

Town of Wilbraham
Stormwater Management By-law
Revised 4/28/21

ARTICLE I – GENERAL PROVISIONS

Section A. Purpose and Objective

1. The purpose of this by-law is to better manage land alteration and development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Wilbraham by establishing minimum requirements and procedures to control the **adverse impacts** associated with **stormwater runoff**. (Bolded words and phrases are defined under the definition Section B).

2. The proper management of stormwater runoff will meet the following objectives:
 - a. Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs and streams in order to meet federal water quality standards;
 - b. Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
 - c. Minimize the volume and rate of stormwater, which is discharged to rivers, streams, reservoirs, lakes and storm sewers, that flows from any site during and following development;
 - d. Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
 - e. Provide for the non-polluted **recharge** of groundwater aquifers and maintain the base flow of streams;
 - f. Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
 - g. Maintain or reduce pre-development runoff characteristics after development to the maximum extent feasible;
 - h. Minimize damage to public and private property from flooding;
 - i. Ensure that these management controls are properly maintained;
 - j. Prevent pollutants from entering the storm drain;
 - k. Prohibit illicit connections and unauthorized discharges to the storm drain;
 - l. Remove all such illicit connections;
 - m. Comply with state and federal statutes and regulations relating to stormwater discharges; and
 - n. Establish Wilbraham’s legal authority to ensure compliance with the provisions of this section through inspection, monitoring, and enforcement.

Section B. Definitions

Unless otherwise expressly stated, the following definitions describe the meaning of the terms used in this by-law:

Adverse Impact - Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Applicant: a **person** with the duty to apply for a permit hereunder

Authorized Enforcement Agency – The Town of Wilbraham Department of Public Works (Wilbraham DPW), and its employees or agents designated to enforce this by-law. Also see permitting authority below.

Best Management Practices (BMP) - An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve quality of stormwater runoff. Some examples of BMPs are described in a stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, MA Department of Environmental Protection, as updated or amended). Best Management Practices may include:

- Detention basins
- Deep sump catch basins
- Water quality swales
- Oil/sediment separators
- Vortex separators

Certificate of Completion - A written determination by the Wilbraham DPW that work has been completed in accordance with a Local Stormwater Management Permit. For major projects, a Certificate of Completion will be issued only after a Notice of Termination has been submitted to United States Environmental Protection Agency for termination of coverage under NPDES Construction General Permit.

Clean Water Act – The Federal Water Pollution Control Act (33 U.S.C. section 1251 *et seq.*) and as it is amended from time to time.

Common Plan of Development - A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

Construction Activity - The disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

Design Storm - A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate.

Detention - The temporary storage of storm runoff which is used to control the Peak Discharge rates, and which provides gravity settling of pollutants.

Discharge of Pollutants - The addition from any source of any pollutant or combination of pollutants into the storm drain or into waters of the United States of America (United States) or the Commonwealth of Massachusetts (Commonwealth) from any source.

Disturbance - Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the clearing, grading, digging, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural man-made watercourse.

Drainage Area - That area contributing runoff to a consolidated flow of water as measured in a horizontal plane.

Easement - A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

Groundwater - Water beneath the surface of the ground, except where the water under the ground is the result of a perched water table.

Illicit Connection - A surface or subsurface drain or conveyance, which allows an illicit discharge into the storm drain, including without limitation sewage, process wastewater, or gray 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 by-law.

Illicit Discharge - Direct or indirect discharge to the storm drain that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire fighting activities.

Impervious Surfaces – Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious surfaces include roads, pavement, building rooftops, sidewalks, and driveways.

Infiltration - The process of percolating water from the surface into the subsoil.

Local Stormwater Management Permit: A document issued by the Wilbraham DPW, including conditions, which regulates stormwater controls associated with land disturbance.

Low Impact Development (LID) – Site planning and design strategies that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. LID practices include but are not limited to bioretention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.

Municipal Storm Drain System (storm drain) or Municipal Separate Storm Sewer System (MS4) - The system of conveyances designed or used for collecting or conveying stormwater, 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 Wilbraham.

Operation and Maintenance Plan – A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

New Development - Any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

Nonpoint Source Pollution - The Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

National Pollutant Discharge Elimination System (NPDES) - As authorized by the Clean Water Act, is a permit program governed by the U.S. Environmental Protection Agency (EPA) that controls water pollution by regulating point and nonpoint sources that discharge pollutants into waters of the United States. A Notice of Intent is the mechanism used to “register” for coverage under a general permit. A Notice of Termination is the mechanism used to close out coverage under a general permit after construction completion.

