

**TOWN OF NORTH ATTLEBOROUGH
STORMWATER MANAGEMENT BYLAW**

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ARTICLE I: GENERAL PROVISIONS

SECTION 1. Purpose

- A. The purpose of this bylaw is to protect the health, safety, general welfare, and environment by regulating illicit connections and discharges to the storm drain system, or to a watercourse or into waters of the Commonwealth, directly or indirectly, as well as to control the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff is potentially a major cause of:
- 1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, groundwater and drinking water supplies;
 - 2) Contamination of drinking water supplies;
 - 3) Contamination of downstream coastal areas;
 - 4) Alteration or destruction of aquatic and wildlife habitat;
 - 5) Overloading or clogging of municipal stormwater management systems; and
 - 6) Flooding.
- B. The objectives of this bylaw are to:
- 1) Protect water resources;
 - 2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;
 - 3) Prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and reduce or eliminate pollutants entering the Town's MS4 from existing uses;
 - 4) Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
 - 5) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
 - 6) 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; and
 - 7) Ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

SECTION 2. Definitions

ADMINISTRATIVE LAND DISTURBANCE REVIEW: Review by Town staff as authorized by the Stormwater Authority.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its

implementing regulations.

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.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Land Disturbance Permit for proposed land-disturbance activity.

AUTHORIZED AGENT: The authorized agent under the Stormwater Authority shall be the Department Head or designated Town Employee.

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.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

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.

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 (P.E.) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff and erosion and sedimentation during pre-construction and construction related land disturbance activities.

GRADING: Changing the level or shape of the ground surface.

GROUNDWATER: Water beneath the surface of the ground.

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 the Stormwater Management Bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system or into a watercourse or waters of the Commonwealth that is not composed entirely of stormwater, except as exempted in Article II, §D(2). The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities exempted pursuant to Article II §D(1) of this bylaw.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. "Impervious surface" includes without limitation roads, paved parking lots, sidewalks, and rooftops.

IMPOUNDMENT: A stormwater pond created by either constructing an embankment or excavating a pit which retains a temporary or permanent pool of water.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing and grading, or results in an alteration of drainage characteristics.

LAND USE OF HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL): Land uses or activities with higher potential pollutant loadings, as defined in the Massachusetts Stormwater Management Standards such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances or marinas.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Stormwater Standards as further defined by the Massachusetts Stormwater Handbook, both issued by the Department of Environmental Protection, and as amended, that coordinate the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L.Ch.131, §40 and Massachusetts Clean Waters Act G.L.Ch.21, §23-56. The Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity and quality of runoff from a site.

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 of North Attleborough.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

STORMWATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

NONSTORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a point source into waters of the Commonwealth.

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

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.

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.

PRE-CONSTRUCTION: All activity in preparation for construction.

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 storm sewer, water works or waters of the Commonwealth. Pollutants shall include but are not limited to:

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

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

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface on previously developed sites. The creation of new areas of impervious surface or new areas of land disturbance on a site constitutes development, not redevelopment, even where such activities are part of a common plan which also includes redevelopment. Redevelopment includes maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and remedial projects specifically designed to provide improved stormwater management such as projects to separate storm drains and sanitary sewers and stormwater retrofit projects.

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-disturbing activities are, were, or will be performed.

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

SOIL: Any earth, sand, rock, gravel, or similar material.

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

STORMWATER: Runoff from precipitation or snow melt and surface water runoff and drainage.

STORMWATER AUTHORITY: Town of North Attleborough Board of Public Works (Article II-Discharges to the Municipal Separate Storm Sewer System) and the Town of North Attleborough Conservation Commission (Article III-Stormwater Management and Land Disturbance) or their authorized agent(s).

STORMWATER MANAGEMENT PLAN (SWMP): A plan required as part of the application for a Land Disturbance Permit.

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

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

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

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

WETLANDS: As specifically defined in the Massachusetts Wetlands Protection Act but generally include tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps & bogs.

SECTION 3. Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the

Massachusetts Constitution, the home rule statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

SECTION 4. Responsibility for Administration

The North Attleborough Board of Public Works, as Stormwater Authority for Discharges to the MS4, shall administer, implement and enforce Article II of this bylaw. The Town of North Attleborough Conservation Commission, as the Stormwater Authority for Stormwater Management and Land Disturbance, shall administer, implement and enforce Article III of this bylaw. Any powers granted to or duties imposed upon the Stormwater Authorities may be delegated in writing by the Stormwater Authorities to their authorized agent(s).

