

ARTICLE XX AMEND GENERAL BYLAW – ADD STORMWATER AND ILLICIT DISCHARGE BYLAWS

To see if the Town will vote to add to the Duxbury General By-Laws Chapter 7.26 Stormwater and Chapter 7.27 Illicit Discharges, and further to authorize the Town Clerk to make non-substantive numbering changes to this Bylaw in order to make numbering conform to the numbering format on the General Bylaws, to read as follows:

; or take any other action in relation thereto.

Chapter 7.26 STORMWATER

1. 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.

2. Purpose

The purpose of this Bylaw is to reduce flooding, protect water quality, increase groundwater recharge, reduce erosion and sedimentation, promote environmentally sensitive site design practices such as Low Impact Development that protect vegetation and enhance town character, ensure long-term maintenance of stormwater controls and meet or exceed federal requirements under Phase II of the National Pollutant Discharge Elimination System (consistent with the Town's Municipal Separate Storm Sewers (MS4) permit).

3. Definitions

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, or structural improvement that helps to reduce the rate or volume of stormwater runoff or improve its water quality.

DEVELOPMENT: Any construction or land disturbance on vacant land that is currently in a natural state and has not been disturbed.

DISTURB: To cause a change in the position, location, or arrangement of soil, sand rock, gravel or similar earth material, remove the vegetative surface cover on all or a portion of a site or make any other change which would alter drainage characteristics as per the definition above.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing a narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation resulting from pre-construction and construction related land disturbance activities.

GRADING: Changing the level or shape of all or a portion of the ground surface of a site.

IMPERVIOUS: Preventing water from infiltrating the underlying soil. Impervious surfaces include paved surfaces (parking lots, sidewalks, driveways,) walkways and patios of a continuous hardened surface, rooftops, swimming pools, patios, and paved, gravel and compacted dirt surfaced roads.

OPERATION AND MAINTENANCE PLAN: A plan that shows or establishes the physical, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed, including during pre- and post-construction activities.

PERMITTING AUTHORITY: For the purposes of this bylaw, the permitting authority shall mean either the Building Commissioner, Board of Health, Zoning Board of Appeals, Planning Board or Conservation Commission, or the Town Planner, Building Inspector, Health Agent or Conservation and Natural Resource Officer as further described in 5.A below.

PRE-CONSTRUCTION: All activity undertaken in preparation for construction.

POST CONSTRUCTION: All activity undertaken after a Certificate of Completion is issued.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment. **SITE:** Any lot or parcel of land or area of property.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or reduce erosion.

STOP WORK ORDER: An order issued by the Permitting Authority or its designee which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SUBDIVISION: As defined in the Subdivision Control Law of Massachusetts, M.G.L. Chapter 41, Section 81L Definitions.

4. Applicability

- A. Regulated Activities. This bylaw shall apply to the following activities:

- 1) All development and redevelopment projects that will disturb over 40,000 sq. ft. of land and discharge into the town's municipal stormwater system.
 - 2) All development and redevelopment projects that will disturb over 15,000 sq. ft. of land in a Residential zoning district; render 25% or more of an undeveloped lot impervious or increase impervious area of a developed lot by 25% or more, even if that disturbance is conducted over separate phases and/or by separate owners.
 - 3) All development and redevelopment projects that will disturb over 1,000 sq. ft. of land on undisturbed or natural slopes greater than 25%, even if that alteration is conducted over separate phases and/or by separate owners.
 - 4) Construction of a new drainage system or alteration of a drainage system serving a drainage area of more than 15,000 sq. ft. of land.
 - 5) Any development or redevelopment involving "land uses with higher potential pollutant loads," as defined in the Massachusetts Stormwater Management Policy. Land uses with higher potential pollutant loads include auto salvage yards, auto fueling facilities (gas stations), fleet storage yards, high-intensity commercial parking lots, road salt storage areas, commercial nurseries, outdoor storage and loading areas of hazardous substances, and marinas.
- B. Exempt Activities. The following activities shall be exempt from this bylaw:
- 1) Construction on an individual lot within a subdivision that has previously been issued a stormwater permit, or was approved under the Subdivision Rules and Regulations adopted October 1, 2020 or later;
 - 2) Construction on a lot shown on an approved Site Plan where the proposed stormwater management system and Operation & Maintenance Plan were reviewed by the Town's consulting engineer and approved by the Building Department, or Permitting Authority.
 - 3) Construction on any lot that has previously been issued a stormwater permit, so long as that construction substantially conforms to the grading, the limit of work, impervious area and drainage characteristics shown on an approved plan. Any plan changes that would have the effect of altering drainage characteristics must be on file with the Permitting Authority prior to construction commencing. The Permitting Authority may require that the applicant obtain an engineer's certification that drainage characteristics will not be altered by proposed changes to a plan.
 - 4) Landscaping for a single-family home that involves the addition or removal of fewer than 100 cubic yards of soil material or alteration of less than two feet of elevation with maintenance of existing drainage characteristics.
 - 5) Repair and replacement of existing roofs.
 - 6) Construction of walls and fencing that will not alter existing drainage characteristics.
 - 7) Use, maintenance, and improvement of agricultural land.
 - 8) Construction of utilities, other than drainage, that will not alter existing terrain or drainage characteristics, including repairs to existing septic systems when required by the Board of Health.
 - 9) Emergency repairs to any existing stormwater management facility.

