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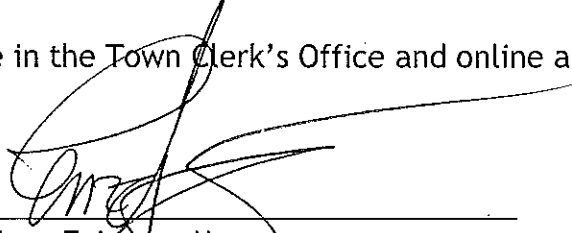
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LEGAL NOTICE  
TOWN OF CROMWELL

Please take notice that the Town Council of the Town of Cromwell on December 28, 2017 passed an ordinance amending the Code of the Town of Cromwell, by amending Section 125-4 Excavation Fees and on May 9, 2018 passed an ordinance amending the Code of the Town of Cromwell, by adding Chapter 200, Stormwater Discharge.

These Ordinances shall become effective on June 10, 2018.

A copy of the entire Ordinance is on file in the Town Clerk's Office and online at [www.cromwellct.com](http://www.cromwellct.com).

  
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Enzo Faienza, Mayor  
For the Cromwell Town Council

# TOWN OF CROMWELL



## Excavation Ordinance

Revised 9/25/03  
Town Council Revised Fees 12/28/17

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## AN ORDINANCE REGULATING EXCAVATIONS

### Section 125-1 PERMIT REQUIREMENTS.

No person, firm or corporation shall make any excavation ditch digging or otherwise alter, open or remove the surface of any street or highway in the Town of Cromwell until a permit has been obtained from the Director of Public Works or his authorized agent. Application for a permit shall be made on forms provided by the Director of Public Works and shall be accompanied by a sketch or drawing describing the work to be done. The sketch or drawing shall be in sufficient detail to facilitate an inspection of the excavation by town personnel. The Director of Public Works may require details plans and specifications and other engineering data to be submitted with the application he shall deem such to be necessary. The permit shall be obtained at least seventy-two (72) hours prior to commencement of excavation activities.

### Section 125-2 DISCHARGE FROM PIPES ON PUBLIC GROUNDS

No person, firm or corporation shall lay, construct, open or maintain any drain or conductor pipe in such manner that the water from the same is discharged on any sidewalk, any Town Highway, or public ground in the Town of Cromwell.

### Section 125-3 NOTIFICATION OF CALL BEFORE YOU DIG

Call Before you Dig (C.B.Y.D.) (1-800-922-4455) must be notified at least three (3) full working days prior to any excavation and no permit will be issued without an appropriate C.B.Y.D. ticket number.

### Section 12S-4. FEES

Contractors applying for a permit issued pursuant to this ordinance shall pay a fee to the Town of Cromwell in the amounts computed by measuring the surface area of such excavation as follows:

- a, Thirty-five dollars (\$35.00) for the first five hundred (500) square feet of excavation or fraction thereof, and
- b. Thirty-five dollars (\$35.00) for each additional five hundred (500) square feet of excavation or fraction thereof, as indicated below.

#### SURFACE AREA

Up to	500 S.F.
501 S.F. to	1,000 S.F;
1,001 S.F. to	1,500 S.F.
1,501 S.F. to	2,000 S.F.
2,001 S.F. to	2,500 S.F.
2,501 S.F. to	3,000 S.F.
3,001 S.F. to	3,500 S.F

#### PERMIT FEE

\$35.00
\$70.00
\$105.00
\$140.00
\$175.00
\$210.00
\$245.00

3,501 S.F. to	4,000 S.F.	\$280.00
4,001 S.F. to	4,500 S.F.	\$315.00
4,501 S.F. to	5,000 S.F.	\$350.00

(continuing in \$35.00 increments for each 500 S.F. or fraction thereof.)

No permit fee shall be required of a private contractor or contractors doing work for the Town of Cromwell or any department, agency or commission thereof when done under the direction of the Director of Public Works of the Town of Cromwell.

#### Section 125-S. INSURANCE AND BOND

A. No permit for any excavation in any town street or highway in the Town of Cromwell shall be granted until the contractor shall file with the Director of public works:

a. Proof of insurance as follows:

Automobile:

\$1,000,000 combined single limit for bodily injury and/or property damage.