Non-Stormwater Discharge - Discharge to the storm drain not comprised entirely of stormwater.

NRCS - The United States Department of Agriculture Natural Resources Conservation Service.

Owners: The person owning the subject property at the time the application for the permit is made and the also subsequent owners and assignees

Outfall - The terminus of a storm drain or other stormwater structure where the contents are released.

Peak Discharge - The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event

Permeable Soils - Soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

Permit: A **Local Stormwater Management** permit (see above)

Permitting Authority: The Wilbraham DPW, to which a person must apply for a permit under this by-law.

Person - Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof, and any officer, employee, or agent of such person.

Phasing - The disturbance of a parcel of land in distinct phases, with the stabilization of each phase completed before the disturbance of the next.

Pollutant - Any element or property of sewage, agricultural, industrial, commercial or residential waste, runoff, leachate, construction site wastes, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any storm drain system, waters of the United States, and/or Commonwealth. Pollutants shall include without limitation:

- a. Paints, varnishes, solvents;
 - b. Oil, grease, antifreeze, other automotive fluids and/or products;
 - c. Non-hazardous liquid and solid wastes;
 - d. Refuse, garbage, litter, rubbish, yard wastes, or other discarded or abandoned objects;
 - e. Pesticides, herbicides, and fertilizers;
 - f. Hazardous materials and wastes;
 - g. Sewage;
 - h. Dissolved and particulate metals;
 - i. Metal objects or materials;
 - j. Animal wastes;
 - k. Rock, sand, salt, soils, or other products/materials that mobilize in surface water runoff;
- and
- l. Construction wastes and/or residues.

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.

Recharge - The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Redevelopment - Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

Responsible Party: Transferees and assignees of this original owner/applicant

Retention - The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

Site - The areal extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

Stormwater - Runoff from precipitation or snowmelt.

Stormwater Management Permit: See **Local Stormwater Management Permit**

Stormwater Runoff - The flow on the surface of the ground, resulting from precipitation.

Stormwater Pollution Prevention Plan (SWPPP) – Plan including minimum information as required for coverage under the EPA NPDES Construction General Permit and with additional information as required by this by-law.

Swale - A natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

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 material includes without limitation:

- a. any synthetic organic chemical;
- b. petroleum products;
- c. heavy metals;
- d. radioactive or infectious waste;
- e. acid and alkali substances;
- f. any substance defined as Toxic or Hazardous under G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000; and
- g. any substance listed as hazardous under 40 CFR 261.

Watercourse - A natural or man-made channel through which water flows or a stream of

water, including a river, brook or underground stream.

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.

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, byproduct or waste product.

Section C. Reference Documents

Stormwater Management Policy (March, 1997, as updated or amended, Massachusetts Department of Environmental Protection).

Stormwater Management, Volume One: Stormwater Policy Handbook (March, 1997, as updated or amended, Massachusetts Department of Environmental Protection).

Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, as updated or amended, Massachusetts Department of Environmental Protection).

General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts (April 2016, effective July 1, 2017, as updated or amended, US Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) and Massachusetts Department of Environmental Protection).

Section D. Authority

This by-law is adopted under the 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 Title 33 U.S.C. §§ 1252 1387 and 40 CFR 122.34.

Section E. Responsibility for Administration

The Town of Wilbraham Department of Public Works (Wilbraham DPW) shall be the Permitting Authority/**Authorized Enforcement Agency** and shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Wilbraham DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law. Any powers granted to or duties imposed upon the Permitting Authority/**Authorized Enforcement Agency** may be delegated in writing by the Permitting Authority/**Authorized Enforcement Agency** to its employees or agents.

Section F. Waivers

1. The Permitting Authority/**Authorized Enforcement Agency**, or its authorized agent, may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where such action is:
 - a. allowed by federal, state and local statutes and/or regulations and the MS4 Permit; and
 - b. in the public interest; and
 - c. not inconsistent with the purpose and intent of this by-law.
2. Any **person** seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the by-law does not further the purposes or objectives of this by-law.

