



**Wareham Water Pollution Control Facility
6 Tony's Lane Wareham, MA 02571
(508) 295-6144**

DIVISION V RULES AND REGULATIONS RELATING TO THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS

The Installation and Connection of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewer System; and providing penalties and violations thereof: in the Town of Wareham, County of Plymouth, State of Massachusetts.

DIVISION V ARTICLE I: DEFINITIONS

Unless the context specifically indicated otherwise, the meaning of terms used in this By-Law shall be as follows:

Section 1. BOD (denoting Bio-chemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

Section 2. Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet (3 Meters) outside the inner face of the building wall.

Section 3. Building Sewer shall mean the extension from the building drain to the public sewer.

Section 4. Combined Sewer shall mean a sewer receiving both surface runoff and sewage.

Section 5. Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Section 6. Industrial Wastes shall mean the liquid wastes from industrial manufacturing processes, trade or business and distinct from sanitary sewage.

Section 7. Natural Outlet shall mean any outlet into a watercourse, ditch, lake or other body or surface or ground water.

Section 8. Person shall mean any individual, firm, company, association, society, corporation or group.

Section 9. Ph shall mean the logarithm of the reciprocal of weight of hydrogen ions in grams per liter of solution.

Section 10. Properly Shredded Garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particles greater than one-half (½) inch (1.27 centimeters) in any dimension.



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Section 11. Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

Section 12. Sanitary Sewer shall mean a sewer which carries sewage and to which storm surface and ground waters are not intentionally admitted.

Section 13. Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such ground, surface, and storm waters as may be present.

Section 14. Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.

Section 15. Sewage Works shall mean all facilities for collection, pumping, treating, and disposing of sewage.

Section 16. Sewer shall mean a pipe or conduit for carrying sewage.

Section 17. Slug shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, or more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Section 18. *Shall* is mandatory; *May* is permissive.

Section 19. Storm Drain (sometimes termed "Storm Sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Section 20. Commissioners shall mean the Board of Selectmen of the Town of Wareham, or their authorized deputy, agent or representative.

Section 21. Suspended Solids shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

Section 22. Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 23. Town shall mean the Town of Wareham.

DIVISION V ARTICLE II: USE OF PUBLIC SEWERS REQUIRED

Section 1. The owner of all houses, buildings or property used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located, a public sanitary or combined sewer of the Town, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities and all other drains designed to carry sewage, directly with the proper public sewer in accordance with the provisions of the By-Law after reasonable notice in writing to do so by commissioners, said notice being not less than one (1) year. An owner



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who, having received such notice to connect, and whose property subject to such notice is then being fully serviced by a Soil Absorption System (SAS) in full compliance with 310 C.M.R. 15.000, et seq. (Title V), and all other applicable regulations, and which SAS was first the subject of a Certificate of Compliance issued pursuant to said Title V no more than sixty (60) months prior to the date of such notice to connect, may upon the owner's written notice of intent received by the commissioners, postpone the required connection to the public sewer to a date no later than sixty (60) months subsequent to the date of such notice to connect. Such postponement shall not be deemed to postpone or otherwise affect the assessment or payment of sewer betterments applicable to such property (Article 12 of the October 25, 2004 Annual Town Meeting; Approved by Attorney General December 23, 2004).

Section 2. Sewer Construction in New Developments:

1. The Developer of any subdivision which is within a reasonable distance of an existing sewer shall connect the subdivision into the proper sewer. The cost of the sewer connection to the existing sewer will be borne by the Developer. A reasonable distance shall be determined by the size, nature, and location of the subdivision in relation to its proximity to the existing sewer.
2. When a Developer installs sewers in proposed streets or right-of-ways in anticipation of the extension of an existing sewer the cost of the building connections shall be borne by the Developer and such subdivisions will not be assessed by the Town.
3. The design of any proposed sewer construction under this section must be approved by the Commissioners prior to issuance of permit.
4. When the design of any proposed sanitary sewer includes any appurtenances, such as, but not limited to, pumps, grinder pumps, air ejector or packaged treatment systems, such appurtenance shall be subject to the prior approval of the Commissioners, provided all requirements contained in Section 2.5 are strictly adhered to.
5. All appurtenances as outlined in Section 2.4 shall be subject to the prior approval of the Commissioners or their duly authorized agent(s) prior to the submission of any plans for the sanitary sewer. Requests for approval must contain all information regarding project flow, loadings and other information deemed necessary by the Commissioners to conduct their review. The request must also contain specifications and drawings indicating the type of equipment proposed
6. All sewer construction under this Article which includes any items defined by Section 2.4 shall provide for a reliable emergency power source to the equipment necessary for the continuation of service. In the case of installations of less than 500 gallons per day, sufficient storage capacity or a minimum of two (2) days use may be substituted for the emergency power source.
7. The owner of all such appurtenances, in order to assure the proper operation and long term maintenance of the same, shall be required to provide the Commissioners with a current signed agreement, on a yearly basis or longer term, with a reputable firm or person qualified in such operation and maintenance, to provide such maintenance. An annual report of the maintenance performed shall be submitted to the Commissioners by the owner or it's contractor on or before January 15th of each year. Under no conditions shall the Town assume any responsibility for the proper operation or maintenance of any privately owned system.