10) Routine maintenance and improvement of town-owned public ways not resulting in an increase in impervious area.

5. Administration

A. This bylaw shall be administered by the Building Department, unless the proposed work is under the jurisdiction of another permitting authority as follows: as permitted by the Planning Board on a project required to undergo stormwater review under the Subdivision Rules and Regulations or as required or Administrative Site Plan Review or when a project will disturb an area greater than 30,000 sq. ft., or greater than 1,000 sq. ft. with a slope of 25% or greater unless subject to the jurisdiction of another permitting authority as described herein; Conservation Commission (in practice, the Conservation Commission' jurisdiction will mostly include single family dwellings falling under the jurisdiction of the Wetland Protection Act), and similarly for the Zoning Board of Appeals or Board of Health through a regular permitting process consistent with the authorities of said boards and commissions. Where more than one board or commission has jurisdiction, the respective Department Heads shall determine which body shall administer this bylaw.

B. The Planning Board, Board of Health, Conservation Commission, Zoning Board of Appeals and Building Department may adopt and amend Stormwater Regulations related to the content of permit applications and the performance standards for development activities, as described in Section 6 below. Failure to promulgate such Regulations shall not have the effect of suspending or invalidating this bylaw.

C. The Permitting Authority, as applicable, their agents or their designee shall review all applications for a Stormwater Permit, issue a Stormwater Permit, conduct necessary inspections and site investigations, monitor and enforce the conditions of the permit, and issue a Certificate of Completion, and shall be responsible for enforcement of this bylaw.

D. The Permitting Authority may refer any application for a Stormwater Permit to its consulting engineer for review. Following receipt of a completed permit application, the Permitting Authority shall seek review and comments from the Conservation Commission or Planning Board, Board of Health, Department or Public Works and other town boards or authorities as appropriate.

E. The Building Commissioner may issue a Stormwater Permit for projects which do not disturb an area greater than 30,000 sq. ft., or greater than 1,000 sq. ft. with a slope of 25% or greater. This shall be considered an Administrative Stormwater Project Review and shall be issued according to procedures outlined in the Stormwater Regulations, which shall not require a public hearing. Projects which exceed these limits shall be subject to Planning Board review under this Bylaw as the Permitting Authority unless the project falls under the jurisdiction of another entity as described in 5.A.

F. Construction under a Stormwater Permit shall be authorized upon the date of issuance but in no case more than three years from the date of issuance unless this time period is extended by vote of the Permitting Authority.

6. Adoption of Regulations

A. The Stormwater Regulations shall include separate performance standards for rainwater produced stormwater and land subject to coastal storm flowage. All regulations shall be adopted after a public hearing and public comment period.

B. The public hearing shall be advertised in a newspaper of general local circulation at least seven days prior to the hearing date.

C. Other boards, commissions, and departments with responsibilities that include or are related to stormwater management are encouraged to adopt those Regulations by reference.

7. Submittal Requirements. Submittal requirements for development, site disturbance and alteration shall include an application form, application fee and plans as listed below. These may be consolidated into a single site plan. All plans and certifications shall be prepared by a licensed Professional Engineer.

A. Application Fee. Each application must be accompanied by the appropriate application fee pursuant to the Stormwater Regulations. This fee shall be sufficient to cover any expenses connected with the public hearing, where required, and review of the Stormwater Permit application. The Permitting Authority is authorized to retain a licensed Professional Engineer or other professional consultant to advise the Permitting Authority on any or all aspects of the Application.

