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**SPONSORED BY:** Kassandra Gove **BILL No. 2020-077**  
**Kassandra Gove, Mayor** **REVISED**

**AN ORDER to Establish an Illicit Discharge and Connection Stormwater Ordinance for the City of Amesbury**

**Summary:** The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Amesbury through the regulation of non-storm water discharges to the storm water drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

**Be it Ordained by the City Council of the City of Amesbury assembled, and by the authority of the same, that the following Ordinance be and hereby is adopted:**

**Sec. 1. Purpose**

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the City's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The Purpose of this Ordinance is as follows:

**A. Detection and Elimination of Illicit Discharges, Connections and/or Obstructions**

1. To prevent pollutants from entering the City's Municipal Separate Storm Sewer System (MS4) and Waters of the Commonwealth of Massachusetts;
2. To prohibit illicit discharges, connections and obstructions to the MS4;
3. To require the removal of all such illicit discharges, connections and/or obstructions;
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 Ordinance through inspection, monitoring, and enforcement.

## **B. Control of Construction and Post-Construction Run-Off**

1. This Ordinance is intended to ensure and promote compliance with US Environmental Protection Agency (EPA) stormwater management regulations pertaining to municipal separate storm sewer systems (MS4s);
2. To protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control construction-site stormwater runoff and post-construction stormwater discharges, which can adversely affect public safety, public and private property, surface water, groundwater resources, drinking water supplies, recreation, and aquatic habitats.
3. To establish minimum construction-site and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff generated from new development and redevelopment;
4. To require practices that eliminate soil erosion and sedimentation resulting from land disturbance activities;
5. To control the volume and rate of stormwater runoff resulting from land disturbances;
6. To minimize flooding on abutting properties;
7. To maintain the natural infiltration of stormwater on sites and/or promote recharge to groundwater where appropriately sited and/or treated, with emphasis on the Zones A, B, C and Zone 2 recharge areas in the watershed protection districts;
8. To maintain the integrity of stream channels;
9. To minimize stream bank erosion;
10. To prevent or minimize adverse impacts to water quality in lakes, ponds, streams, rivers, wetlands and groundwater;
11. To promote infiltration and recharge of groundwater;
12. To encourage the use of nonstructural stormwater management practices or “low-impact development practices”, wherever practicable;
13. To establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
14. To require practices to control construction waste; and,
15. To prevent pollutants from entering the City’s municipal separate storm sewer system (MS4).

## **Sec. 2. Definitions**

**ACTIVE GROUNDWATER DEWATERING SYSTEM** – Any groundwater dewatering system that is not achieved by means of gravity only (i.e., use of mechanical or pumping apparatus).

**APPLICANT** - Any person, individual, partnership, association, firm, company, corporation, trust, 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 disturbances.

**AUTHORIZED ENFORCEMENT AGENCY** – For the purposes of this Ordinance, the City of Amesbury Planning Board shall be the “Authorized Enforcement Agency.”

**BEST MANAGEMENT PRACTICE (BMP)** - An activity, procedure, restraint, or structural or non-structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**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.

**CLEAN WATER ACT** - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**CLEARING** - Any activity that removes the vegetative surface cover. Clearing generally includes grubbing as defined below.

**CONSTRUCTION PREPARATION** - All activity in preparation for construction.

**CONSTRUCTION WASTE** - Excess or discarded building or construction site materials that may adversely impact Water Quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

**DESIGNATED AGENT** - (See Director of Public Works)

**DEVELOPMENT** - The modification of land to accommodate a new use or expansion of use, usually involving construction and redevelopment, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the Impervious Cover area on previously developed sites.

**DIRECTOR OF PUBLIC WORKS** - For the purposes of this Ordinance, the Director of Public Works shall be the “Designated Agent.” The Director of Public Works shall be the City’s designated agent to assist the “Authorized Enforcement Agency” to enforce the provisions of this Ordinance and any regulations, orders, violation notices, enforcement orders and permit conditions relative thereto on behalf of the City.

**DISCHARGE OF POLLUTANTS** - The addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the United States or Commonwealth of Massachusetts from any source.

**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 SEDIMENT CONTROL PLAN** - A document containing narrative, drawings, and details developed by a Massachusetts Registered Professional Engineer (P.E.) or a Certified Professional in Erosion and Sediment Control (CPESC), which includes BMPs, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbances. The plan is required as part of the application for a Stormwater Management Permit.

**FACILITY or ACTIVITY** means any NPDES “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

**GRADING** - Changing the level or shape of the ground surface.

**GROUNDWATER** - Water beneath the surface of the ground.

**GRUBBING** - The act of clearing land surface by digging up roots and stumps.

**ILLICIT CONNECTION** - A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drainage 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 ordinance.

