



CITY OF STAMFORD, CONNECTICUT  
INTER-OFFICE CORRESPONDENCE

DATE: August 10, 2018

TO: Jonathan Jacobson, Chair, Operations Committee

CC: Matt Quinones, President, Board of Representatives  
Tyler Theder, Regulatory Compliance Officer

FROM: Michael S. Toma, Assistant Corporation Counsel *MST*

RE: Proposed Amendment to MS4 Ordinance

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I was asked to review a proposed amendment to the definition of “pollutant” in the City’s MS4 ordinance. The amendment would exempt from the definition of “pollutant” leaves placed in a roadway during the City’s leaf collection program. In my opinion, the proposed amendment is inconsistent with the City’s permit from the State Department of Energy and Environmental Protection, #0030279, to discharge into the waters of the State, and should not be adopted.

The City is permitted to discharge water from its stormwater system into Long Island Sound and other waterways in accordance with the terms and conditions of the above-referenced permit from the State. A “discharge” is “the emission of any water, substance or material into the waters of the state, whether or not such substance causes pollution.” C.G.S. section 22a-423.

One condition of the permit is that the City shall maintain “the necessary and enforceable legal authority established by statute, ordinance, rules and regulations, permit, easement, contract, order and any other means, to control the discharge of spills and prohibit the dumping or disposal of materials including, but not limited to, industrial and commercial wastes, trash, used motor vehicle fluids, food preparation waste, leaf litter, grass clippings, and animal wastes into its MS4.” Section 6(D)(2)(b) (underline added). In order to comply with this condition, the City adopted its MS4 ordinance, which includes “leaf litter” in its definition of “pollutant.”

The permit also contains the following condition, at Section 5(A):

**“The stormwater discharges shall not contain, or cause in the receiving stream, a visible oil sheen, floating solids, visible discoloration or foaming. Excluded from this are naturally occurring substances such as leaves and twigs provided no person has placed such substances in or near the discharge.”**

**In a conversation with Christopher Stone, the City’s contact at DEEP for the MS4 program, I was told that DEEP construes this language to prohibit the placement of leaves in a roadway, as doing so results in leaves entering catch basins and becoming included in discharges. He stated that it would be a violation of the City’s permit for the City to allow the placement of leaves in the roadway. As for his email of February 2, 2015 which is referenced in a whereas clause of the proposed ordinance, it was written to Tyler Theder in the City’s Operations Department and reads:**

**“Tyler,**

**The flyer looks good. It makes it clear that leaves do not go in the road. Given the leaf collection system you have in place, the language you are proposing for the definition of “pollutant” will work. As for the issue of residents putting their leaves in the street at all, much less weeks ahead of schedule, this should be part of the City’s enforcement program and violators should be fined. I suspect that once fines are handed out, word will spread and it won’t be as much of an issue in the future. Thanks for keeping me up to date.**

**Chris”**

**When Mr. Stone referred to “the leaf collection system you have in place,” he was referring to Mr. Theder’s description of the system in an email Mr. Theder sent to Mr. Stone on January 30, 2015. Copies of these emails are attached hereto. The system was described by Mr. Theder as follows:**

**“Our procedure is to request residents to rake their leaves up to the curb. The city has a staff of seasonal workers armed with rakes and blowers to move the leaves onto the street to be loaded onto trucks and hauled away. The streets are swept to pick up residual debris immediately after the leaf crews clear an area. This is a ‘same-day’ operation which is designed to minimize the amount of time the leaves are on the road potentially entering catch basins and causing obstructions to traffic. This is how the city prefers to conduct the operation and is consistent with the notion that leaves would be considered a ‘pollutant.’”**

**When put in the proper context, the reason that Mr. Stone did not object to a change to the definition of “pollutant” that would exempt leaf litter that is placed in the roadway during leaf collection was because the City was moving leaves into the roadway only momentarily in order to remove them from the roadway altogether. Mr. Stone’s email is clear that placement of leaves in the roadway by residents is a violation that “should be fined.”**

**Based on all of the foregoing, I advise that the proposed amendment to the definition of “pollutant” not be adopted, as it would permit residents to place leaves in the roadway, when the City’s permit does not allow for leaves to be placed in the roadway.**