B. Erosion and Sedimentation Control. All applications must include an Erosion and Sedimentation Control Plan to show proposed methods for properly stabilizing the site before construction begins. This plan shall show the Best Management Practices (BMP's) that will be used during construction to minimize erosion of the soil, sedimentation of stormwater and flow of stormwater onto neighboring properties, roads or drainage systems. These BMPs should include both stabilization practices such as: seeding, mulching, preserving trees and vegetative buffer strips, contouring and structural practices such as: earth dikes, silt socks, silt fences, stabilized construction entrances, drainage swales, sediment traps, check dams, and subsurface or pipe slope drains.

C. Site Plan and Narrative Showing Proposed Stormwater Measures. All applications shall include a Site Plan showing BMP's proposed to manage stormwater after construction. This Plan shall contain sufficient information to evaluate the environmental impact, effectiveness, and acceptability of the measures-for reducing adverse impacts from stormwater. All plans shall meet the Performance Standards in the Stormwater Regulations. Any easements or deed-restricted areas shall be clearly shown and identified. With the exception of plans for construction of single- and two-family homes, all plans shall be designed to meet the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, as revised, where these are otherwise applicable. A brief narrative shall be included describing the BMP's with references to their location and function.

D. Pre- and Post-Construction Operations and Maintenance Plans. Pre- and Post-Construction Operation and Maintenance Plans (O&M Plans) are required at the time of application for all projects. The required contents of these plans shall be described in the

Stormwater Regulations. Pre-Construction O&M Plans shall address maintenance of erosion control and site stabilization measures; operation of equipment during construction and inspections required during construction. Post-Construction Plans shall include methods for maintaining the stormwater management system; protection of vegetation where needed to absorb and take up stormwater; responsibilities of the homeowner and any third parties; and the estimated cost of maintenance. They shall be designed to ensure compliance with this bylaw and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 in all seasons and throughout the life of the stormwater system. The Town shall make the final decision on what maintenance is appropriate in a given situation with consideration for natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and the need for ongoing maintenance activities. The O&M Plans shall remain on file with the Permitting Authority and Building Department as applicable and shall be an ongoing requirement.

8. Performance Standards. Performance standards for site design, erosion control, stormwater management, operation & maintenance guidelines, materials, vegetation, and other aspects of developments shall be described in the Stormwater Regulations with compliance required to the extent practicable in the opinion of the Permitting Authority. Separate performance standards may be adopted for single family homes, and all other types of development. Performance standards shall reflect all requirements for stormwater in the Water Resource Protection District found in the Zoning Bylaw for properties in that district. Separate standards shall be adopted for land subject to coastal storm flowage.

A. Performance standards will include (but not be limited to) the following standards for rainwater-produced stormwater:

1. Peak Discharge Rates (flooding protection and channel protection)
2. Peak Discharge Volume
3. Retention of First 1" of Stormwater for Development and Redevelopment of One or More Acres. For new development or redevelopment of one or more acres, the first inch of runoff from all impervious surface must be retained on the site, unless pollutant removal of first inch of runoff with BMP (equivalent pollutant removal as with a biofilter) is provided. Shutoff and containment is required in the case of discharge near an environmentally sensitive area, i.e. public water.
4. Recharge Volume
5. Pretreatment and Water Quality
6. Erosion Control
7. Vegetation, Site Design, and Site Restoration

B. Performance standards shall also be adopted for coastal storm- associated floodwater, to avoid channelization and minimize the velocity of flood waters:

1. Standards for land subject to coastal storm flowage.

Preservation of the abilities of existing topography, slope, surface area, soil characteristics, erodibility, and permeability of land in the flood plain will tend to allow for the dissipation of storm wave energy, slowing of moving water, and absorption of flood waters. Standards for land subject to coastal storm flowage may include limits on creation of new pavement or other impervious surfaces, or that there shall be no adverse impact from work proposed in Land Subject to Coastal Storm Flowage. Standards may also be adopted for increases in impervious surface, removal of natural vegetation and pervious areas, filling, locating foundations or pavement so as to channelize floodwater, use of solid foundations and fill so as to deflect, reflect or redirect wave energy or channelize floodwater, or dredging or removal of soil materials within the floodplain so as to allow storm waves to break further inland and impact upland or wetland resource areas.

The Permitting Authority may seek the services of a consultant to assess compliance with the adopted standards for rainwater and coastal storm floodwater.

9. Review Process

A. Applicants are strongly encouraged to schedule a pre-application meeting with the Town Planner or Conservation and Natural Resources Officer, as applicable, to review the proposed development plans at the earliest feasible time.

