

1 Introduced by: Councilmember Small

First Reading: July 1, 2024

2 Second Reading: July 10, 2024

3 Effective Date: July 30, 2024

4  
5  
6 **CITY OF TAKOMA PARK, MARYLAND**  
7 **ORDINANCE 2024-16**

8  
9 **AMENDING THE TAKOMA PARK CODE, TITLE 14, HEALTH AND**  
10 **SAFETY: CHAPTER 14.01 NON-STORMWATER DISCHARGE. THE**  
11 **PURPOSE OF THIS CHAPTER IS TO PROTECT, MAINTAIN, AND**  
12 **ENHANCE PUBLIC HEALTH, SAFETY, AND THE GENERAL**  
13 **WELFARE BY PROHIBITING NON-STORMWATER DISCHARGE**  
14 **FROM ENTERING THE WATER SUPPLY.**

15  
16 **WHEREAS,** Maryland Code, Local Government Article, Section 5-202, as amended,  
17 authorizes the legislative body of each municipal corporation in the State of  
18 Maryland to pass ordinances that such legislative body deems necessary to assure  
19 the good government of the municipality, to protect and preserve the  
20 municipality’s rights, property and privileges, to preserve peace and good order,  
21 to secure persons and property from danger and destruction, and to protect the  
22 health, comfort, and convenience of the citizens of the municipality;

23  
24 **WHEREAS,** Section 401(a) of the City Charter states that the Council has the power to pass  
25 all such ordinances not contrary to the Constitution and laws of the State of  
26 Maryland as it may deem necessary for the good government of the City, for the  
27 protection and preservation of the City’s property, rights, and privileges, for the  
28 preservation of peace and good order, for securing persons and property from  
29 violence, danger or destruction, and for the protection and promotion of the  
30 health, safety, comfort, convenience, welfare, and happiness of the residents of  
31 and visitors in the City;

32  
33 **WHEREAS,** the purpose of this chapter is to establish standard operating procedures and  
34 methods of controlling pollutants and unauthorized discharges into the municipal  
35 sewer system; and

36  
37 **WHEREAS,** the public health, safety, and welfare is adversely affected by unauthorized  
38 discharges that lead to the contamination of water, diminishing the water quality  
39 and harming the public.

40  
41 **WHEREAS,** the Council, after having reviewed the proposed revisions and upon making  
42 further modifications, desires to amend Title 14 of the Takoma Park Code.

1  
2           **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
3 **TAKOMA PARK, MARYLAND, THAT** Title 14, Non-Stormwater Discharge is hereby enacted  
4 as follows:

5  
6   **Title 14**  
7   **HEALTH AND SAFETY**

- 8  
9 Chapters:
- 10       **14.01 Non-Stormwater Discharge**
  - 11       **14.04 Nuclear Free Zone**
  - 12       **14.12 Noise Control**
  - 13       **14.20 Public Space and Public Buildings**
  - 14       **14.24 Panhandling**
  - 15       **14.28 Restricted Lawn Care Pesticides**

16  
17

1  
2 **Chapter 14.01**  
3 **NON-STORMWATER DISCHARGE**  
4

5 Sections:  
6

7 **14.01.010 Purpose.**

8 **14.01.020 Definitions.**

9 **14.01.030 Applicability.**

10 **14.01.040 Responsibility for Administration.**

11 **14.01.050 Severability.**

12 **14.01.060 Interpretation.**

13 **14.01.070 Prohibited Discharge and Prohibited Connections.**

14 **14.01.080 Suspension of MS4 Access.**

15 **14.01.090 Industrial or Construction Activity Discharges.**

16 **14.01.100 Monitoring of Discharges.**

17 **14.01.110 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by**  
18 **the use of Best Management Practices.**

19 **14.01.120 Watercourse Protection.**

20 **14.01.130 Notification of Spills.**

21 **14.01.140 Enforcement.**

22 **14.01.150 Injunctive Relief.**

23 **14.01.160 Alternative Corrective Action.**

24 **14.01.170 Violations Deemed a Public Nuisance.**

25 **14.01.180 Criminal Prosecution.**

26 **14.01.190 Attorney's Fees, Court Costs, and Other Expenses.**

27 **14.01.200 Remedies not Exclusive.**

1 **14.01.010 Purpose.**

2  
3 The purpose of this Act is to provide for the health, safety, and general welfare of the citizens of  
4 the City of Takoma Park through the regulation of non-stormwater discharge into the storm  
5 drainage system to the maximum extent practicable as required by federal and state law. This  
6 ordinance establishes methods for controlling the introduction of pollutants into the municipal  
7 separate storm sewer system (MS4) in order to comply with the requirements of the National  
8 Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance  
9 are:

10  
11 A. To regulate the contribution of pollutants to the municipal separate storm sewer system  
12 (MS4) by stormwater discharges by any user;

13  
14 B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer  
15 system; and

16  
17 C. To establish legal authority to carry out all inspection, surveillance, and monitoring  
18 procedures necessary to ensure compliance with this ordinance.