## Toma, Michael

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**From:** Toma, Michael  
**Sent:** Friday, August 10, 2018 4:28 PM  
**To:** Toma, Michael  
**Subject:** FW: Stamford #0030279 - Clarification Regarding Leaves in Roadway During Leaf Pick Up Program

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**From:** Stone, Chris [<mailto:Chris.Stone@ct.gov>]  
**Sent:** Monday, February 02, 2015 11:28 AM  
**To:** Theder, Tyler  
**Cc:** Rosenberg, Burt; Turk, Thomas; Orgera, Ernie; Arenas, Margarita  
**Subject:** RE: Stamford #0030279 - Clarification Regarding Leaves in Roadway During Leaf Pick Up Program

Tyler,

The flyer looks good. It makes it clear that leaves do not go in the road. Given the leaf collection system you have in place, the language you are proposing for the definition of "pollutant" will work. As for the issue of residents putting their leaves in the street at all, much less weeks ahead of schedule, this should be part of the City's enforcement program and violators should be fined. I suspect that once fines are handed out, word will spread and it won't be as much of an issue in the future.

Thanks for keeping me up to date.

Chris

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**From:** Theder, Tyler [<mailto:TTheder@StamfordCT.gov>]  
**Sent:** Friday, January 30, 2015 7:58 AM  
**To:** Stone, Chris  
**Cc:** Rosenberg, Burt; Turk, Thomas; Orgera, Ernie; Arenas, Margarita  
**Subject:** RE: Stamford #0030279 - Clarification Regarding Leaves in Roadway During Leaf Pick Up Program

Hi Chris,

Please see attached flyer which was posted online and in the newspaper prior to the start of Stamford's leaf pick-up program. The flyer indicates "DO NOT PUT YOUR LEAVES IN THE STREET PER STATE DEEP REGULATIONS – This is a finable offense".

Our procedure is to request residents to rake their leaves up to the curb. The city has a staff of seasonal workers armed with rakes and blowers to move the leaves onto the street to be loaded onto trucks and hauled away. The streets are swept to pick up residual debris immediately after the leaf crews clear an area. This is a "same-day" operation which is designed to minimize the amount of time the leaves are on the road potentially entering catch basins and causing obstructions to traffic. This is how the City prefers to conduct the operation and is consistent with the notion that leaves would be considered a "pollutant".

I should offer that many residents do not follow the City's policy and they do rake or blow leaves into the street literally weeks in advance of their designated pick up date. This creates hazards for vehicles and pedestrians, eliminates parking spaces, and when they are washed into catch basins by fall rains they trigger additional nitrogen loading and catch basin

maintenance work. I am concerned about the legal challenges of allowing or extending the period of time leaves can be on a roadway as current city ordinances prohibit obstructions to travel.

Any clarifications would be appreciated. Thanks for your help.  
tyler

Tyler L. Theder  
Regulatory Compliance and Administrative Officer  
City of Stamford  
Office of Operations – Traffic and Road Maintenance | 90 Magee Ave | Stamford CT 06902 | t (203) 977-5281

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**From:** Stone, Chris [<mailto:Chris.Stone@ct.gov>]  
**Sent:** Thursday, January 29, 2015 2:58 PM  
**To:** Theder, Tyler  
**Cc:** Rosenberg, Burt; Turk, Thomas; Orgera, Ernie; Arenas, Margarita  
**Subject:** RE: Stamford #0030279 - Clarification Regarding Leaves in Roadway During Leaf Pick Up Program

Tyler,

How does the city collect the leaves? My experience has been that leaves are deposited near the curb but not in the actual roadway. How does Stamford do it?

Chris

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**From:** Theder, Tyler [<mailto:TTheder@StamfordCT.gov>]  
**Sent:** Tuesday, January 27, 2015 2:57 PM  
**To:** Stone, Chris  
**Cc:** Rosenberg, Burt; Turk, Thomas; Orgera, Ernie; Arenas, Margarita  
**Subject:** Re: Stamford #0030279 - Clarification Regarding Leaves in Roadway During Leaf Pick Up Program

Hi Chris,

The stormwater ordinance was presented to the Legislative and Rules Committee a week ago, and a member of the Board of Representative had a question regarding the definition of "Pollutant" in reference to the City's leaf pick up program.