B. The stormwater permit review shall not require a special public hearing, but stormwater issues may be discussed as part of other Public Hearings required for approval of the same project by the Planning Board or Conservation Commission. If no public hearing is required, the Planning Board or Conservation Commission may choose to hold a special public hearing to solicit public comment.

C. After review of the application and comments received from other boards, and following the close of a Public Hearing where a hearing is required, the Permitting Authority shall take one of the following actions:

1. Approve the application and issue a Stormwater Permit if it finds that the proposed plan meets the objectives and requirements of this bylaw.
2. Approve the application and issue a Stormwater Permit with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this bylaw.
3. Disapprove the application and deny a permit if it finds the proposed plan will not protect water resources or fails to meet the objectives of this bylaw; or if it finds that the applicant has not submitted information sufficient to make such a determination.

D. Deadline for Action.

For a Stormwater Permit for a single family home or a residential duplex, the Permitting Authority or its designee shall file its decision with the Town Clerk and the Building Commissioner within thirty (30) days of the receipt of a completed application. For all other

development, a decision shall be made prior to approval of a Special Permit or Definitive Plan, if required, or prior to issuance of an Order of Conditions or building permit as applicable.

The review period may be extended by mutual consent of the Permitting Authority and the applicant. Failure to extend the review period or take action on the application before the deadline for action shall be deemed to be approval of such application. Upon certification by the Town Clerk that the allowed time has passed without action the Stormwater Permit shall be issued by the Permitting Authority.

E. Appeals. Decisions under this bylaw may be appealed to Superior Court or Land Court.

10. Notification, inspections.

Submittal of the stormwater permit application is construed to grant the Permitting Authority, its agent, or its designee with permission to enter the site for inspection.

The Permitting Authority may make unscheduled site visits to insure construction complies with the Operation & Maintenance Plan. If it does not comply, the Permitting Authority shall review whether to pursue remedies for enforcement of the Stormwater Permit as described in Section 12 of this bylaw.

11. Submittal of as-built plans. Submittal of as-built plans depicting the construction conditions of the stormwater management system and grading on the site shall be required prior to the issuance of a certificate of occupancy, and in no event later than two years after the completion of construction, and shall demonstrate substantial conformance with the stormwater system design and performance standards of the approved plans. Specifications for these as-built plans are outlined in the Stormwater Regulations.

12. Surety. The Permitting Authority may require the posting of a surety bond until work is completed and satisfactorily inspected, or to ensure maintenance of the system.

13. Any easements or deed-restricted areas shown and identified on the approved plans shall be recorded at the Plymouth County Registry of Deeds or Land Court prior to a Certificate of Completion or Occupancy.

14. Enforcement. The Permitting Authority shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations, including remedies available under non-criminal disposition. Mechanisms and procedures for enforcement may be further detailed in Regulations adopted by the Permitting Authority pursuant to this Bylaw.

A. Orders.

1. The Permitting Authority may issue a written order to enforce the provisions of this Section or the regulations thereunder, which may include:

a. A requirement to cease and desist the construction activity until there is compliance with the provisions of the Stormwater Permit;

b. Maintenance, installation or performance of additional erosion and sediment control measures;

- c. Monitoring, analyses, and reporting;
- d. Remediation of erosion and sedimentation resulting directly or indirectly from land-disturbing activity.

2. If the enforcing body determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. This deadline shall be no more than twelve months from the date of the violation.

B. Any person that violates any provision of this Section may be punished, under G.L. c.40 §21D as a noncriminal offense, by fines of:

- 1. First offense: \$100
- 2. Second offense: \$200
- 3. Each additional offense: \$300

Each day on which any violation or offense exists shall be deemed a separate offense. No new permits shall be issued to an applicant if any permit fines are outstanding.

C. 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. 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.

Chapter 7.27 ILLICIT DISCHARGE BY-LAW

Section 1 Purpose

A. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. alteration or destruction of aquatic and wildlife habitat; and
4. flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of water bodies and groundwater resources within the Town of Duxbury and to safeguard the public health, safety, and welfare and the natural resources of the Town.

B. The objectives of this By-law are:

1. To prevent pollutants from entering the Town of Duxbury's municipal storm drain system;
2. To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
3. To require the removal of all such illicit connections;
4. To comply with state and federal statutes and regulations relating to stormwater discharges; and
5. To establish the legal authority to ensure compliance with the provisions of this By-law through inspection, monitoring, and enforcement.

Section 2 Definitions

For the purposes of this By-law, the following shall mean:

Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended

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.