Section G. Regulations

The Permitting Authority/**Authorized Enforcement Agency** shall adopt, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Management by-law. Failure of the Permitting Authority/**Authorized Enforcement Agency** to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this by-law.

Stormwater Management regulations, rules or guidance shall identify requirements for Local Stormwater Management Permits required by this by-law and consistent with or more stringent than the relevant requirements of the most recent MS4 Permit.

Section H. Enforcement

The **Permitting Authority/Authorized Enforcement Agency** or its authorized agent shall enforce this by-law, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

1. Criminal and Civil Relief.
 - a. Any person who violates the provisions of this by-law, or any associated regulations, permit, or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of not more than \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
 - b. The **Permitting Authority/Authorized Enforcement Agency** may seek injunctive relief in a court of competent jurisdiction, restraining the person from activities which would create ongoing or further violations, or compelling the person to perform abatement or remediation of the violation.
2. Orders.

- a. The **Permitting Authority/Authorized Enforcement Agency** or its authorized agent may issue a written order to enforce the provisions of this by-law or any associated regulations, which may include:
 - (1) Elimination of illicit connections or discharges to the MS4;
 - (2) Performance of monitoring, analyses, and reporting;
 - (3) Cessation of unlawful discharges, practices, or operations;
 - (4) Implementation of measures to minimize the discharge of pollutants until such time as the illicit connection or discharge shall be eliminated; and
 - (5) Remediation of any adverse impacts of an illicit discharge or connection.
- b. The **Permitting Authority/Authorized Enforcement Agency** or its authorized agent may issue a written order to enforce the provisions of this by-law or any associated regulations or permit. Violations include, without limitation, failure to obtain a Local Stormwater Management Permit for an activity subject to this by-law, or failure to follow the requirements of a Local Stormwater Management Permit and the related Erosion and Sedimentation Control Plan with conditions if any, or Operations and Maintenance Plan or any other authorization issued pursuant to this by-law or regulations issued hereunder. The written order may require the violator to remediate the non-compliance forthwith and/or any adverse impact caused by it, including without limitation:
 - (1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the by-law and provisions of the **Local Stormwater Management Permit** or other authorization;
 - (2) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (3) Monitoring, analyses, and reporting;
 - (4) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
 - (5) Construction, reconstruction, repair or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
 - (6) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
 - (7) A requirement to eliminate discharges, directly or indirectly, into the MS4, a watercourse or into the Waters of the Commonwealth.
- c. If the **Permitting Authority/Authorized Enforcement Agency** or its authorized agent 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 provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, Wilbraham may, at its option, undertake such work, and expenses thereof shall be charged to the violator and the property as set forth in subsection (d) below.

- 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 Wilbraham, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the **Permitting Authority/Authorized Enforcement Agency** 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 following a decision of the **Permitting Authority/Authorized Enforcement Agency** affirming or reducing the costs, or from a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of G.L. c.40, §58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to G.L. c.40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59 § 57 on the 31st day after the costs first become due.
3. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Wilbraham may elect to utilize the non-criminal disposition procedure set forth in the non-criminal disposition procedure in M.G.L. Chapter 40, §21D or in the Town of Wilbraham General By-laws § 103A. The Wilbraham DPW shall be the enforcing entity. The penalty shall be three hundred (\$300.00) dollars per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If action is not taken by the property owner within seven days, this shall become a civil or criminal penalty.
4. Entry to perform duties under this by-law. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the **Permitting Authority/Authorized Enforcement Agency**, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the **Permitting Authority/Authorized Enforcement Agency** deems reasonably necessary.
5. Appeals. The decisions or orders of the **Permitting Authority/Authorized Enforcement Agency** shall be final. Further relief shall be appealed to a court of competent jurisdiction.
6. 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.

Section I. Severability

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this by-law 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 by-law.