Comprehensive General Liability:

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$2,000,000 Products- Completed operations Aggregate

Workers Compensation Employer's Liability:

\$100,000/\$500,000/\$100,000

Umbrella:

\$1,000,000 per occurrence.

b. Proof of a performance bond in the minimum amount of \$5,000 and in greater amounts as on following page.

Said performance will be an amount relative to the area to be excavated as determined by the Director of Public Works, all predicated on the contractor restoring the street or highway to a condition an approved by the Director of Public Works.

SURFACE AREA	BOND AMOUNT
Up to 1,000 S.F.	\$5,000.00
1,001 S.F. to 1,200 S.F.	\$6,000.00
1,201 S.F. to 1,400 S.F.	\$7,000.00
1,401 S.F. to 1,600 S.F.	\$8, 000.00
1,601 S.F. to 1,900 S.F.	\$9, 000.00
1,901 S.F. to. 2,000 S.F.	\$10,000.00

(Continuing in \$1,000.00 increments for each 200 S.F. or fraction thereof.)

B. All such bonds and insurance coverage shall be for a term of an least one year and shall be

kept in force continuously until the maintenance provisions hereinafter specified are satisfied. Evidence of renewal of coverage shall be furnished annually to the Director of Public Works.

- C. The contractor shall hold harmless and indemnify the Town of Cromwell for any and all liability, damages, and costs which may in any manner be incurred by the Town of Cromwell by reason of or in connection with the issuance of a permit for such excavation or by reason of any act or omission of the contractor, his agents, or servants.
- D. Contractors and public service corporations may dispense with the filing of a separate insurance policy and bond for each excavation by filing annually with the first Director of Public Works the proper evidence of insurance coverage and performance bond hereinbefore required, provided however, that an application must be made for a permit for each separate excavation. Evidence of insurance coverage and performance bond shall be filed in the form and in companies or sureties satisfactory to the Director of Public Works. The Surety Company shall be licensed to do business in Connecticut and a form of surety bond is attached to this ordinance

#### Section 125-6. VIOLATIONS AND PENALTIES

Any person, firm or corporation violating any provision of this ordinance shall be subject to a fine of not more than fifty dollars (\$50) for each day of the violation.

#### Section 125-7. STOP WORK ORDERS; COMPLETION OF WORK BY TOWN.

- A. Whenever a permit has been issued and the regulations herein are not complied with, a stop-work order shall be delivered to the person, firm or corporation, or their representative by the Director of Public Works. Upon such delivery, all work shall cease, the excavation shall be refilled or otherwise made safe and secure, and the permit shall be deemed to be suspended until the Director of Public Works authorizes, in writing, a resumption of the work. The Director of Public works or his authorized agent shall be authorized to issue stop-work orders.
- B. Any work not conforming to the details and specifications prescribed by the Director of Public Works may be completed by town and all costs for such work shall be billed to the person, firm or corporation taking out such permit. No further permits shall be Issued to said person, firm or corporation so billed until the balance owed the Town is paid. All remittances shall be payable to the Treasurer of the Town of Cromwell

#### Section 125-0. REGULATIONS

- A. The contractor shall at all times take all proper precautions to safeguard any sewer lines, water mains and services, electrical conduits, telephone conduits, gas main and services, or appurtenances encountered in excavation, and shall properly maintain such installations so as to provide uninterrupted service of the same. In locations, where the use of power equipment will endanger such installations, the work must be done by hand labor
- B. Excavations must be made in open cut and no tunneling will be allowed except by special written permission from the Director of Public Works. Trenches shall be braced and sheeted when needed to meet applicable Federal and State trench safety regulations.
- C. No excavated material is to be placed on private property without written permission from the property owner, such written permission to be obtained by the contractor and filed

- with the Director of Public Works prior to placing excavated material on private property.
- D. All excess material removed from street, highways, Town properties or rights-of-way granted in favor of the Town of Cromwell that is not required or suitable for backfilling the excavation will remain the property of the Town of Cromwell and must be removed to and/or disposed of at a site approved by the Director of Public Works.