**IMPERVIOUS COVER** - Material covering the ground with a coefficient of runoff greater than 0.7 (as defined in Data Book for Civil Engineers by Seelye;  $C = \text{runoff} / \text{rainfall}$ ) including, but not limited to, macadam, concrete, pavement and buildings.

**ILLICIT DISCHARGE** - Direct or indirect discharge to the municipal storm drainage system that is not composed entirely of stormwater, except as exempted pursuant to this Ordinance. The term does not include a discharge in compliance with a NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from fire-fighting activities exempted pursuant to this Ordinance.

**IMPERVIOUS SURFACE** - Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

**LAND DISTURBANCE** - Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY** - The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site. In January 2008, this policy was incorporated into the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00 et seq).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAINAGE 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 City.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER 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 drainage system not composed entirely of stormwater.

**OPERATION AND MAINTENANCE PLAN** - A plan prepared by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC) 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.

**OPERATOR** - The operator of any “facility or activity” subject to regulation under the NPDES program.

**ORDINANCE** - Refers to Chapter XX, Stormwater Management Ordinance of the “Code of Ordinances of the City of Amesbury, Massachusetts”.

**OWNER** - A person with a legal or equitable interest in property.

**PERMIT HOLDER or PERMITTEE** - The Person who holds a Stormwater Management Permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

**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.

**POINT SOURCE** - Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**POLLUTANT** - Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts.

Pollutants shall include without limitation:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (e) Pesticides, herbicides, and fertilizers;
- (f) Hazardous materials and wastes;
- (g) sewage, fecal coliform and pathogens;
- (h) Dissolved and particulate metals;
- (i) Animal wastes;
- (j) Rock, sand, salt, soils;
- (k) Construction wastes and residues; and
- (l) Noxious or offensive matter of any kind.

**PRE-CONSTRUCTION** - All activity in preparation for construction.

**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** - Process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**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 where land disturbances are, were, or will be performed.

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

**SOIL** - Any earth, sand, rock, gravel, or similar material.

**STORMWATER** - Stormwater runoff, snow-melt runoff, and surface water runoff and drainage.

**STORMWATER MANAGEMENT PLAN** - A document containing narrative, drawings and details prepared by a qualified professional engineer (PE), which includes structural and non-structural Best Management Practices to manage and treat Stormwater generated from regulated Development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural Best Management Practices and is required as part of the application for a Stormwater Management Permit.

**STREAM** - A body of running water, including brooks, creeks, and other water courses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert, is naturally obscured, or beneath a bridge. A stream's flow may be intermittent (i.e., does not flow throughout the year), or perennial.

**SURFACE WATER DISCHARGE PERMIT** - A permit issued by the Department of Environmental Protection (DEP) 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.

UNCONTAMINATED WATER - Water free of Toxic or Hazardous Material or Waste, sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent or other matter, whether originating at a point or nonpoint source

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

WATER QUALITY - The chemical, physical, and biological integrity of Water Resources.

WATER RESOURCES - All waters within the jurisdiction of the Commonwealth of Massachusetts, 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.

WETLANDS - Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to G.L. c. 131, § 40 and 310 CMR 10.00 et seq.

ZONE A, B, C and Zone 2 - Groundwater Protection zones as defined by the City.

### **Sec. 3. Authority**

This Ordinance is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to G.L. c.83, §§ 1, 10, and 16, as amended by St. 2004, c. 149, §§ 135-140, and pursuant to the regulations of the Federal Clean Water Act (40 CFR 122.34).

### **Sec. 4. Applicability**

**1. Municipal Separate Storm Sewer System (MS4) and Waters of the Commonwealth of Massachusetts:** This Ordinance shall apply to flows entering the City's Municipal Separate Storm Sewer System (MS4) and Waters of the Commonwealth of Massachusetts.

**2. Construction and Post-Construction Activities:**

Any construction activity, including clearing, grading, and excavation that will disturb equal to or greater than 43,560 square feet of land or will disturb less than 43,560 square feet of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 43,560 square feet of land in the City of Amesbury.

After the initial common plan construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or the original purpose of the site.

## **Sec. 5. Regulated Activities, Exemptions, Prohibited Activities, Emergencies**

Any person that undertakes any construction activity (as defined in Section XX-4, item 2 “Applicability”), including clearing, grading, and excavation that will disturb equal to or greater than 43,560 square feet of land or will disturb less than 43,560 square feet of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 43,560 square feet of land in the City of Amesbury shall require a Stormwater Management Permit from the Planning Board pursuant to this Ordinance and regulations promulgated hereunder.