ARTICLE II – STORMWATER MANAGEMENT AND LAND DISTURBANCE

Section A. Applicability

1. Prior to the issuance of any Building Permit for any construction activity or land disturbance that individually or as part of a **Common Plan of Development** results in disturbance of land in excess of the thresholds listed below, a **Local Stormwater Management Permit**, must be approved by the **Permitting Authority/Authorized Enforcement Agency**. No **person** shall, on or after the effective date of the by-law, initiate any vegetation clearing, land grading, earth moving or development activities without first complying with this by-law. The following uses and activities shall be regulated under this by-law:
 - a. Minor Projects: any proposed development **disturbing** an area of less than 43,560 square feet (1 Acre)
 - b. Major Projects:
 - (1) Subdivisions and construction activities of any kind **disturbing** an area equal to or greater than 43,560 square feet (1 Acre); and
 - (2) Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs an area equal to or greater than 43,560 square feet (1 Acre).
2. Projects that require the issuance of a Special Permit or Site Plan Approval must first obtain review of the proposed stormwater management system design by the **Permitting Authority/Authorized Enforcement Agency**. The comments and revisions required by the **Permitting Authority/Authorized Enforcement Agency** shall be incorporated into the application for the **Local Stormwater Management Permit**.
3. The following activities are exempt from the provisions of Section 5(A):
 - a. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the **NRCS**;
 - b. Any logging which is consistent with a timber management plan already approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation;
 - c. Modifications to existing structures where there is no proposed change in impervious area;
 - d. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Wilbraham DPW; and
 - e. Work undertaken by the Wilbraham DPW.
 - f. Maintenance of existing landscaping, gardens or lawn areas or construction of fencing conducted in such a way as not to cause a nuisance and that will not substantially alter existing terrain or drainage patterns;
 - g. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment

or other pollutants to the MS4 or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;

- h. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act regulation 310 CMR 10.04.

Any person that fails to follow the requirements of a **Local Stormwater Management Permit** and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, shall be in violation of this by-law.

Section B. Local Stormwater Management Permit

1. A **Local Stormwater Management Permit** must be obtained prior to the commencement of any construction activity or land disturbance for which such a permit is required. An applicant seeking a permit shall file an appropriate application with the **Permitting Authority/Authorized Enforcement Agency** in a form and containing information as specified in this by-law and in regulations adopted by the **Permitting Authority/Authorized Enforcement Agency**.
2. Each application must be accompanied by the appropriate application fee as established by the **Permitting Authority/Authorized Enforcement Agency**. Applicants shall pay the application fee before the review process commences. The **Permitting Authority/Authorized Enforcement Agency** is authorized to retain a Registered Professional Engineer (PE) or other professional consultant to advise the **Permitting Authority/Authorized Enforcement Agency** on any or all aspects of the application and/or the project's compliance with conditions of a Permit. The **Permitting Authority/Authorized Enforcement Agency** may require the applicant to pay reasonable costs to be incurred by the **Permitting Authority/Authorized Enforcement Agency** for the employment of outside consultants pursuant to **Permitting Authority/Authorized Enforcement Agency** regulations as authorized by G.L. c. 44, § 53G.
3. Required submittals to obtain a **Local Stormwater Management Permit** shall include (without limitation) an Erosion and Sedimentation Control Plan, a Stormwater Management Plan, and an Operation and Maintenance Plan. To obtain a **Local Stormwater Management Permit**, the applicant must show that site design, construction site stormwater runoff control and post-construction stormwater management will meet the standards set by the **Permitting Authority/Authorized Enforcement Agency** in its regulations, rules and/or guidance, which shall be at least as stringent as the relevant requirements of the MS4 Permit and may also address relevant environmental considerations including (without limitation) protection of aquifers and sensitive water bodies, climate resilience, and prevention of flooding.
4. The **Local Stormwater Management Permit** shall include measures to ensure adequate long-term operation and maintenance of stormwater management design features and BMPs. The **Permitting Authority/Authorized Enforcement Agency** may impose requirements including (without limitation) the following:

- a. A requirement that funds for future operation and maintenance be set aside in a dedicated fund or escrow account;
- b. A permanent permit condition requiring compliance with an Operation and Maintenance Plan;
- c. A permanent permit condition requiring that the property owner submit an annual report or certification regarding operation and maintenance;
- d. A requirement to record the Operation and Maintenance Plan (or notice thereof);
- e. A requirement that a legal instrument be put in place in a form determined by the **Permitting Authority/Authorized Enforcement Agency** establishing responsibility for operation and maintenance of a stormwater BMP serving more than one lot; and
- f. A requirement that an easement be recorded allowing the Town to access a stormwater BMP to remedy any operational failure or maintenance problem and an obligation for the permittee to pay the costs associated therewith.

