

ARTICLE XXVIII Illicit Discharge Control

Section 1. Purpose and Objectives

- A. The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Lincoln's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:
1. Impairment of water quality and reduced 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.
- B. The purpose of this Bylaw is to prohibit and eliminate illicit connections and discharges; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.
- C. This Bylaw seeks to meet that purpose through the following objectives:
1. To prevent pollutants from entering the Town'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 Bylaw through inspection, monitoring, and enforcement.

Section 2. Definitions

For the purposes of this Bylaw, the following shall mean:

- A. **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
- B. **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 of Massachusetts from any source.
- C. **GROUNDWATER:** Water beneath the surface of the ground including confined or unconfined aquifers.

- D. **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.
- E. **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 firefighting activities exempted pursuant to Section 7, subsection B., of this Bylaw.
- F. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** 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.
- G. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by the United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.
- H. **NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.
- I. **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department, or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- J. **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 to humans or the environment and may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include, but not be limited to:
1. paints, varnishes, and solvents;
 2. oil and other automotive fluids;
 3. non-hazardous liquid and solid wastes and yard wastes;
 4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 5. pesticides, herbicides, and fertilizers;
 6. hazardous materials and wastes; sewage, fecal coliform, and pathogens;
 7. dissolved and particulate metals;

8. animal wastes;
 9. rock, sand, salt, and soils;
 10. construction wastes and residues; and
 11. noxious or offensive matter of any kind.
- K. **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.
- L. **STORMWATER:** Stormwater, snow melt, and surface water runoff and drainage.
- M. **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.
- N. **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 or organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under MGL Chapter 21C and Chapter 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- O. **WATERCOURSE:** A natural or man-made channel through which water flows, or a stream of water, including a river, brook or underground stream.
- P. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- Q. **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 Bylaw shall apply to flows entering the municipal storm drainage system.

Section 4. Authority

This Bylaw 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 as authorized by the residents of the Town of Lincoln at the spring 2020 Town Meeting and as amended.

Section 5. Administration

- A. The Board of Selectmen shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Town may be delegated in writing by the Town Administrator to employees or agents of the Board of Health, Department of Public Works, Department of Conservation, Department of Building and Engineering, Planning Board or other Town Department.
- B. The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

Section 6. Amendments and Regulations

The Board of Selectmen may promulgate rules and regulations to effectuate the purposes of this Bylaw after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Lincoln no less than fourteen (14) days prior to the date of the public hearing. Failure by the Board of Selectmen to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Section 7. Applicability and Exemptions

- 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 of Massachusetts.
 - 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 Department of Public Works.
- B. Exemptions:
 - 1. Discharge or flow resulting from firefighting activities;
 - 2. 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 Board of Selectmen or Board of Health.
 - 3. The following non-stormwater discharges or flows are exempt from this Bylaw, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (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 infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (h) Discharge from landscape irrigation or lawn watering;
- (i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (j) Water from individual residential car washing;
- (k) 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 Bylaws;
- (l) Discharge from street sweeping;
- (m) Dye testing, provided written notification is given to the Department of Public Works prior to the time of the test;
- (n) 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 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; and
- (o) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment.

Section 8. Emergency Suspension of Storm Drainage System Access

The Board of Selectmen 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 Board of Selectmen 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 of Massachusetts, 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 Town's Fire and Police Departments.

Section 10. Enforcement

- A. The Board of Selectmen or an authorized agent of the Department of Public Works or Board of Health shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. The Board of Selectmen or an authorized agent of the Department of Public Works or Board of Health may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder, which may include:
 - 1. Elimination of illicit connections or discharges to the municipal storm drain system;
 - 2. Performance of monitoring, analyses, and reporting;
 - 3. That unlawful discharges, practices, or operations shall cease and desist; and/or
 - 4. 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, with the approval of a court of competent jurisdiction, 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.
- D. 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 Board of Selectmen 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 Board of Selectmen 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 MGL Chapter 59, §57 after the thirty-first day at which the costs first become due.

Section 11. Entry to Perform Duties Under this Bylaw

To the extent permitted by Massachusetts law, or if authorized by the owner or other party in control of the property, the Board of Selectmen or its agents 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 the Board of Selectmen deems reasonably necessary.

Section 12. Civil Relief

If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued thereunder, the Board of Selectmen 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.

Section 13. Criminal Penalty

- A. Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in MGL Chapter 40, §21D, in which case the Board of Selectmen or an authorized agent of the Board of Selectmen 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.

Section 14. Remedies Not Exclusive

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

Section 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.

ARTICLE XXIX Construction and Post-Construction Stormwater Management

Section 1. Purpose and Objectives

- A. The purpose of this Bylaw is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- B. This Bylaw seeks to meet that purpose through the following objectives:
 - 1. Establish the Town as the legal authority to ensure compliance with the provisions of this Bylaw and its accompanying Stormwater Management Rules and Regulations through a review process, inspections, monitoring, and enforcement.
 - 2. Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post-construction monitoring.

3. Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserve and/or restore the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater.
4. Ensure compliance with requirements of the United States Environmental Protection Agency (EPA), National Pollutant Discharge Elimination System (NPDES), General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable state and federal mandates.

Section 2. Definitions

For the purposes of this Bylaw, the following shall mean:

- A. **AGRICULTURAL USE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, MGL Chapter 131, § 40, and its implementing regulations.
- B. **APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, or authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land disturbance activity.
- C. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.
- D. **CERTIFICATE OF COMPLETION:** Document issued by the Planning Board, its employees, or authorized agents upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.
- E. **CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.
- F. **DISTURBANCE OF LAND:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material including but not limited to clearing and grading.
- G. **ENFORCEMENT ORDER:** A written order issued by the Planning Board or its designee to enforce the provisions of this Bylaw.
- H. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** 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.