#### Section 125-9. PROTECTION OF EXCAVATIONS; SAFE PASSAGE OF TRAFFIC

A permit issued by the Director of Public Works and the Chief of Police shall be obtained prior to excavation of any street or highway within the Town of Cromwell, excluding Interstate 91 and Route 9. A permit issued by the Chief of Police shall be obtained for any street or highway maintained by the State of Connecticut. All excavations shall be protected at all times in accordance with the Manual on Uniform Traffic Control Devices. The Chief of Police may proscribe such protection as deems necessary to allow for the safe passage of vehicular and pedestrian traffic, including requiring police officers or flaggers, whenever there are road closings, lane closings or other restrictions to traffic. Only  $\frac{1}{2}$  of the traveled portion of a street or highway shall be excavated, permitting safe passage of vehicular traffic on the remaining half. Under no circumstances shall an excavation or opening be made across the width of the entire street or highway in such a manner as to prohibit safe passage of vehicular traffic without the written permission of the Chief of Police. Excavation permits shall be obtained prior to the commencement of the excavation work and prior to causing and redirection of traffic. In the event of an emergency requiring excavation of a street or highway, verbal notice shall be made to the Cromwell Police Department prior to excavation.

#### Section 125-10 RESTORING EXCAVATIONS.

- A. All excavations provided for in this ordinance shall be backfilled with bank-run gravel or material approved by the Director of Public Works. Material removed from the excavations may be used for backfill only with permission of the Director of Public Works or his authorized agent. All backfilling must be done in properly compacted layers not exceeding 12 inches in depth after compaction. No muck, clay, frozen earth, topsoil, stones over 6 inches in any dimension or other deleterious material shall be placed in excavation, but shall be disposed of as indicated above. The approved backfill material shall be placed and compacted at a moisture content between 4 and 6 percent (based on dry density, by weight), or within 2 percent of the optimum moisture content as determined by the moisture-density relationship test specified in American Society For Testing And Materials, AD1557.

- B- At locations where the contractor elects to consolidate the backfill material by the so-called "Ho-Pac" method, the compacted layers shall not exceed four (4) feet in depth after compaction. The vibratory compactor shall be placed directly on the backfill surface and the compaction effort shall continue until no further visible settlement occurs.

#### Section 125-11 RESTORING PAVEMENTS.

- A- After the excavation has been backfilled and compacted as indicated above, twelve (12) inches of processed aggregate base shall be placed and compacted in three (3), four (4) inch layers. The material used and the method of compaction shall be in conformance with the State of Connecticut Department of Transportation Standard Specifications for Roads, Bridges and Incidental Construction, Form 817, and future revisions thereto. A temporary bituminous patch, at least two (2) inches in depth, shall be placed and compacted on top of the aggregate base so that the surface of the patched Excavation is

slightly domed above the adjacent pavement. After a minimum period of sixty (60) days and a maximum of 360 days, the temporary patch material and any fouled aggregate base, shall be removed and replaced with new aggregate base, if needed, and permanent bituminous material as indicated below:

1 1/2" of Bituminous concrete Surface Course on 2' of Bituminous Concrete Binder course.

- B. The bituminous pavement material and the method of placement shall also be in conformance with Form 817 or latest revision. After the removal of the temporary patch and prior to the placement of the permanent bituminous material, the existing pavement will be cut back as directed by the Director of Public Works or his authorized representative to create vertical faces which will either be Public Works Construction Permit Ordinance parallel or perpendicular to the new pavement. The vertical faces will be sealed with 85/100 asphaltic material to ensure a good bond between the old and new pavement material. The surface of the repaved excavation shall be flush with the adjacent pavement. All excavations shall be properly protected by barricades and warning lights furnished and maintained by the contractor during the curing period. Curbs and sidewalks are considered a part of the pavement and are to be restored to their original condition in accordance with applicable town standards and specifications. All grassed areas or open areas are to be rough graded with boulders larger than six (6) inches removed from the site. All lawned areas are to be fine graded with 4 inches of topsoil and seeded as approved by the Director of Public Works. All other highway facilities, signs, pavement markings, sewers or subsurface structures shall be restored to their original condition before excavation was made