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8. A fee, as set by the Commissioners, shall be charged for the connection of any appurtenances as outlined in Section 2.4. The fee shall be based on the proposed daily flow capacity of the facilities installed and any other factors related to the sewer service provided by the Town, including but not limited to Administrative expenses.
9. In developments served by any owner installed appurtenances, the owner shall apply for individual house connection permits as issued by the Town. The town shall issue said permits at no charge and shall fully inspect each connection, provided that the application complies with the provisions of this By-Law and other pertinent regulations and provided that the fee, as set in Section 2.8 has been paid in full. In the event that a connection is made solely by gravity means, then all normal permits and fees shall apply.
10. Any proposed development for commercial or industrial use shall be required, at the time of filing a proposal or request for approval, to specify the proposed use and type of discharge of the occupants or if unknown at the time of proposal, as soon as available thereafter. It shall remain the obligation of the owner and user of said units to report to the Commissioners any use or discharge which may require further treatment or study. Failure to provide accurate information regarding said use and discharge may be grounds to deny a proposal or request for approval or to commence an enforcement action or impose penalties pursuant to Article IX.
11. The Town reserves the right to full control of flow from any appurtenance installed into the public system. A shut-off device, approved by the Commissioners or their agent(s) shall be installed at the entry point to the public system. A shut-off key or similar device shall be provided to the Commissioners or their agent(s). The owner shall assure that the device is always operational and accessible. In the event that any shut-down of the system is required, then advance notice shall be given, if possible, to all affected systems prior to shut-down. The owner or their agent(s) shall provide the Commissioners or their agent(s) with the names and telephone numbers of two (2) separate contacts who have control over said appurtenances. Proper disposal of any sewage which backs-up or overflows shall remain the responsibility of the owner, with no costs or loss of revenue to be incurred by the Town or Commissioners. (Article 30 of Annual Town Meeting held on May 7, 1996; Approved by Attorney General July 30, 1996).

DIVISION V ARTICLE III: BUILDING SEWERS AND CONNECTIONS

Section 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Commissioners. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Commissioners at least forty-five (45) days prior to the proposed change or connection.

Section 2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments, which may or may not produce industrial wastes. (Article 30 Annual



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Town Meeting held on May 7, 1996; Approved by Attorney General July 30, 1996). In either case, the owner or his agent shall make application on a special form furnished by the Town. The Permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the Commissioners. The Board of Selectmen shall establish permit and inspection fees which shall be paid to the Town at the time the application is filed.

Section 3. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building sewer and other exceptions may be allowed only by special permission granted by the Commissioners together with a properly executed easement, where applicable, recorded with the Plymouth County Registry of Deeds.

Section 5. Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the Commissioners, to meet all requirements of this By-Law.

Section 6. The size, slope, alignment, materials of construction of a building sewer, and the methods used in excavating, placing of the pipe, jointing testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No.9 shall apply. No backfill shall be placed until the work has been inspected by the Commissioners.

Section 7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. No water operated ejector shall be used.

Section 8. No person shall make connection of roof downspouts, exterior foundation drain, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which is in turn connected directly or indirectly to a public sanitary sewer.

Section 9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No.9. All such connections shall be made gas tight and watertight.



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Section 10. The applicant for the building sewer permit shall notify the Commissioners when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Commissioners.

Section 11. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in the manner satisfactory to the Town.