SECTION 5. Waivers

- A. Following a public hearing before the designated Stormwater Authority in accordance with the Stormwater Regulations on a waiver request, the Stormwater Authority may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:
 - 1) such action is allowed by federal, state and local statutes and/or regulations; and
 - 2) is in the public interest; and
 - 3) is not inconsistent 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 the bylaw does not further the purposes or objective of this bylaw.
- C. If in the Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the Stormwater Authority may continue the hearing to a certain date announced at the hearing. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

SECTION 6. Compliance with EPAs General Permit for MS4s in Massachusetts

This Bylaw shall be implemented in accordance with the requirements of EPAs most recent General Permit for MS4s in Massachusetts relating to illicit connections and discharges, construction site runoff, and post-construction stormwater management. The Stormwater Authorities shall include these requirements in any regulations that it issues. The Stormwater Authorities may establish additional requirements by regulation to the further the purposes and objectives of this Bylaw so long as they are not less stringent than those in the MS4 General Permit for Massachusetts.

SECTION 7. Regulations

The Stormwater Authorities may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, once in each of two successive weeks, the first publication being at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authorities to issue such rules, or regulations, or a

legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.

Such regulations, rules or guidance may include without limitation, application requirements for the different levels of administrative review approvals as specified in Article III Section 1. Administrative review applications that meet all the standard requirements may be issued by one or more authorized agents designated in writing by the Stormwater Authority, without the requirement for a public hearing as detailed in Article III of this bylaw. Administrative review approval shall comply with all other provisions of this bylaw.

SECTION 8. Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

ARTICLE II: DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) AND TO WATERCOURSES OR WATERS OF THE

COMMONWEALTH

SECTION 1. Applicability

Article II of this bylaw shall apply to all discharges of water entering the municipally owned storm drainage system or going, directly or indirectly, into a watercourse, or into the waters of the Commonwealth, that is generated on any developed or undeveloped lands except as explicitly exempted in this bylaw or where the Stormwater Authority (Board of Public Works) has issued a waiver in accordance with Article I Section 5.

SECTION 2. Prohibited Activities; Exemptions

- A. Illicit discharges. No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), onto an impervious surface directly connected to the MS4, or, directly or indirectly, into a watercourse or into the waters of the Commonwealth.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstructions of the municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written consent from the Board of Public Works.
- D. Exemptions.
 - 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 drain system or, directly or indirectly, into a watercourse or into the waters of the Commonwealth:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources, with the exception of landscape irrigation and lawn watering;
 - (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 (e.g. sump pump) discharging in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Board of Public Works. Sump pumps that are installed and discharge clean, uncontaminated ground water into the MS4 at the time of adoption of this bylaw shall be considered permitted. Any new sump pump installed after the effective date of this bylaw shall require a permit from the Board of Public Works prior to discharge to the MS4 and thereafter shall

discharge in accordance with the requirements of the permit and applicable laws and regulations to be adopted by the Stormwater Authority.

- (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- (i) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (j) Discharge from street sweeping;
- (k) Dye testing, provided verbal notification is given to the Stormwater Authority prior to the time of the test;
- (l) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (m) Discharge for which advanced written approval has been received from the Board of Public Works as necessary to protect public health, safety, welfare or the environment.

SECTION 3. Additional Prohibited Pollutants

Pet Waste: Dog feces is a major component of stormwater pollution; it shall be the duty of each person who owns, possesses, or controls a dog to remove and properly dispose of any feces left by the dog on any public or private property neither owned nor occupied by said person. It is prohibited to dispose of dog feces in any public or private storm drain, catch basin, wetland, or water body or on any paved or impervious surface. For specific requirements see General Bylaw Article X Section 6 Animal Control Regulations. For penalties for violations, see Article XXI.

SECTION 4. Emergency Suspension of Storm Drainage System Access

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

SECTION 5. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Municipal Fire and Police Departments. In the event of a release of nonhazardous

material, the reporting person shall notify the authorized enforcement agency no later than the next business day. The reporting person shall provide to the Stormwater Authority written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 6. Enforcement

The Board of Public Works or its authorized agent shall enforce Article II of this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations. The Town may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

A. Orders of the Stormwater Authority.

- 1) The Board of Public Works or its authorized agent may issue a written order to enforce the provisions of this bylaw or any regulations thereunder, which may include:
 - (a) Elimination of illicit connections or discharges to the MS4;
 - (b) Performance of monitoring, analyses, and reporting;
 - (c) That unlawful discharges, practices, or operations shall cease and desist;
 - (d) That measures shall be taken to minimize the discharge of pollutants until such time as the illicit connection shall be eliminated; and
 - (e) Remediation of contamination in connection therewith.
- 2) Said orders shall specify a deadline by which the required action shall be completed and the Board of Public Works or its authorized agent may further advise that, should the violator or property owner fail to perform the required action or remediation within the specified deadline, the Town may, at its option, undertake such work, at the owner and/or violator's sole costs and expense, that it deems necessary to protect public health, safety and welfare. The property owner may file an appeal to the Board of Public Works of any order to enforce within 30 days of receipt of the notification unless superseded by a Department of Environmental Protection Enforcement Order.
- 3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator or 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 appeal objecting to the amount or basis of costs with the Board of Public Works within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal or within 30 days following a decision of an appeal by the Board of Public Works 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 M.G.L. Ch.59, §57 after the 31st day at which the costs first become due.