- I. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
STORMWATER DISCHARGE PERMIT: A permit issued by the EPA or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.
- J. NEW DEVELOPMENT: Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in a Disturbance of Land equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of Redevelopment.
- K. OWNER: A person with a legal or equitable interest in property.
- L. PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- M. PLANNING BOARD: Town of Lincoln Planning Board, its employees, or authorized agents designated to enforce this Bylaw.
- N. PROFESSIONAL ENGINEER (P.E.): A registered Professional Engineer within the Commonwealth of Massachusetts in good standing.
- O. REDEVELOPMENT: Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in a Disturbance of Land equal to or greater than 1 acre (or activities that are part of a larger common plan of redevelopment disturbing greater than 1 acre) that does not meet the definition of New Development.
- P. STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.
- Q. STORMWATER MANAGEMENT PERMIT: The written approval granted by the Planning Board to undertake a construction activity pursuant to a Stormwater Management Permit Application. A valid Stormwater Management Permit must be signed by a majority of the Planning Board participating at a duly noticed public hearing, and such permit must be recorded at the Middlesex South Registry of Deeds, prior to the start of any work.

- R. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts including without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- S. **WETLAND RESOURCE AREAS:** Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, or in the Town of Lincoln Bylaw XVIII Wetlands Protection Bylaw, as amended.

Section 3. 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.

Section 4. Administration

- A. The Planning Board shall be the Permit Granting Authority (PGA) for this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated by the Planning Board to any Town employee, board, commission, committee or agent, hereby known as the “Reviewing Agent.”
- B. The Planning Board shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act, the Town’s Wetlands Protection Bylaw.
- C. The Planning Board or its Reviewing Agent shall take any of the following actions as a result of an application for a Stormwater Management Permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval.
- D. A decision of the Planning Board or its Reviewing Agent shall be final. Further relief of a decision by the Planning Board or its Reviewing Agent made under this Bylaw may be sought in a court of competent jurisdiction in accordance with MGL Chapter 249 §4.

Section 5. Amendments and Regulations

The Planning Board may adopt, and periodically amend, the Stormwater Management Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Bylaw by majority vote of the Planning Board, after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Lincoln no less than fourteen (14) days prior to the date of the public hearing. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Section 6. Applicability and Exemptions

- A. No person may undertake a construction activity, including clearing, grading, or excavation that results in a Disturbance of Land to an area equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town without first obtaining a Stormwater Management Permit issued by the Planning Board.
- B. Exemptions:
1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
 2. Removal of native plants, invasive growth, or other vegetation by methods that do not disturb underlying soils or ground conditions;
 3. Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;
 4. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
 5. Normal maintenance and improvements of the Town's publicly owned roadways and associated drainage infrastructure;
 6. Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board;
 7. Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Handbook, the Town's Wetlands Protection Bylaw and with the stormwater management performance standards of this bylaw as reflected in an Order of Conditions issued by the Conservation Commission; and
 8. Incidental disturbance of ground cover related to project construction as a result of construction access, placement of erosion controls, vegetation clearing that does not disturb soils, or similar activity, does not count towards the one (1) acre of land disturbance under this bylaw.

Section 7. Enforcement

- A. The Planning Board, or an authorized agent of the Planning Board, shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. The Planning Board may issue a written order to enforce the provisions of this Bylaw, which may include requirements to:
1. Cease and desist from construction or land disturbing activity until there is compliance with this Bylaw and the Stormwater Management Permit;
 2. Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
 3. Maintain, install, or perform additional erosion and sediment control measures;
 4. Perform monitoring, analyses, and reporting;

5. Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;
 6. Cease and desist from unlawful discharges, practices, or operations; and/or,
 7. Remediate contamination in connection therewith.
- C. If the Planning Board determines that abatement or remediation of adverse impacts is required, the Enforcement 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, with the approval of a court of competent jurisdiction, undertake such work, and the property owner shall reimburse the Town's expense.
- D. Within thirty (30) days after completing all measures necessary to abate the violation, the violator and the property owner shall 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 Planning Board 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 Planning Board 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 MGL Chapter 59, § 57, after the thirty-first day at which the costs first become due.

Section 8. Entry to Perform Duties Under this Bylaw

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board or its agents 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 the Planning Board or agent deems reasonably necessary.

Section 9. Waivers and Provisions for Relief

- A. Planning Board may waive strict compliance with any requirement of this Bylaw promulgated hereunder, where:
1. Such action is allowed by federal, state and local statutes and/or regulations,
 2. It is in the public interest,
 3. A public safety issue exists, or
 4. It is consistent with the purpose and intent of this Bylaw.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Bylaw does not further the purposes or objectives of this Bylaw. The Planning Board may require documentation to be submitted and stamped

by a qualified P.E. registered in Massachusetts or a Certified Professional in Erosion and Sediment Control (CPESC).

Section 10. Civil Relief

If a person violates the provisions of this Bylaw, permit, notices, or order issued thereunder, the Planning Board 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.

Section 11. Criminal Penalty

- A. Any person who violates any provision of this Bylaw, order, or permit issued thereunder, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in MGL Chapter 40, §21D, in which case the Board of Selectmen or an authorized agent of the Board of Selectmen 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.

Section 12. Remedies Not Exclusive

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

Section 13. Surety

The Planning Board may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit but the bond may not be fully released until the Planning Board has received the final inspection report as required by the Stormwater Management Rules and Regulations and issued a Certificate of Completion.

Section 14. 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.