Section 12. Plumbers or Drain Layers shall report to the Board of Sewer Commissioners in writing in full description within twenty-four hours, the finding by them of all obstructions in connections or the presence therein, if found, of any substance prohibited by this regulation. Failure to do so report shall render the plumber and/or drain layer whether firm or corporation, liable to the penalty of a fine of not more than Twenty (\$20) Dollars for each failure to so report. Finding substances prohibited by these regulations in the sewer connection of any building shall be prima facie evidence of violation of these regulations by both the owner and occupant of the premises, or either of them.

DIVISION V ARTICLE IV: LICENSING OF DRAIN LAYERS

Section. 1. Plumbers and drain layers of established reputation and experience will be licensed by the Commissioners as master drain layers authorized to perform work, subject to compliance with the following requirements:

- a. The Board of Selectmen/Sewer Commissioners shall have the authority to establish license fees for sewer drain layers. (Article 12 of April 23, 1990 Town Meeting; Approved by Attorney General October 1, 1990).
- b. If approved by the Commissioners, applicants for licenses shall file with the Commissioners a proper and acceptable Performance and Guarantee Bond in the amount of \$5,000.00 which shall remain in full force and effect for a period of one year from the date of application.
- c. Applicants for licenses, after approval by the Commissioners, shall file with the Commissioners a Certificate of Insurance in the sums of \$50,000/\$100,000 to cover Public Liability and a Certificate of Insurance in the sum of \$25,000 covering Property Damage. In addition, a Certificate of Insurance covering Workmen's Compensation shall be filed, all of which shall remain in full force and effect for a period of at least one year from the date of approval. Said insurance shall indemnify the Commissioners and the Town of Wareham against any and all claims, liability or action for damages, incurred in or in any way connected with the performance of the work by a Master Drain Layer, and for or by reason of any acts or omission of said Master Drain Layer in the performance of his work.
- d. Applicants for licenses will be approved or disapproved within a period of thirty-one (31) days after filing the application.



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Section 2. All licenses expire one year from the date of issuance thereof and no licenses are transferable. (Article 30 of Annual Town Meeting held on May 7, 1996; Approved by the Attorney General July 30, 1996).

Section 3. The Commissioners reserve the right to revoke any licenses if any provision of said license is violated.

Section 4. All licenses are required to give a full written report to the Commissioners within twenty-four (24) hours in the event that prohibited substances are found in a sewer or house drain during the course of the work.

Section 5. All licensees shall give written notification of the completion of the work with certification that all conditions of the Sewer By-Law have been complied with. The notification shall be filed with the Commissioners within twenty-four (24) hours after the completion of the work covered in each permit. This notification shall include a sketch of the work done. The sketch will show sufficient measurements to locate all components of the work installed.

DIVISION V ARTICLE V: USE OF THE PUBLIC SEWERS

Section 1. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

Section 2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to natural outlet approved by the Commissioners. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Commissioners to a storm sewer, combined sewer, or natural outlet.

Section 3. No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewers:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (b) Any waters or wastes containing toxic or poisonous solids, liquids or gasses in sufficient quantity, either singly or by interaction with other wastes, so as to injure or interfere with any sewage treatment process, or which will constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.
- (c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, fleshing, entails and paper dishes, cups, milk containers, etc.

Section 4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Commissioners that such wastes can harm either the



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sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming their opinion as to the acceptability of these wastes, the Commissioners will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

The substances prohibited are:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150oF-65oC).
- (b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not in excess of one hundred (100mg/1) or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32oF) and one hundred fifty degrees (150oF-0 and 65oC).
- (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipment with a motor of three-fourth (3/4) horsepower (0.7 hp metric) or greater shall be subject to the review and approval of the Commissioners.
- (d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant exceeds the limits established by the Commissioners for such materials.
- (e) Any waters or wastes containing phenols or other taste or odor producing substances, in concentrations which exceeds maximum limits which may be established by the Commissioners, after treatment of the composite sewage in order to meet the requirements of the State, Federal or other public agencies or jurisdiction for such discharge to the receiving waters.
- (f) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Commissioners in compliance with applicable State or Federal regulations.
- (g) Any waters or wastes having a pH in excess of 9.5.
- (h) Materials which exert or cause:
 - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate.)
 - 2. Excessive discoloration (such as, but not limited to, dye wastes and tanning solutions.)
 - 3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - 4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.