Groundwater: Water beneath the surface of the ground including confined or unconfined aquifers.

Illicit Connection: A surface or subsurface drain or means of 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 By-law.

Illicit Discharge: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7, subsection B.1, of this By-law.

Municipal Storm Drain System 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 Duxbury.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharge: Discharge to the municipal storm drain system not composed entirely of stormwater.

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.

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 considered toxic or detrimental to humans or the environment and may be introduced into the municipal storm drain system on into any water watercourse or waters of the Commonwealth.

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.

Stormwater: Stormwater runoff, snow melt runoff, and surface water runoff and drainage

Surface Water Discharge Permit: A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

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 G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Watercourse: A natural or man-made channel through which water flows, or a stream of water, including a river, brook, stream, underground stream, pond or lake.

Waters Of The Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal 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 3 Applicability

This By-Law shall apply to flows entering the municipal storm drainage system.

Section 4 Authority

This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the Federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register, as amended.

Section 5 Responsibility for Administration

The Duxbury Board of Health shall administer, implement and enforce this By-Law. The Board of Health and its agents may consult with and request assistance from the Department of Public Works, and/or other Town departments for the purpose of administration, implementation, and enforcement of this By-law.

Section 6 Regulations

The Duxbury Board of Health may promulgate rules and regulations to effectuate the purposes of this By-law. Failure by the Duxbury Board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-law.

Section 7 Prohibited and Exempt Activities

A. Prohibited Activities

1. Illicit Discharges - No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the 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 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 written approval from the Duxbury Board of Health.

B. Exemptions

1. Discharge or flow resulting from fire fighting activities;

2. Discharges from Town of Duxbury snow and ice removal and control operations.
3. The following non-stormwater discharges or flows are exempt from this By-Law, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - Municipal waterline flushing;
 - Flow from potable water sources;
 - Springs;
 - Natural flow from riparian habitats and wetlands;
 - Diverted stream flow;
 - Rising groundwater;
 - Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - Discharge from landscape irrigation or lawn watering;
 - Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - Water from individual residential car washing and temporary fund-raising car wash events;
4. Discharge from dechlorinated swimming pool water (less than one ppm chlorine). provided test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town By-Laws;
5. Discharge from street sweepers of minor amounts water during operations;
6. Winter roadway and parking lot sanding and salting operations associated with maintaining public safety;
7. Dye testing, provided verbal notification is given to the Duxbury Board of Health prior to the time of the test;
8. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
9. Discharge for which advance written approval is received from the Duxbury Board of Health as necessary to protect the public health, safety, welfare or environment; and
10. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Duxbury Town Manager, Board of Selectmen or Board of Health.

Section 8 Emergency Suspension of Storm Drainage System Access

The Duxbury Board of Health 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 Duxbury Board of Health may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 9 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 Duxbury's Fire and Police Departments and Duxbury Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Duxbury Board of Health no later than the next business day. The reporting person shall provide to the Duxbury Board of Health 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 facility operator shall also 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.

Section 10 Enforcement

A. Authorized Agent

The Director of Public Health or an authorized agent of the Director of Public Health shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Civil Relief

If a person violates the provisions of this By-Law or any regulations, permit, notice, or order issued there-under, the Duxbury Board of Health 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.

C. Orders

The Duxbury Board of Health or an authorized agent of the Duxbury Board of Health may issue a written order to enforce the provisions of this By-Law or the regulations there-under, which may include: (a) elimination of illicit connections or discharges to the municipal storm drain system; (b) performance of monitoring, analyses, and reporting; (c) a requirement that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

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 shall 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 of Duxbury may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.

Within thirty (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 Duxbury Board of Health within thirty (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 thirty (30) days following a decision of the Duxbury Board of Health 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. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

D. Criminal Penalty

Any person who violates any provision of this By-Law or any regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town of Duxbury may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, in which case the Duxbury Board of Health or an authorized agent of the Duxbury Board of Health shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F. Entry to Perform Duties under this By-Law

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Duxbury Board of Health, 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 Duxbury Board of Health deems reasonably necessary

G. Appeals

All decisions or orders of the Duxbury Board of Health shall be final. Further relief shall be to a court of competent jurisdiction.

H. Remedies Not Exclusive

The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 11 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 for any reason, the remaining provision shall continue in effect to the extent permitted by law.

Section 12 Transitional Provisions

Residential property owners shall have one hundred eighty (180) days from the effective date of the By-Law to comply with its provisions or petition the Duxbury Board of Health for an extension.