### **1. Regulated Activities:**

(1) Regulated activities shall include:

- i. Land disturbance of 43,560 square feet or more of land associated with construction or reconstruction of structures;
- ii. 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 43,560 square feet or more of land;
- iii. Paving or other change in surface material over an area of 43,560 square feet or more of land;
- iv. Construction of a new drainage system or alteration of an existing drainage system or conveyance draining an area of 43,560 square feet or more of land; and
- v. Any other activity, on an area of land of 43,560 square feet or more, that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include, but are not limited to: change from distributed runoff to confined, concentrated 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.

(2) No person may create or maintain a direct connection or discharge to the MS4 without a connection and discharge permit from the Department of Public Works;

(3) The City of Amesbury is not exempt from the provisions of this Ordinance.

### **2. Exemptions:** The following activities are exempt from the requirements of this Ordinance:

- (1) Construction activities waived from permit coverage under the NPDES General Permit for Stormwater Discharges from Construction Activities;
- (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
- (3) Maintenance of existing landscaping, gardens or lawn areas associated with a single family or two-family dwelling that will not alter existing terrain or drainage patterns;
- (4) The construction of fencing that will not alter existing terrain or drainage patterns;

- (5) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in a permanent Alteration of Runoff or Drainage Characteristics and will comply with the Erosion Control standard in the Massachusetts Stormwater Standards;
- (6) Emergency work to protect life, limb, or property;
- (7) Normal maintenance of or emergency repairs to any Stormwater treatment facility deemed necessary by the Planning Board or its agents;
- (8) Repair of septic systems when required by the Board of Health for the protection of public health; and
- (9) Improvement of City-owned public ways and appurtenances that will not result in an expansion of impervious cover of more than 43,560 square feet.

**3. Prohibited activities:** The following activities are prohibited under this Ordinance:

- (1) Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non stormwater discharge into the municipal separate storm sewer system (MS4), 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 drainage system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection; and
- (3) Obstruction of Municipal Storm Drainage System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drainage system without prior written approval from the Department of Public Works.

**4. Allowable non-stormwater discharges.** The following activities are allowed without the need for approval from the Planning Board:

- (1) Discharge or flow resulting from fire-fighting activities;
- (2) The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drainage system:
  - i. Waterline flushing;
  - ii. Flow from potable water sources;
  - iii. Springs;
  - iv. Natural flow from riparian habitats and wetlands;
  - v. Diverted stream flow;
  - vi. Rising groundwater;
  - vii. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (i.e., residential sump pumps);

- viii. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- ix. Discharge from landscape irrigation or lawn watering;
- x. Water from individual residential car washing;
- xi. Discharge from dechlorinated residential, public or semipublic swimming pool water (less than one ppm chlorine) and the pool is drained in such a way as not to cause a nuisance;
- xii. Discharge from street sweeping;
- xiii. Dye testing, provided written and verbal notification is given to the Department of Public Works prior to the time of the test;
- xiv. Non-stormwater discharge permitted under a 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
- xv. Discharge for which advanced written approval is received from the Department of Public Works as necessary to protect public health, safety, welfare or the environment.

**5. Discharge of Pollutants – Emergency Response and Action:** The following activities shall be enforced by the Designated Agent (Director of Public Works) without the need for approval from the Planning Board:

- (1) Emergency suspension of municipal storm drainage system access: The Department of Public Works may suspend municipal storm drainage 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 Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- (2) 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, including the following:
  - i. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire and Police Departments, Health Department, and the Department of Public Works;
  - ii. In the event of a release of non-hazardous material, the reporting person shall notify the Department of Public Works no later than the next business day;
  - iii. The reporting person shall provide to the Department of Public Works written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter; and

- iv. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years from the date of the incident.

## **Sec. 6. Permits and Stormwater Management Regulations**

1. The Planning Board, as the Authorized Enforcement Agency, shall administer, implement, and enforce this Ordinance. Any powers granted to or duties imposed upon the Planning Board in this Ordinance may be delegated to designated agent as defined in this Ordinance.
2. The Planning Board may adopt and periodically amend rules and regulations to effectuate the purposes of this Ordinance. Said regulations may include, but shall not be limited to provisions regarding: administration; application requirements and fees; permitting procedures and requirements; design standards; surety requirements; inspection and site supervision requirements; waivers and exemptions; and enforcement procedures. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Ordinance.
  - (1) Adoption of and revisions to regulations may only be made after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least 14 days before the hearing date.
3. The Planning Board shall refer to the criteria and information, including specifications and standards, of the latest edition of the Massachusetts Stormwater Management Policy or to the design criteria as described in the City of Amesbury's Subdivision Rules and Regulations or to the City of Amesbury Stormwater Management and Erosion Control Regulations, whichever is more stringent in the protection of the City's environmental and infrastructure resources, for execution of the provisions of this Ordinance.
4. The Planning Board may waive strict compliance with any requirement of this bylaw or the regulations promulgated hereunder, where such action is:
  - (1) allowed by federal, state or local statutes and/or regulations;
  - (2) in the public interest; and
  - (3) not inconsistent with the purpose and intent of this bylaw and its regulations.