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Section 5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Commissioners may have a deleterious effect upon the sewage works, processes, equipment, or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, the Commissioners may:

- (a) Reject the wastes.
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (c) Require control over the quantities and rates of discharge, and/or
- (d) Require payment to cover the added cost of handling and treating the waste not covered by existing taxes sewer charges.

If the Commissioners permit the pretreatment of equalization of waste flows the design and installation of the plants and equipment shall be subject to the review and approval of the Commissioners and subject to the requirements of all applicable codes, By-Laws and laws.

Section 6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Commissioners they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Commissioners and shall be located as to be readily and easily accessible for cleaning and inspection.

Section 7. Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Section 8. When required by the Commissioners, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Commissioners. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Section 9. All Measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this By-Law shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

(The particular analysis involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and



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suspended solids analysis are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

- (a) All industries discharging into a public sewer shall perform such monitoring of their discharges as the commissioners and/or other duly authorized employees of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Commissioners. Such records shall be made available upon request by the Commissioners to other Agencies having jurisdiction over discharges to the receiving waters."

DIVISION V ARTICLE VI: USAGE FEES

Usage fees will be determined by the Commissioners prior to each billing period for the following categories: Residential, commercial, industrial, nights oil disposal and all other categories as may be found by the Commissioners to be necessary.

DIVISION V ARTICLE VII: PROTECTION FROM DAMAGE

Section 1. No unauthorized person shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest and prosecution under the charge of malicious destruction to property, Chapter 266, Section 127, of the General Laws of the Commonwealth, or any other law, or By-Law that may be applicable.

DIVISION V ARTICLE VIII: POWERS AND AUTHORITY OF INSPECTORS

Section 1. The Commissioners and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this By-Law. The Commissioners or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for wastes treatment.

Section 2. The Commissioners and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly recorded easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repairs, and maintenance of any portion of sewage works lying within said easement. All entry and subsequent work, if any,



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on said easement, shall be done in full accordance with the terms of the duly recorded easement pertaining to the private property involved.

DIVISION V ARTICLE IX: PENALTIES

Section 1. The Commissioners or their agent(s) shall have the authority to enforce this By-Law and its regulations, permit or licenses issued thereunder by violation notices, administrative orders, enforcement orders, and/or civil and criminal court actions. The Commissioners or their agent(s) may issue a violation notice or administrative or enforcement order stating the nature of a violation and providing a period of time for the satisfactory corrections thereof. Failure to correct the violation within said period of time shall constitute a violation of the By-Law which may be punished as set forth herein.

Section 2. Any person who violates any provision of this By-Law shall be punished by a fine of \$300.00. In addition, pursuant to General Laws, Chapter 83, 10, as same may be amended, any person who violates any provision of this By-Law or a regulation issued by the Town or Commissioners, shall be liable for a civil penalty of not more than five thousand dollars (\$5,000.00). Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of this By-Law or regulation violated shall constitute a separate offense.

Section 3. Any person who violates any of the provisions of this By-Law or regulation, permit, license, notice or administrative or enforcement order issued thereunder shall be liable to the Commissioners and town for any expense, cost, loss, or damage, including but not limited to limited to administrative, attorneys' and engineering fees, incurred by the Commissioners or Town by reason of such violation.

Section 4. As an alternative to civil or criminal prosecution, the Commissioners or their agent(s) or the Town Police or any other person designated by the Town as having police powers, as enforcing persons under this By-Law, may enforce this By-Law or regulation, permit, license, notice or order issued thereunder, pursuant to the non-criminal disposition statute, General Law, Chapter 40, 21D and the Town's non-criminal disposition By-Law, Division IX, Article I, Section 2, of the Town's General By-Laws. Non-criminal enforcement of this By-Law may involve the following penalties:

First Offense: \$200.00

Second Offense: \$250.00

Third and subsequent Offenses: \$300.00

(Article 30 of Annual Town Meeting held May 7, 1996; Approved by Attorney General July 30, 1996).



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DIVISION V ARTICLE X: VALIDITY

Section 1. The invalidity of any section, clause, sentence, or provision of this By-Law shall not affect the validity of any other part of this By-Law which can be given effect without such invalid part or parts.

ARTICLE XI

Article I Storm water Management § 1 Authority; purpose; definitions.

- A. Authority.** This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by Town Meeting.
- B. Purpose.** The purpose of this bylaw is to regulate discharges to the municipal separate storm sewer system (MS4) to protect the Town of Wareham's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment. Increased and contaminated storm water runoff associated with construction sites, developed land uses, and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.