#### Section 125-12 MAINTENANCE OF PATCHES; REPAIR BY TOWN

- A. The contractor shall be responsible for the maintenance of the repaired patch during the life of the temporary patch and for a period of one year after the acceptance of the permanent patch by the Director of Public Works. In the event that it is necessary to make repairs to the excavation or restoration of the pavement during the one-year period, said guarantee shall extend for an additional period of sixty (60) days. The performance bond shall include said conditions of maintenance within its provisions.
- B. Any patches not satisfactorily maintained by the contractor may be repaired by the Town of Cromwell and the following charges shall be billed to the person, firm, or corporation responsible for the patch: \$150.00 per repair on weekdays and \$250.00 per repair on weekends and holidays. No further permits shall be issued to the person, firm, or corporation so billed until the balance owed the town is paid. All remittances shall be payable to the Treasurer of the Town of Cromwell.



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## Chapter 200: STORMWATER DISCHARGE

### General References

Sewers – See Ch. 193

Aquifer Protection – See Ch. 231

### § 200-1. Purpose and Intent.

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

- (1) To regulate the contribution of pollutants to the storm drainage system through stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the storm drainage system.
- (3) To establish legal authority to carry out all inspections, surveillance, enforcement and monitoring procedures necessary to ensure compliance with this ordinance.

### § 200-2. - Definitions.

For the purposes of this ordinance, the terms below shall have the following meaning:

1. **"Authorized Enforcement Agency"**. Shall mean the Town of Cromwell Town Manager and/or his or her designee.
2. **"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 stormwater, receiving waters, or stormwater conveyance 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.
3. **"Clean Water Act"**. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

4. **"Construction Activity"**. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading excavating, and demolition.
5. **"Facility"**. Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
6. **"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.
7. **"Hearing Officer"**. The person designated from time to time by the Town Manager to hear appeals in accordance with section 15 herein.
8. **"Illegal Discharge"**. Any direct or indirect non-stormwater discharge to the storm drain system unless exempt pursuant to Section 200-7 of this ordinance.
9. **"Illicit Connections"**. An illicit connection includes the following.
  - a) Any drain or conveyance, whether on the surface or subsurface which allows an illegal discharge to enter the 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 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 an authorized enforcement agency and/or,
  - b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
10. **"Industrial Activity"**. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).
11. **"National Pollutant Discharge Elimination System (NPDES)"**. A provision of the Clean Water Act that prohibits discharge of pollutants into waters of the U.S. unless a Stormwater Discharge Permit.
12. **"Non-Stormwater Discharge"**. Any discharge to the storm drain system that is not composed entirely of stormwater.

13. **"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.
14. **"Pollutant"**. Anything that causes or contributes to pollution of the environment. 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; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same 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.
15. **"Premises"**. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
16. **"PZC"**. The Planning & Zoning Commission of the Town of Cromwell, Connecticut, including its Enforcement Officer, its agents and the Town Engineer.
17. **"Storm Drainage System"**. Publicly-owned premises by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping premises, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures and includes the Municipal Separate Storm Sewer System (MS4).
18. **"Stormwater"**. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
19. **"Stormwater Discharge Permit"**. Means a permit issued by EPA (or by a State under authority delegated Pursuant to 33 USC §1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or general area-wide basis.
20. **"Stormwater Pollution Prevention Plan"**. 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 Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
21. **"Town Manager"**. The Cromwell Town Manager or his/her authorized designee.

22. **"Wastewater"**. Any water or other liquid, other than uncontaminated stormwater, discharged from premises. As used in this chapter, the following terms shall have the meanings indicated:
23. **"Watercourse"**. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. This includes but is not limited to lakes, ponds, rivers, streams and any other surface water defined as a watercourse by the town's inland wetland regulations.

#### **§ 200-3. - Applicability.**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town Manager.

#### **§ 200-4. - Responsibility for administration.**

The Town Manager shall, in consultation with the town engineer, administer, implement, and enforce the provisions of this ordinance. The Town Manager may delegate his/her powers and duties under this ordinance to an authorized designee.

