeter, Mayor