This is accomplished through the following:

- a.* Protect groundwater and surface water from degradation;
- b.* Promote groundwater recharge;
- c.* Require practices to control the flow of storm water from new and redeveloped sites into the Town storm drainage system in order to prevent flooding and erosion;
- d.* Require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbance activities;
- e.* Prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and minimize discharge of pollutants from the MS4;
- f.* Ensure that soil erosion and sedimentation control measures and storm water runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- g.* Ensure adequate long-term operation and maintenance of structural storm water best management practices so that they work as designed;
- h.* Comply with state and federal statutes and regulations relating to storm water discharges; and
- i.* Establish the Town's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

(2) Nothing in this bylaw is intended to replace the requirements of the Town of Wareham Zoning Bylaw, General Bylaw, or any other bylaw that may be adopted by the Town of Wareham. Any activity subject to the provisions of the above-cited bylaws must comply with the specifications of each.

- C. Definitions.** Definitions that apply in the interpretation and implementation of this bylaw shall be included as part of any storm water regulations promulgated as permitted under this bylaw. § 2 Applicability. A. This bylaw shall be applicable to all new development and redevelopment, land disturbance, and any other



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activity that may result in an increased amount of storm water runoff or pollutants, or changes to drainage characteristics causing any increases in runoff flowing from a parcel of land, unless exempt pursuant to § D of this section. This bylaw shall apply to common plans for development if the total land-disturbing activities on the parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in § B and/or C and are not exempted by § D. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw.

- D. Storm water management permit (SMP).** A storm water management permit (SMP) is required for the following: (1) Any activity that will disturb or alter 20,000 square feet or more of land.
- E. Simple storm water management permit (SSMP).** A simple storm water management permit (SSMP) is required for the following:
- a)* Any activity, except as exempted under § D, that will disturb or alter less than 20,000 square feet of land.
 - b)* Construction or maintenance and repair of utility lines or systems (gas, water, electric, telephone, fire alarms, drainage, etc.) that will disturb or alter less than 20,000 square feet of land and that will temporarily or permanently alter terrain, ground cover, or drainage patterns.
- K. Exemptions.** No person shall disturb or alter land within the Town of Wareham without having obtained a storm water management permit (SMP) or simple storm water management permit (SSMP) for the property with the following exceptions:
- a)* Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulation, 310 CMR 10.04, and MGL c. 40A, § 3.
 - b)* Maintenance of existing landscaping, gardens, driveways, roofs, or lawn areas.
 - c)* Normal maintenance of Town-owned public land, ways and appurtenances
 - d)* The construction of fencing that will not alter existing terrain or drainage patterns.
 - e)* Construction or maintenance and repair of utility service lines (gas, water, electric, telephone, fire alarms, etc.) other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns.
 - f)* Emergency repairs in any situation that poses a threat to public health or safety, or as deemed necessary by the SWPA.
 - g)* Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this bylaw.
 - h)* Construction of decks, patios, walkways, driveways, sheds, swimming pools, sports courts, tennis courts, basketball courts, replacement of wells, or replacement of septic systems on lots having an existing dwelling, provided that the total increase in the area of new impervious surface after the date this bylaw is adopted is less than 600 square feet.
 - i)* An increase in the footprint of a house, commercial building, or other structure by less than 600 square feet.
 - j)* Repair or upgrade of septic systems when required by the Board of Health for the protection of public health.
 - k)* Activities conducted in accordance with a forest stewardship plan approved by the Massachusetts Department of Conservation and Recreation.



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- l)* Any construction activity or project completely within the jurisdiction of the Conservation Commission, provided that plans include storm water management provisions, an order of conditions or determination of applicability has been issued for the site, and that the activity is in compliance with any additional performance standards contained in the regulations promulgated to implement this bylaw. A notice of such approval and conditions and a complete copy of the approved storm water plan and provisions shall be filed with the Storm water Management Authority before construction begins.
- m)* Any construction activity or project requiring approval under the Subdivision Control Law where the Planning Board has approved an application for a definitive subdivision approval and any construction activity requiring site plan review and/or a special permit, provided that the plans include storm water management provisions and that the activity is in compliance with any additional performance standards contained in the regulations promulgated to implement this bylaw.