19  
20 **14.01.020 Definitions.**

21  
22 As used in this chapter:

23  
24 “Best Management Practices” or (“BMP”) means schedules of activities, prohibitions of practices,  
25 general good housekeeping practices, pollution prevention and educational practices, maintenance  
26 procedures, and other management practices to prevent or reduce the discharge of pollutants  
27 directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs  
28 also include treatment practices, operating procedures, and practices to control site runoff, spillage  
29 or leaks, sludge or water disposal, or drainage from raw materials storage.

30  
31 “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) and  
32 any subsequent amendments thereto.

33  
34 “Construction Activity” means activities subject to NPDES construction permits. Currently these  
35 include construction projects resulting in land disturbance of 5 acres or more. Beginning in March  
36 2003, NPDES Storm Water Phase II permits will be required for construction.

37  
38 “City Manager” means the City of Takoma Park, employees or designees of the City, including,  
39 but not limited to the Maryland Department of the Environment (“MDE”) Water Management  
40 Administration (“WMA”), and the Environmental Protection Agency (“EPA”).

41  
42 “Hazardous Materials” means any material, including any substance, waste, or combination  
43 thereof, which because of its quantity, concentration, or physical, chemical, or infectious  
44 characteristics may cause, or significantly contribute to, a substantial present or potential hazard  
45 to human health, safety, property, or the environment when improperly treated, stored, transported,  
46 disposed of, or otherwise managed.

1  
2 “Illegal Discharge” means any direct or indirect non-stormwater discharge to the storm drain  
3 system, except as exempted in 14.01.070 of this ordinance.

4  
5 “Illicit Connections” means an illicit connection is defined as either of the following:  
6

7 A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal  
8 discharge to enter the storm drain system including but not limited to any conveyances which allow  
9 any non-stormwater discharge including sewage, process wastewater, and wash water to enter the  
10 storm drain system and any connections to the storm drain system from indoor drains and sinks,  
11 regardless of whether said drain or connection had been previously allowed, permitted, or  
12 approved by the City Manager or;

13  
14 B. Any drain or conveyance connected from commercial or industrial land use to the storm  
15 drain system which has not been documented in plans, maps, or equivalent records and approved  
16 by the City Manager.

17  
18 “Industrial Activity” means activities subject to NPDES Industrial Permits as defined in 40 C.F.R.  
19 § 122.26(b)(14).

20  
21 “MS4” means a Municipal Separate Storm Sewer System.

22  
23 “National Pollutant Discharge Elimination System (“NPDES”) Storm Water Discharge Permit”  
24 means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC §  
25 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the  
26 permit is applicable on an individual, group, or general area-wide basis.

27  
28 “Non-Storm Water Discharge” means any discharge to the storm drain system that is not composed  
29 entirely of stormwater.

30  
31 “Person” means any individual, association, organization, partnership, firm, corporation, or other  
32 entity recognized by law and acting as either the owner or as the owner’s agent.

33  
34 “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but  
35 are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous  
36 liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or  
37 abandoned objects, ordinances, and accumulations, so that same may cause or contribute to  
38 pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes;  
39 sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes  
40 and residues that result from constructing a building or structure; and noxious or offensive matter  
41 of any kind.

42  
43 “Premises” means any building, lot, parcel of land, or portion of land, whether improved or  
44 unimproved including adjacent sidewalks and parking strips.

1 “Storm Drainage System” means publicly owned facilities by which stormwater is collected and/or  
2 conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters,  
3 curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and  
4 human-made or altered drainage channels, reservoirs, and other drainage structures.

5  
6 “Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any  
7 form of natural precipitation and resulting from such precipitation.

8  
9 “Stormwater Pollution Prevention Plan” means a document that describes the Best Management  
10 Practices and activities to be implemented by a person or business to identify sources of pollution  
11 or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater,  
12 Stormwater Conveyance Systems, and/or Receiving Waters to the maximum Extent Practicable.

13  
14 “Wastewater” means any water or other liquid, other than uncontaminated stormwater, discharged  
15 from a facility.