## **Sec. 7. Consultants**

At the applicant's expense, the Planning Board may retain independent consultants as needed to review applications for Stormwater Management Permit and to advise the Board on any and all aspects of a specific project. Independent consultants may include but are not limited to registered professional engineers and environmental site monitors.

## **Sec. 8. Permit Review Procedures**

Projects requiring a stormwater management permit shall be subject to the City of Amesbury Stormwater Management and Erosion Control Regulations promulgated under Section XX-6 of this Ordinance in addition to the procedures as set forth below.

### **1. Application**

- (1) An application package shall be filed with the Planning Board and other departments as specified in the regulations.
- (2) The Planning Board shall review the application for completeness and compliance with this Ordinance and its regulations.

### **2. Public meetings**

- (1) The Planning Board shall hold a public meeting on all applications for stormwater management permits for the purpose of reviewing the application and accepting public input.
- (2) Notice of the public meeting shall be given by posting and by first class mailings to abutters and abutters to abutters within 300 feet of the property line of the project site at least seven days prior to the meeting.
- (3) The Board shall make the application available for inspection by the public during business hours at the City offices.

### **3. Actions**

The Planning Board may:

- (1) Approve the application and issue a permit if it finds that the proposed plan meets the objectives and requirements of this Ordinance and its regulations;
- (2) Approve the application and issue a permit with conditions, modifications, or restrictions that the Board determines meet the objectives and requirements of this Ordinance and its regulations;
- (3) Disapprove the application and deny a permit if the Planning Board finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume; or
- (4) Disapprove the application and deny a permit if it finds that the proposed plan fails to meet the objectives and requirements of this Ordinance or its regulations.

### **4. Time for action by the Board**

- (1) Within 45 days of the filing of an application for a stormwater management permit, the Planning Board or its designated agent shall:
  - i. Evaluate the application to ensure that it is complete prior to distribution;
  - ii. Distribute the complete application to boards and departments for technical review as specified in the regulations; and
  - iii. Arrange agenda time for a public meeting before the Planning Board.
- (2) Within 60 days of the filing of the application, an interdepartmental review shall be held.
  - iv. Following the Interdepartmental review but prior to the Planning Board public meeting, the Department of Public Works or the consultants retained by the Board for review of the stormwater management permit application shall provide a written recommendation for action on the application. Such recommendation shall itemize all instances where the applicant has failed to meet the specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy or of the design criteria as described in the City of Amesbury's Subdivision Rules and Regulations or of the City of Amesbury Stormwater Management and Erosion Control Regulations.

- (3) Within 90 days of the filing of an application for a stormwater management permit, the Planning Board shall hold a public meeting.
- (4) Once begun, the public meeting may not continue for more than 60 days unless such time is extended by written agreement between the applicant and the Board to a date certain announced at the meeting.
- (5) The Planning Board shall take final action within 21 days of the close of the public meeting discussion.

**5. Permit duration**

- (1) All activity permitted by this bylaw must be completed within one year of permit issuance. Extensions of time can be granted by the Planning Board upon formal written request by the applicant. If one year passes without an extension being granted, the Board may revoke the permit.

**6. Certificate of completion**

- (1) The Planning Board shall issue a certificate of completion upon receipt and approval of final reports and documentation as specified in the regulations.

**7. Public record**

- (1) The following documents shall be recorded at the Essex Registry of Deeds at the applicant's expense and proof of recording provided to the Planning Board:
  - i. The stormwater management permit.
  - ii. The approved operation and maintenance plan.
  - iii. The certificate of completion.

**8. Failure to act**

- (1) Upon certification by the City Clerk that the allowed time has passed without the Planning Board's action, failure to take such action shall be deemed to be approval of said application and a stormwater management permit shall be issued.

**9. Appeals of action by the Planning Board**

- (1) A written decision of the Planning Board shall be final when it is executed by the Planning Board and filed in the City Clerk's office. Further relief of a decision by the Planning Board made under this Ordinance shall be in the Superior Court or Land Court in accordance with the applicable law. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.
- (2) No work shall commence until the applicable appeal period has passed with no appeal, per MGL c 249 s 4, or, if an appeal has been filed, the appeal has been finally resolved by adjudication or otherwise.