#### **§ 200-5. - Severability.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

#### **§ 200-6. - Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

#### **§ 200-7. – Discharge and Connection Prohibitions.**

- (1) *Illegal discharges prohibited.* No person shall discharge or cause to be discharged into the storm drainage system 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 stormwater.

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

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one (1) PPM chlorine), firefighting activities, and any other water source not containing pollutants.
- (b) Discharges specified in writing by the Town Manager as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a written notification to the Town Manager prior to the time of the test. Said written notification may be in the form of electronic mail, facsimile transmission or hard copy letter format.
- (d) 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 Federal Environmental Protection Agency, 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.

**(2) *Illicit Connections Prohibited.***

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) 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.

- (c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the storm drainage system, or allows such a connection to continue.

**§ 200-8. - Suspension of (MS4) storm drainage system access.**

*Suspension due to illicit discharges in emergency situations.* The Town Manager may, without prior notice, suspend storm drainage system 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 storm drainage system or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town Manager may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or Waters of the United States, or to minimize danger to persons.

*Suspension due to the detection of illicit discharge.* Any person discharging to the storm drainage system in violation of this ordinance may have their storm drainage system access terminated if such termination would abate or reduce an illicit discharge. The Town Manager will notify a violator of the proposed termination of its storm drainage system access. The violator may petition the Town Manager for reconsideration and hearing.

A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the Town Manager.

**§ 200-9. - Industrial or 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 Town Manager prior to the allowing of discharges to the storm drainage system.

**§ 200-10. - Right of entry, evaluation, and monitoring of damages.**

- (a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial or construction activity, and any other commercial or residential facilities that discharge stormwater to the storm drainage system.
- (b) *Access to facilities.*

- (1) The Town Manager shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives or designees of the Town Manager.
- (2) Facility operators shall allow the Town Manager ready access to all parts of the facility for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a town, state or federal NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The Town Manager shall have the right to install on any NPDES permitted facilities such devices as are necessary in the opinion of the Town Manager to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Town Manager has the right to require the installation of sampling and monitoring equipment on any NPDES permitted facility by the discharger at its own expense. 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 stormwater flow and quality shall be calibrated to ensure their accuracy.
- (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 Town Manager and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Town Manager access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Town Manager reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (7) If the Town Manager has been refused access to any part of the facility from which stormwater is discharged, and he/she is able to



demonstrate probable cause to believe that there may be a violation of this ordinance, 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 any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Town Manager may seek issuance of a search warrant from any court of competent jurisdiction.

- (8) While performing the necessary work on private properties referred to in subsections (b) (1) through (5) of this section, the Town Manager shall observe all safety rules applicable to the premises established by the facility.

**§ 200-11. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

The Town Manager will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or facility, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drainage system as directed by the Town Manager. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

**§ 200-12. - 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 watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

### **§ 200-13. - Notification of spills.**

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 are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or water of the U.S. 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 non-hazardous materials, said person shall notify the Town Manager in person or by phone, electronic mail or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town Manager 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 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.

### **§ 200-14. - Enforcement.**

- (a) *Notice of violation.* Whenever the Town Manager finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, he/she shall 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 discharges or connections;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
  - (5) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the Town Manager may order the work be done by a designated governmental agency or a contractor and the violator fined an amount equal to the expense thereof in addition to any fines imposed in subsections (b) or (c) of this section.