16  
17 **14.01.030 Applicability.**

18  
19 This ordinance shall apply to all water entering the storm drain system generated on any developed  
20 and undeveloped lands unless explicitly exempted by the City Manager.

21  
22 **14.01.040 Responsibility for Administration.**

23  
24 The City Manager shall administer, implement, and enforce the provisions of this ordinance. Any  
25 powers granted or duties imposed upon the City Manager may be delegated in writing by the City  
26 Manager to persons or entities acting in the beneficial interest of or in the employ of the City  
27 Manager.

28  
29 **14.01.050 Severability.**

30  
31 The provisions of this Act are hereby declared to be severable. If any provision, clause, sentence,  
32 or paragraph of this Act or the application thereof to any person, establishment, or circumstances  
33 shall be held invalid, such invalidity shall not affect the other provisions or application of this Act.

34  
35 **14.01.060 Interpretation.**

36  
37 The standards set forth herein and promulgated pursuant to this Act are minimum standards. This  
38 Chapter should not be interpreted to mean that compliance by any person will prevent  
39 contamination, pollution, or unauthorized discharge of pollutants.

40  
41 **14.01.070 Prohibited Discharge and Prohibited Connections.**

42  
43 A. Except as provided herein, no person shall discharge or cause to be discharged into the  
44 municipal storm drain system or watercourses any materials, including but not limited to pollutants  
45 or waters containing any pollutants that cause or contribute to a violation of applicable water  
46 quality standards, other than stormwater.

1  
2 1. The commencement, conduct, or continuance of any illegal discharge to the storm  
3 drain system is prohibited except as described as follows:

4  
5 a. The following discharges are exempt from discharge prohibitions established by this  
6 Act: water line flushing or other potable water sources, landscape irrigation or lawn  
7 watering, diverted stream flows, rising groundwater, groundwater infiltration to storm  
8 drains, uncontaminated pumped groundwater, foundation or footing drains (not including  
9 active groundwater dewatering systems), crawl space pumps, air conditioning  
10 condensation, springs, non-commercial washing of vehicles, natural riparian habitat or  
11 wet-land flows, swimming pools (if dechlorinated – typically less than one PPM chlorine),  
12 firefighting activities, and any other water source not containing pollutants.

13  
14 b. Discharges specified in writing by the City Manager as being necessary to protect public  
15 health and safety.

16  
17 c. Dye testing is an allowable discharge but requires a written notification to the City  
18 Manager prior to the time of the test.

19  
20 d. The prohibition shall not apply to any non-stormwater discharge permitted under an  
21 NPDES permit, waiver, or waste discharge order issued to the discharger and administered  
22 under the authority of the Federal Environmental Protection Agency, provided that the  
23 discharger is in full compliance with all requirements of the permit, waiver, or order and  
24 other applicable laws and regulations, and provided that written approval has been granted  
25 for any discharge to the storm drain system.

26  
27 B. The construction, use, maintenance or continued existence of illicit connections to the  
28 storm drain system is prohibited.

29  
30 1. This prohibition expressly includes, without limitation, illicit connections made in  
31 the past, regardless of whether the connection was permissible under law or practices applicable  
32 or prevailing at the time of connection.

33  
34 2. A person is considered to be in violation of this ordinance if the person connects a  
35 line conveying sewage to the MS4, or allows such a connection to continue.

36  
37 **14.01.080 Suspension of MS4 Access.**

38  
39 A. The City Manager, may without prior notice, suspend MS4 discharge access to a person  
40 when such suspension is necessary to stop an actual or threatened discharge which presents or may  
41 present imminent and substantial danger to the environment, or to the health or welfare of persons,  
42 or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension  
43 order issued in an emergency, the City Manager may take such steps as deemed necessary to  
44 prevent or minimize damage to the MS4, Waters of the United States, or to minimize danger to  
45 persons.

1 B. Any person discharging to the MS4 in violation of this ordinance may have their MS4  
2 access terminated if such termination would abate or reduce an illicit discharge. The City Manager  
3 will notify a violator of the proposed termination of its MS4 access. The violator may petition the  
4 City Manager for a reconsideration and hearing.

5  
6 C. A person commits an offense if the person reinstates MS4 access to premises terminated  
7 pursuant to this Section, without the prior approval of the City Manager.

8  
9 **14.01.090 Industrial or Construction Activity Discharges.**

10  
11 Any person subject to an industrial or construction activity NPDES stormwater discharge permit  
12 shall comply with all provisions of such permit. Proof of compliance with said permit may be  
13 required in a form acceptable to the City Manager prior to the allowing of discharges to the MS4.