Section C. Consent to Entry onto Property

By signing the permit application, an applicant consents to the entry of members of the **Permitting Authority/Authorized Enforcement Agency** or its authorized agents in or on the site while the application is under review to verify the information in the application, and at any time after a Permit is issued to conduct inspections to ensure compliance with Permit conditions.

Section D. Inspection and Site Supervision

The **Permitting Authority/Authorized Enforcement Agency** or its designated agent shall make inspections to verify and document compliance with the **Local Stormwater Management Permit**.

Section E. Surety

The **Permitting Authority/Authorized Enforcement Agency** or its agents may require from the developer a surety or cash bond or other means of security acceptable to the **Permitting Authority/Authorized Enforcement Agency** prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The bond so required in this section shall be in a form and amount as required by the **Permitting Authority/Authorized Enforcement Agency**, and shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this By-law and other applicable laws and regulations, and any time limitations. The company providing the performance bond to the developer shall submit a bond of the highest grade as rated by Moody's or Standard and Poor's.

Section F. Final Reports

Upon completion of the work and no later than two (2) years after completion of construction, the holder of a **Local Stormwater Management Permit** shall submit a report in both hard copy and electronic form (including certified as-built construction plans) from a Professional Engineer (PE), surveyor, or Certified Professional in Erosion and Sedimentation Control (CPESC), certifying that the project has been completed in accordance with the conditions of the

Local Stormwater Management Permit. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post construction stormwater management). Any discrepancies with the approved permit plans shall be noted in the cover letter submitting the report and as-built plans.

ARTICLE III – DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM

Section A. Applicability

Article III of this by-law shall apply to all direct or indirect discharges to the municipal storm drain system and to any activities that might obstruct the municipal storm drain system.

Section B. Prohibited activities.

1. **Illicit Discharges** – No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the storm drain system, into a watercourse, or into waters of the United States and/or Commonwealth.
2. **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.
3. **Obstruction of the Municipal Storm Drain System** – No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the **Permitting Authority/Authorized Enforcement Agency**.

Section C. Exemptions.

1. Discharge or flow resulting from fire-fighting activities and DPW ice and snow control operations shall not constitute illicit discharge within the meaning of this by-law or pertinent federal, state, or local laws. unless the **Permitting Authority/Authorized Enforcement Agency** determines that such discharge or flow is a significant source of pollutants to Waters of the United States;

A. The following categories of non-stormwater discharges are considered exempt unless the **Permitting Authority/Authorized Enforcement Agency**, EPA, or the MassDEP identifies any category or individual discharge of non-stormwater discharge below as a significant contributor of pollutants to the MS4; then that category or individual discharge is not allowed, but rather constitutes an “illicit discharge”:

- a. waterline flushing;
- b. flow from potable water sources;
- c. springs;
- d. natural flow from riparian habitats and wetlands;
- e. diverted stream flow;
- f. rising groundwater;
- g. uncontaminated groundwater infiltrating as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- h. water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

- i. discharge from landscape irrigation or lawn watering;
- j. water from individual residential car washing;
- k. 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;
- l. discharge from street sweeping;
- m. discharge or flow resulting from DPW ice and snow control operations
- n. dye testing, provided verbal notification is given to the DPW prior to the time of the test;
- o. discharge or flow resulting from fire-fighting activities
- p. non-stormwater discharge permitted under an 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
- q. discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare, and the environment.

Section D. Emergency suspension of storm drainage system access

The **Permitting Authority/Authorized Enforcement Agency** or its authorized agent 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 **Permitting Authority/Authorized Enforcement Agency** may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section E. Notification of spills

Any spills or releases that require notification under local, state or federal law will be the responsibility of the person responsible for a facility or operation, or for an emergency response for a facility or operation (e.g., construction). In the event of a spill or release which may result in a discharge of pollutants or non-stormwater discharge to the municipal storm drain system, waters of the United States, and/or waters of the Commonwealth, the responsible parties, potentially responsible parties, or any person or persons managing a site or facility shall take all necessary steps to ensure containment, and remediate any municipal storm drains that have been impacted. However, if in the opinion of **Permitting Authority/Authorized Enforcement Agency**, there is an excessive amount of pollutants in the stormdrain system, the **Permitting Authority/Authorized Enforcement Agency** can require remediation by the responsible party regardless of other state or federal regulations. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall take all necessary steps to ensure containment, clean-up of the release, 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.