A notice of such approval and conditions shall be filed with the Storm water Management Authority before construction begins. Construction on a lot approved under subdivision control is exempt only if the proposed construction on such lot was included in the Storm water Management Plan required as part of the definitive subdivision filing, and only if erosion control measures are proposed and installed prior to any disturbance.

If the proposed construction was not included as part of the definitive subdivision approval, or the proposed construction exceeds the area of impervious surface depicted for the lot on the Storm water Management Plan by more than 600 square feet, the construction is subject to the requirements of the Storm water Management Bylaw, and requires a storm water permit (SWP) or a simple storm water permit (SSWP). § 3 Administration.

- L.** *The Board of Health shall be the Storm water Permitting Authority (SWPA).* The Storm water Permitting Authority is responsible for the administration, implementation, and enforcement of this bylaw. The SWPA shall administer, implement, and enforce this bylaw. Any powers granted to or duties imposed upon the SWPA may be delegated, in writing, by the SWPA to any Town employee, board, or agent.
- M.** *Rules and regulations.* The Planning Board may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures, administration, and appeal process of this Storm water Management Bylaw by majority vote, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven days prior to the hearing date. After public notice and public hearing, the Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Planning Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this bylaw.
- N.** *Storm water Management Handbook.* The SWPA will utilize the policy, criteria and information, including specifications and standards, of the latest edition of the Massachusetts Storm water Management Standards and Handbook for execution of the provisions of this bylaw. This handbook includes a list of acceptable storm water treatment practices, including the specific design criteria for each storm water practice. The



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standards and handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically revised in the Town of Wareham Storm water Regulations, storm water management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards. Notwithstanding any contradictions between the Storm water Management Bylaw and the Storm water Management Handbook, the bylaw shall prevail.

- O. Actions.** The SWPA may take any of the following actions on an application for a storm water management permit: approval, approval with conditions, or disapproval.
- P. Appeals of actions.** Appeals of any decision of the SWPA shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with MGL c. 249, § 4.
- Q. Permits and procedures.** Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 3B of this bylaw.
- R. Water Resources Mitigation Fund.** The SWPA may allow the applicant to contribute to the Town of Wareham Water Resources Mitigation Fund in lieu of on-site storm water measures where it has been demonstrated that conditions are not suitable for on-site storm water best management practices, and where such action is allowed by federal, state and local statutes and/or regulations, is in the public interest, or not inconsistent with the purpose and intent of the Town of Wareham Storm water Management Bylaw.

Funds may be used to design and construct storm water projects that will improve the quality and quantity of surface waters in Wareham by treating and recharging storm water from existing impervious surfaces that is now discharged to said waters with inadequate treatment or recharge. The fee for contribution to the fund shall be determined by the Board of Selectmen. § 4 Enforcement; violations and penalties.

- A.** Any person who violates any provision of this bylaw shall be punished by a fine of \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B.** The SWPA or an authorized agency of the SWPA shall enforce this bylaw and regulations promulgated hereunder by means including, without limitation, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any storm water regulations promulgated as permitted under § 3B of this bylaw.
- C.** As an alternative to criminal prosecution or civil action, the SWPA may elect to use the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the authorized agent of the SWPA shall be the enforcing person. The penalty for violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

§ 5 Severability. If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect. Article II. Illicit Discharges to Storm Drain System § 1 Purpose.

- A.** The purpose of this section is to eliminate non-storm water discharges to the Town of Wareham's municipal storm drain system. Non-storm water discharges contain contaminants and supply additional flows to the Town's storm drain system.



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Increased and contaminated storm water runoff is a major cause of:

- (a) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- (b) Contamination of drinking water supplies;
- (c) Contamination of clam flats and other coastal areas;
- (d) Alteration or destruction of aquatic and wildlife habitat; and
- (e) Flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Wareham's natural resources, municipal facilities, and to safeguard the public health, safety, welfare and the environment. § 2 Objectives. The objectives of this section are:

- A. To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
- B. To prohibit illicit connections and unauthorized discharges to the MS4;
- C. To require the removal of all such existing illicit connections, regardless of whether such connections were permitted or otherwise acknowledged prior to the implementation of this bylaw;
- D. To comply with state and federal statutes and regulations relating to storm water discharges; and
- E. To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement. § 3 Definitions. Unless a different definition is indicated in other sections of this By-Law, the following definitions and provisions shall apply throughout.