14  
15 **14.01.100 Monitoring of Discharges.**

16  
17 This section applies to all facilities that have stormwater discharges associated with industrial  
18 activity, including construction activity.

19  
20 A. The City Manager shall be permitted to enter and inspect facilities subject to regulation under  
21 this ordinance as often as may be necessary to determine compliance with this ordinance. If a  
22 discharger has security measures in force that require proper identification and clearance before  
23 entry into its premises, the discharger shall make the necessary arrangements to allow access to  
24 representatives of the City Manager.

25  
26 B. Facility operators shall allow the City Manager ready access to all parts of the premises for the  
27 purposes of inspection, sampling, examination, and copying of records that must be kept under the  
28 condition of the NPDES permit to discharge stormwater, and the performance of any additional  
29 duties as defined by state and federal law.

30  
31 C. The City Manager shall have the right to set up on any permitted facility such devices as are  
32 necessary in the opinion of the City Manager to conduct monitoring and/or sampling of the  
33 facility's stormwater discharge.

34  
35 D. The City Manager has the right to require the discharger to install monitoring equipment as  
36 necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a  
37 safe and proper operating condition by the discharger at its own expense. All devices used to  
38 measure stormwater flow and quality shall be calibrated to ensure their accuracy.

39  
40 E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected  
41 and/or sampled shall be promptly removed by the operator at the written or oral request of the City  
42 Manager and shall not be replaced. The costs of clearing such access shall be born by the operator.

43  
44 F. Unreasonable delays in allowing the City Manager access to a permitted facility is a violation  
45 of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility  
46 with a NPDES permit to discharge stormwater associated with industrial activity commits an



1 offense if the person denies the City Manager reasonable access to the permitted facility for the  
2 purpose of conducting any activity authorized or required by this ordinance.

3  
4 G. If the City Manager has been refused access to any part of the premises from which stormwater  
5 is discharged, and he/she is able to demonstrate probable cause to believe that there may be a  
6 violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine  
7 inspection and sampling program designed to verify compliance with this ordinance or any order  
8 issued hereunder or to protect the overall public health, safety, and welfare of the community, then  
9 the City Manager may seek issuance of an administrative search warrant from any court of  
10 competent jurisdiction.

11  
12 **14.01.110 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the**  
13 **use of Best Management Practices.**

14  
15 The City Manager will adopt requirements identifying Best Management Practices for any activity,  
16 operation, or facility which may cause or contribute to pollution or contamination of stormwater,  
17 the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial  
18 establishment shall provide, at their own expense, reasonable protection from accidental discharge  
19 of prohibited materials or other wastes into the municipal storm drain system or watercourses  
20 through the use of these structural and non-structural BMPs. Further, any person responsible for a  
21 property or premise, which is, or may be, the source of an illicit discharge, may be required to  
22 implement, at said person's expense, additional structural and non-structural BMPs to prevent the  
23 further discharge of pollutants to the municipal separate storm sewer system. Compliance with all  
24 terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated  
25 with industrial activity, to the extent practicable, shall be deemed compliance with the provisions  
26 of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as  
27 necessary for compliance with requirements of the NPDES permit.

28  
29 **14.01.120 Watercourse Protection.**

30  
31 Every person owning property through which a watercourse passes, or such person's lessee, shall  
32 keep and maintain that part of the watercourse within the property free of trash, debris, excessive  
33 vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of  
34 water through the watercourse. In addition, the owner or lessee shall maintain existing privately  
35 owned structures within or adjacent to watercourse, so that such structures will not become a  
36 hazard to the use, function, or physical integrity of the watercourse.

37  
38 **14.01.130 Notification of Spills.**

39  
40 Notwithstanding other requirements of law, as soon as any person responsible for a facility or  
41 operation, or responsible for emergency response for a facility or operation has information of any  
42 known or suspected release of materials which are resulting or may result in illegal discharges or  
43 pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person  
44 shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In  
45 the event of such a release of hazardous materials said person shall immediately notify emergency  
46 response agencies of the occurrence via emergency dispatch services. In the event of a release of

1 non-hazardous materials, said person shall notify the City Manager in person or by phone or  
2 facsimile no later than the next business day. Notifications in person or by phone shall be  
3 confirmed by written notice addressed and mailed to the City Manager within three business days  
4 of the phone notice. If the discharge of prohibited materials emanates from a commercial or  
5 industrial establishment, the owner or operator of such establishment shall also retain an on-site  
6 written record of the discharge and the actions taken to prevent its recurrence. Such records shall  
7 be retained for at least three years.