(b) *Procedure for issuance of citations.*

- (1) The Town Manager shall issue a written notice to any person who violates any provision of this ordinance. No written notice may be issued against the state or any state official or state employee acting within the scope of his employment. Such written notice shall explain the nature of the violation and the steps required for compliance, and shall allow a seventy-two-hour period within which to correct the violation or within which a written plan for correction shall be submitted to the Town Manager, setting forth a reasonable time period for correction of the violation as agreed upon by the Town Manager. A written notice issued pursuant to this subsection shall be served: 1) by hand delivery, at which time the seventy-two-hour period shall begin; or 2) by certified mail return receipt requested and by regular first class mail. Three (3) business days shall be allowed for mail delivery of the notice prior to the commencement of the seventy-two-hour period.
- (2) Within two (2) business days after the period for correction established in subsection (a) expires, the Town Manager shall reinspect the subject property to determine compliance.
- (3) If the violations set forth in the written notice have not been corrected at the time of reinspection, the Town Manager, in his/her capacity as chief executive officer, may issue a citation and fine of up to one hundred dollars (\$100.00) for each violation by hand, by certified return receipt requested, by leaving a true and attested copy of the citation at the usual place of abode or residence of the person in violation, or in the case of a corporate or business entity, delivery to the business address or the address of the statutory agent of said entity. No such fine shall be levied against the state or any state official or state employee acting within the scope of his employment. All citations issued pursuant to this section shall state the violation for which the citation is being issued, the fine imposed for the violation, the time period within which the fine must be paid, and an address for remittance of the fine.

(c) *Compliance periods after citation.*

- (1) Any violation for which a citation is issued and which is not corrected within the time period specified in subsection (b) of this section shall be a new violation of this ordinance, and every twenty-four-hour period thereafter in which the violation is not corrected shall constitute a new violation. The citation shall include a notice to the alleged violator that each twenty-four-hour period of

noncompliance after the time period specified in section 14(b) shall constitute a new violation and a new fine of up to one hundred dollars (\$100.00).

- (2) The Town Manager shall not be responsible for a daily reinspection. Rather, the person to whom the citation has been issued shall be responsible for reporting subsequent compliance by way of written report to the Town Manager. The Town Manager shall reinspect to confirm compliance within one (1) business day of receipt of such report.

(d) *Payment of fines.*

- (1) All fines imposed under this ordinance which are uncontested shall be made payable to the Town of Cromwell and shall be received by the Town Manager within fourteen (14) calendar days from date of notice of the citation. All fines collected by the Town Manager shall be deposited into the Town of Cromwell General Fund.

**§ 200-15. - Appeals.**

- (a) If the Town Manager issues a notice of violation, the Town Manager shall send written notice of action and a statement of the right to an appeal to the facility operator or facility owner.
- (b) The facility operator or facility owner may appeal a notice of violation to the Town Manager by setting forth in writing the reasons for the appeal within ten (10) calendar days after date of the notice of violation.
- (c) The facility operator or facility owner may appeal the decision of the Town Manager to the hearing officer as follows:
  - (1) The facility operator or facility owner may file a written request for a review by paying an appeal fee of twenty-five dollars (\$25.00) and setting forth the reasons for the appeal within ten (10) calendar days after the date of notification of the decision from the Town Manager. Appeal fees shall be returned to the appealing facility operator or facility owner if the appeal is upheld.
  - (2) The hearing officer shall conduct a hearing not less than fifteen (15) or more than thirty (30) calendar days after the receipt of the request. The hearing shall be informal in nature. The person requesting the hearing may testify concerning the facts,

circumstances and nature of his/her appeal and may present supporting documentation.

The hearing officer shall render a written decision within fifteen (15) calendar days of the hearing. The decision will affirm or reverse the decision of the Town Manager.

- (d) Filing of a request for appeal shall stay the action by the Town Manager requiring payment of a surcharge until the hearing officer has completed his review. However, an appeal shall not stay any action by the Town Manager to halt an illegal discharge that is ongoing. If a request for appeal is not made within the ten (10) calendar day period, the action of the Town Manager is final.

#### **§ 200-16. - 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. If a person has violated or continues to violate the provisions of this ordinance, the Town Manager may petition 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.

#### **§ 200-17. - Compensatory action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town Manager may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, watershed cleanup, or other related activities.

#### **§ 200-18. - Violations deemed a 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 is a threat to public health, safety, and welfare, and is declared and deemed a 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.

#### **§ 200-19. - Criminal prosecution of violations.**

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law.

**§ 200-20. - 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 Manager to seek cumulative remedies. Moreover, the Town Manager may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**§ 200-21. - Adoption of ordinance.**

This ordinance shall be in full force and effect fifteen (15) days after publication. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.