AUTHORIZED ADMINISTERING AGENCIES

The following entities shall be Authorized Administering Agencies:

- 1. Wareham Department of Municipal Maintenance (hereafter the "MMD"), its employees or agents designated to administer and implement this bylaw, and*
- 2. Wareham Water Pollution Control Facility (hereafter the "WPCF"), its employees or agents designated to administer and implement this bylaw, and 3. Wareham Conservation Commission (hereafter the "Conservation Commission"), its employees or agents designated to administer and implement this bylaw.*

AUTHORIZED ENFORCEMENT AGENCY

The Wareham Board of Health (hereafter "the BOH"), its employees or agents designated to enforce this bylaw.

- A. BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff.
- B. CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.



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- C. *DISCHARGE OF POLLUTANTS:*** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or commonwealth from any source.
- D. *GROUNDWATER:*** Water beneath the surface of the ground.
- E. *ILLICIT CONNECTION:*** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.
- F. *ILLICIT DISCHARGE:*** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of storm water, except as exempted in §.
- G. *IMPERVIOUS SURFACE:*** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalk s, and rooftops.
- H. *MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:***
The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Wareham.
- I. *NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:*** A permit issued by the United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.
- J. *NONSTORMWATER DISCHARGE:*** Discharge to the municipal storm drain system not composed entirely of storm water.
- K. *PERSON:*** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- L. *POLLUTANT:*** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants shall include, without limitation:
- a.* Paints, varnishes, and solvents;
 - b.* Oil and other automotive fluids;
 - c.* Nonhazardous liquid and solid wastes and yard wastes;
 - d.* Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
 - e.* Pesticides, herbicides, and fertilizers;
 - f.* Hazardous materials and wastes; sewage, fecal coliform and pathogens;
 - g.* Dissolved and particulate metals;
 - h.* Animal wastes; I. Rock, sand, salt, soils;



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- i.* Construction wastes and residues; and
- j.* Noxious or offensive matter of any kind.

M. *PROCESS WASTEWATER:* Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

N. *RECHARGE:* The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

O. *STORMWATER:* Runoff from precipitation or snow melt.

P. *TOXIC OR HAZARDOUS MATERIAL OR WASTE:* Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and MGL c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Q. *WATERCOURSE:* A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

R. *WATERS OF THE COMMONWEALTH:* All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

S. *WASTEWATER:* Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product. § 4 Applicability. This section shall apply to flows entering the municipally owned storm drainage system. § 5 Authority. This article is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34. § 6 Administration.

The BOH shall enforce this bylaw. The BOH will work with the MMD, WPCF, and Conservation Commission to administer and implement this bylaw. Any powers granted to or duties imposed upon the BOH may be delegated, in writing, by the BOH to employees or agents of the BOH and/or the MMD and/or the WPCF. References to the BOH, MMD, WPCF, Conservation Commission or "Department" within this bylaw are understood to denote any of these agencies. § 7 Rules and regulations.

The Department may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw. § 8 Prohibited activities.

A. *Illicit discharges:* No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the commonwealth.



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- B. Illicit connections:** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction Of Municipal Storm Drain System:** No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm drain system without prior consent from the Department. No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the open watercourses (swales, brooks and streams) that make up the storm water system.
- D. Exemptions:**
- a.** Discharge or flow resulting from firefighting activities;
 - i. The following non-storm water discharges or flows are exempt from the prohibition of non-storm waters, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - ii. Waterline flushing;
 - iii. Flow from potable water sources;
 - iv. Springs;
 - v. Natural flow from riparian habitats and wetlands;
 - vi. Diverted stream flow;
 - vii. Rising groundwater;
 - viii. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005 (20), or uncontaminated pumped groundwater (e.g., sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Department prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Department;
 - ix. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
 - x. Discharge from landscape irrigation or lawn watering;
 - xi. Water from individual residential car washing;
 - xii. Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - b.** Discharge from street sweeping;
 - c.** Dye testing, provided verbal notification is given to the Department prior to the time of the test;
 - d.** Non-storm water discharge permitted under a NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
 - e.** Discharge for which advanced written approval is received from the Department as necessary to protect public health, safety, welfare or the environment. E. Other prohibited activities. No person shall discharge, or cause to be discharged, water or any other liquid onto the streets, sidewalks or



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ways of the Town in such a manner as to cause an obstruction of traffic or to endanger travel by freezing or otherwise.