**Sec. 9. Persons aggrieved**

Any person aggrieved by a decision or action of a designated agent appointed by the Planning Board under Section XX-8, including but not limited to matters regarding completeness of application, inspections, and compliance with technical design criteria, may, within 30 days of such decision or action, request a public meeting with the Planning Board. In such cases, following the decision of the Planning Board, the provisions of Section XX-8.9 shall apply.

## **Sec. 10. Enforcement**

The Planning Board or its designated agent shall enforce this Ordinance and any regulations, orders, violation notices, enforcement orders and permit conditions on behalf of the City, and may pursue all civil and criminal remedies for such violations pursuant thereto.

### **1. Civil Relief:**

If a person violates the provisions of this Ordinance or any regulations, orders, violation notices, enforcement orders and permit conditions issued hereunder, the Planning Board or its designated agent 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.

### **2. Orders**

- (1) The Planning Board or its designated agent may issue a written order to enforce the provisions of this Ordinance and any regulations, orders, violation notices, enforcement orders and permit conditions hereunder, which may include requirements to:
  - i. Cease and desist from construction or land disturbance until there is compliance with this Ordinance, and an approved Stormwater Management Permit, including the stormwater management plan and the erosion and sediment control plan;
  - ii. Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
  - iii. Remediate erosion and sedimentation resulting directly or indirectly from the land-disturbing or construction activity;
  - iv. Maintain, install or perform additional erosion and sediment control measures;
  - v. Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system.
  - vi. Eliminate illicit discharges, connections and/or obstructions to the MS4;
  - vii. Perform monitoring, analyses, and reporting;
  - viii. Cease and desist unlawful discharges, practices, or operations; and
  - ix. Remediate of contamination in connection therewith.
  
- (2) If the Planning Board determines that abatement or remediation of contamination or adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed by the violator or property owner.

### **3. Criminal Penalty**

Any person who violates any provision of this Ordinance and/or any regulations, orders, violation notices, enforcement orders and permit conditions issued hereunder shall be punished by a fine of \$300. Each day or part thereof that such violation occurs or continues to occur by failure to comply with an order or notice from the Planning Board or its designated agent shall constitute a separate violation.

### **4. Non-Criminal Disposition**

As an alternative to criminal prosecution or civil action, the City may elect to utilize the noncriminal disposition procedure set forth in G.L. Ch. 40, § 21D and adopted by the City as a general ordinance in which case the Planning Board or its designate agent shall be the enforcing agency. The penalty for each violation shall be set as follows: a) for the 1st violation (failure to comply with an order or notice) shall be \$100; b) for the 2nd violation shall be \$200; c) for the 3rd and subsequent offenses shall be \$300. Each day or part thereof that such violation occurs or continues to occur shall constitute a separate offense.

**5. Entry to Perform Duties Under this Ordinance**

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 authorized agent and their officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and regulations and may make or cause to be made such examinations, surveys or sampling as the Planning Board deems reasonably necessary.

**6. Lien**

If the Planning Board or its authorized agent undertakes work to correct or mitigate any violation of this Chapter, the Planning Board shall (within thirty (30) days after completing the work) notify the permit holder and the Owner(s) of the property (if different) in writing of the costs incurred by the City of Amesbury, including administrative costs, associated with that work. The permit holder and the property Owner(s) (if different) shall be jointly and severally liable to pay the City of Amesbury those costs within thirty (30) days of the receipt of that notice. The permit holder and the property Owner(s) (if different) 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 notice. If the amount due is not received by the City of Amesbury by the expiration of the time in which to file such a protest, or within sixty (60) after the final decision of the Planning Board or a court of competent jurisdiction resolving that protest, the amount of the City's costs shall be a special assessment against the property and shall constitute a lien on the property pursuant to G.L. c. 40, § 58. Interest shall accrue on any unpaid costs at statutory rate, as provided in G.L. c. 59, § 57.

**Sec. 11. 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 security. The form and amount of any surety shall be determined by the Planning Board, based on the scale and nature of the subject project, to ensure that all work will be completed in accordance with the permit. The surety may not be fully released until the Planning Board has issued a Certificate of Completion and all other requirements stipulated in the Regulations adopted by the Board have been satisfactorily met.

**Sec.12. Severability**

The provisions of this ordinance are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid for any reason, such invalidity shall not affect the other provisions or application of this Ordinance, and all other provisions shall continue in full force and effect.