"Pollutant" is defined on page three of the ordinance, and this definition does include leaf litter. The Representative wanted to know if we could amend the definition of "Pollutant" to exempt leaves placed in the street during the leaf pick up program (November 15 to December 15). Would you please review this matter and let me know if DEEP would consider exempting leaf litter while the pick-up program is underway? The proposed definition of "Pollutant" is shown below, with the revision shown in red.

**The definition would be revised as follows:**

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; 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; noxious or offensive matter of any kind; industrial and commercial wastes, trash, used motor vehicle fluids, food

preparation waste, leaf litter (except leaves placed in a roadway during the City's Leaf Collection Program), and grass clippings.

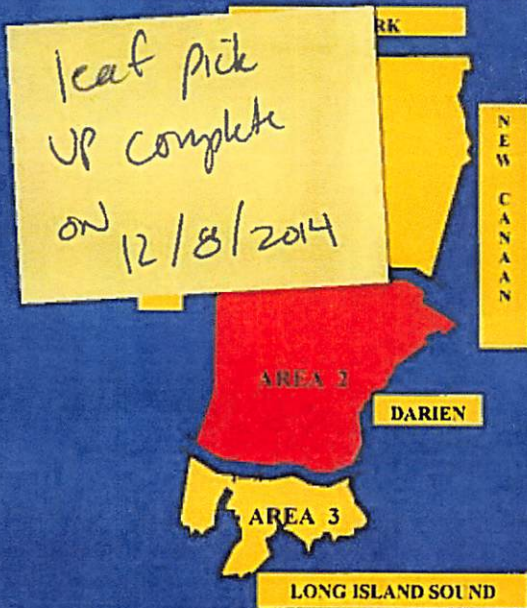
Thanks,  
Tyler

Tyler L. Theder  
Regulatory Compliance and Administrative Officer  
City of Stamford  
Office of Operations – Traffic and Road Maintenance | 90 Magee Ave | Stamford CT 06902 | t (203) 977-5281





**ATTENTION!**  
**RESIDENTS OF STAMFORD!**  
 DEPARTMENT OF OPERATIONS  
**LEAF PICK-UP**



**AREA 1\***  
**STARTING**  
**NOVEMBER 12th**

**AREA 2\***  
 Estimated Start Date:  
**NOVEMBER 15th**

**AREA 3\***  
 Estimated Start Date  
**DECEMBER 2nd**

Leaf pick-up will begin November 12th starting from the New York State line with crews working south to the Merritt Parkway.  
 Crews will pick-up leaves between the Merritt Parkway and I-95 beginning approximately November 15th.  
 City neighborhoods below I-95 will be picked up beginning approximately December 2nd.

**PLEASE DO NOT PUT LEAVES OUT BEFORE YOUR DESIGNATED START DATE!**

- City crews will not return if leaves are not put out by start date for your designated area.
- Only loose leaves or leaves in paper leaf bags will be picked up. Residents can bring bagged leaves to the recycling center on Major Avenue.
- Leaves must be brought TO the curb.
- **DO NOT PUT LEAVES IN STREET PER STATE DEEP REGULATIONS- This is a FINABLE offense**
- NO BRUSH, grass clippings or bulky waste will be picked up. If these materials are found at curb side they will not be picked up. Owners of the adjacent properties can be cited or fined for leaving brush, grass clippings, or bulky waste at curbside.
- When ever possible, compost leaves. If you have wooded property, the leaves will naturally compost if raked or swept into the woods.
- Do not cover curbs, irrigation pipes, sprinklers and water curb boxes with leaves. Do not pile leaves near stone walls, fences or trees. They could be damaged by heavy equipment removing leaves.

**IF YOU HAVE ANY QUESTIONS ABOUT LEAF PICK-UP**  
**PLEASE CALL 977-4140**  
 \*Delays may occur because of Bad Weather