8  
9 **14.01.140 Enforcement.**

10  
11 A. Whenever the City Manager finds that a person has violated a prohibition or failed to meet  
12 a requirement of this Ordinance, the City Manager may order compliance by written notice of  
13 violation to the responsible person. Such notice may require without limitation:

- 14  
15 1. The performance of monitoring, analyses, and reporting;
- 16  
17 2. The elimination of illicit connections or discharges;
- 18  
19 3. That violating discharges, practices, or operations shall cease and desist;
- 20  
21 4. The abatement or remediation of stormwater pollution or contamination hazards and  
22 the restoration of any affected property;
- 23  
24 5. Payment of a fine to cover administrative and remediation costs; and
- 25  
26 6. The implementation of source control or treatment BMPs.

27  
28 B. If abatement of a violation and/or restoration of affected property is required, the notice  
29 shall set forth a deadline within which such remediation or restoration must be completed. Said  
30 notice shall further advise that, should the violator fail to remediate or restore within the established  
31 deadline, the work will be done by a designated governmental agency or a contractor and the  
32 expense thereof shall be charged to the violator.

33  
34 C. If a person fails to comply with the notice of violation, pursuant to Maryland Code § 6-  
35 102, et seq., of the Local Government Article, the City Manager may issue a municipal infraction  
36 citation seeking to have a fine imposed and to have the District Court of Maryland enter an order  
37 to abate the offense. Violations of this Chapter shall be classified as AA offenses and subject to a  
38 \$1,000 fine for each offense and an additional \$1,000 fine for each additional or repeat offense.

39  
40 D. If a person fails to comply with the notice of violation issued pursuant to section  
41 14.01.140(A) and (B), nothing herein shall prevent the Maryland Department of the Environment  
42 (“MDE”) Water Management Administration (“WMA”), and/or the Environmental Protection  
43 Agency (“EPA”), pursuant to applicable federal and/or state law from taking any enforcement  
44 action, abatement action, and/or from recovering any attorney’s fees, costs, and/or expenses  
45 associated therewith.

1 **14.01.150 Injunctive Relief.**

2  
3 It shall be unlawful for any person to violate any provision or fail to comply with any of the  
4 requirements of this Ordinance. If a person has violated or continues to violate the provisions of  
5 this ordinance, the City Manager may petition for a preliminary or permanent injunction  
6 restraining the person from activities that would create further violation or compelling the person  
7 to perform abatement or remediation of the violation.

8  
9 **14.01.160 Alternative Corrective Action.**

10  
11 In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City  
12 Manager may impose upon a violator alternative compensatory actions, such as storm drain  
13 stenciling, attendance at compliance workshops, creek cleanup, etc.

14  
15 **14.01.170 Violations Deemed a Public Nuisance.**

16  
17 In addition to the enforcement processes and penalties provided, any condition caused or permitted  
18 to exist in violation of any of the provisions of this Ordinance which is a threat to public health,  
19 safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or  
20 restored at the violator’s expense, and/or a civil action to abate, enjoin, or otherwise compel the  
21 cessation of such nuisance may be taken.

22  
23 **14.01.180 Criminal Prosecution.**

24  
25 Any person that has violated or continues to violate this ordinance shall be liable to criminal  
26 prosecution to the fullest extent of the law, and shall be subject to a Class A misdemeanor and  
27 criminal penalty of \$1,000.00 per violation per day or imprisonment for a period of time not to  
28 exceed 180 days, or both.

29  
30 **14.01.190 Attorney’s Fees, Court Costs, and Other Expenses.**

31  
32 The City Manager may recover all attorney’s fees, court costs, and other expenses associated with  
33 enforcement of this ordinance, including sampling and monitoring expenses.

34  
35 **14.01.200 Remedies Not Exclusive.**

36  
37 The remedies listed in this ordinance are not exclusive of any other remedies available under any  
38 applicable federal, state, or local law, and it is within the discretion of the City Manager to seek  
39 cumulative remedies.

40  
41 **THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA**  
42 **PARK, MARYLAND, THIS 10TH DAY OF JULY, 2024, AND SHALL BE EFFECTIVE**  
43 **BEGINNING ON THE 20TH DAY FOLLOWING ITS ENACTMENT, BY ROLL-CALL**  
44 **VOTE AS FOLLOWS:**

45  
46 AYE: Fulcher, Dyballa, Gibson, Seamens, Honzak, Searcy

1 NAY: None  
2 ABSTAIN: None  
3 ABSENT: Small

4

5 **Explanatory Note:**

6

7 1. Underlining indicates language being added to the Code.

8 2. ~~Strikethrough~~ indicates language being deleted from the Code.

9