- f. Drains:** No one shall tie any pump, cellar, yard, roof or area drain directly into the storm water drainage system, or add any new ties to an already permitted system, without a permit from the Department of Municipal Maintenance.
- g. Catch Basins:** No person shall directly or indirectly dump, discharge or cause or allow to be discharged into any catch basin, any solid waste, construction debris, paint or paint product, antifreeze, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial and household cleaners, soap, detergent, ammonia, food and food waste, grease or yard waste, animal feces, dirt, sand gravel or other pollutant. Any person determined by the MMD to be responsible for the discharge of any of the above substances to a catch basin may be held responsible for cleaning the catch basin and any other portions of the storm water system impacted, paying the cost for such cleaning or for paying any penalties assessed by the Town.
- h. Septage:** No person shall discharge or cause or allow to be discharged any septage, or septage tank or cesspool overflow into the Town's storm water drainage system.
- i. Storage And Disposal Of Hazardous Material:** No one shall dispose of anything other than clear water into the Town's storm drainage system. The disposal of waste, gasoline or any other hazardous material into the storm drainage system is strictly prohibited and is in violation of various state and federal pollution laws.
- j. Private Drainage Systems:** It is prohibited for anyone with a private drainage system from tying into the public storm water disposal system without a permit from the Department of Municipal Maintenance. The maintenance of any and all private drainage systems shall be the responsibility of the owners. § 9 Emergency suspension of storm drainage system access. The Department may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the authorized enforcement agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment. § 10 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 Department of Municipal Maintenance prior to the allowing of discharges to the MS4. § 11 Monitoring of discharges. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

- A. Access to facilities:** The BOH, MMD, WPCF, Conservation Commission, or other enforcement agency/delegated enforcement partner, shall be permitted to enter and inspect facilities subject to regulation under this bylaw as often as may be necessary to determine compliance with this bylaw, subject to applicable law. If a discharger has security measures in force which require proper



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identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

- B.** Facility operators shall allow the BOH, MMD, Conservation Commission, and WPCF 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 an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal laws.
- C.** The BOH, MMD, Conservation Commission and WPCF shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- D.** The BOH, MMD, Conservation Commission and WPCF have 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 calibrated to ensure they are accurate.
- E.** 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 BOH, MMD, Conservation Commission or WPCF and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- F.** Unreasonable delay in allowing the BOH, MMD, Conservation Commission or WPCF access to a permitted facility constitutes a violation of a storm water discharge permit and of this bylaw. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity violates this section, if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this bylaw.
- G.** If the BOH, MMD, Conservation Commission or WPCF has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this bylaw, 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 bylaw 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. § 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.



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Compliance with this bylaw does not waive the responsibility of the property owner or lessee for applying for and receiving any other required Town, state or federal permits associated with activities or uses otherwise regulated under other regulatory jurisdiction (e.g., Wetlands Protection Act). § 13 Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of nonhazardous material, the reporting person shall notify the authorized enforcement agency no later than the next business day.

The reporting person shall provide to the authorized enforcement agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. § 14 Enforcement; violations and penalties. The BOH or an authorized agent of the BOH shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Civil relief:** If a person violates the provisions of this section, regulations, permit, notice, or order issued thereunder, the BOH may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders:** The BOH or an authorized agent of the BOH may issue a written order to enforce the provisions of this section or the regulations thereunder, which may include:
 - a. elimination of illicit connections or discharges to the MS4;
 - b. performance of monitoring, analyses, and reporting;
 - c. that unlawful discharges, practices, or operations shall cease and desist; and
 - d. remediation of contamination in connection therewith.
- C.** If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option undertake such work, and expenses thereof shall be charged to the violator.
- D.** Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days



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following a decision of the Department affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs pursuant to MGL c. 40, § 58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.

- E. Noncriminal Disposition:** As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and in which case the Health Director or MMD Director shall be the enforcing person. The penalty for the first and all subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. Criminal Penalty:** Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a fine of \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Entry To Perform Duties Under This Section:** To the extent permitted by applicable law, or if authorized by the owner or other party in control of the property, the BOH, MMD, Conservation Commission and WPCF, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as BOH, MMD, Conservation Commission and WPCF deem reasonably necessary.
- H. Appeals:** The decisions or orders of the BOH, MMD, Conservation Commission and WPCF shall be final. Further relief shall be to a court of competent jurisdiction.
- I. Remedies Not Exclusive:** The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law. § 15 Severability. The provisions of this section are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this section 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 section or bylaw.