- B. Civil relief. If a person violates the provisions of this bylaw, or any associated regulations, permit, notice, or order issued thereunder, the Board of Public Works 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. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- D. Non-Criminal Disposition. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as set forth in M.G.L. Ch.40, §21D and in the revised Bylaws of the Town of North Attleborough Article XXI. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- E. Entry to perform duties under this bylaw. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Board of Public Works or, its authorized agent may enter upon privately owned property for the purpose of performing their enforcement duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Public Works deems reasonably necessary.
- F. Appeals. The decisions and orders of the Board of Public Works in enforcement of Article II of this bylaw shall be final, subject to the appeal process as set out in Section 6.A.2 and 3. Further relief shall be to a court of competent jurisdiction pursuant to M.G.L. Ch.249, §4, M.G.L. Ch.30A, §14

SECTION 7. Transitional Provisions

Residential property owners with illicit discharges, illicit connections and/or obstructions to the MS4 shall have a period of 90 days from the effective date of this bylaw to remove such illicit discharges, connections and/or obstructions, unless immediate removal is required for the protection of public health, safety, welfare or the environment. The Board of Public Works may extend the time for compliance by regulation or by waiver in accordance with Section 6 of this bylaw.

ARTICLE III: STORMWATER MANAGEMENT AND LAND DISTURBANCE

SECTION 1. Applicability

Article III of this bylaw shall apply to all construction and land disturbance activities that result in disturbance of 20,000 square feet of land or more. No person shall perform any activity that results in disturbance of 20,000 square feet of land or more without written approval or a permit from the Stormwater Authority (Conservation Commission) or as otherwise provided in this bylaw. Any person that fails to follow the requirements of the Land Disturbance Permit and related Erosion and Sediment Control Plan and Operation and Maintenance Plan shall be in violation of the Town of North Attleborough Bylaws.

- A. There are two levels of reviews based on the amount of proposed land to be disturbed as part of a single project and they are as follows:
- 1) Administrative Land Disturbance Review is required for projects disturbing between 20,000 square feet and 40,000 square feet of land. Administrative review shall be conducted by the authorized agent(s) of the Conservation Commission.
 - 2) A Land Disturbance Permit is required for disturbance of 40,000 square feet of land or greater or for a proposed use that is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards.
- B. Exemptions:
- 1) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling conducted in such a way as not to cause a nuisance;
 - 2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - 3) Construction of utilities other than drainage (gas, water, sewer, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment to the MS4;
 - 4) Normal maintenance and improvement of land in agricultural or aquacultural use;
 - 5) Disturbance or redevelopment of land that is subject to jurisdiction under the Massachusetts Wetlands Protection Act that demonstrates compliance with the Massachusetts Stormwater Management Standards and the Stormwater Regulations promulgated by the Stormwater Authority as reflected in a valid Order of Conditions issued by the Conservation Commission;
 - 6) Disturbance or redevelopment of land subject to Site Plan, Definitive Subdivision, or Special Permit approval from the Planning Board (and not the Conservation Commission) that demonstrates compliance with the Massachusetts Stormwater Management Standards and the Stormwater Bylaw and Regulations promulgated to implement this bylaw; and
 - 7) Emergency repairs to existing roads or their drainage systems, or to any stormwater management facility that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission.

SECTION 2. Approval and/or Permit

An applicant seeking an approval and/or permit shall file an appropriate application with the Conservation Commission in a form and containing information as specified in this bylaw and in regulations promulgated by the Conservation Commission. Approval or permit must be obtained prior to the commencement of land disturbing or redevelopment activities based on the thresholds described in Section 1.A.

SECTION 3. Entry

Filing an application for review or permit grants the Conservation Commission and its authorized agent's permission to enter the site to verify the information contained in the application and to conduct its administrative duties under this bylaw.

SECTION 4. Inspection and Site Supervision

The Conservation Commission or its designated agent shall make inspections of the work subject to this bylaw to determine compliance with the bylaw and regulations and orders of the Stormwater Authority.

SECTION 5. Surety

The Conservation Commission may require the applicant 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 the Conservation Commission and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond as each phase is completed in compliance with the permit.

SECTION 6. Final Reports

- A. Administrative Land Disturbance Review: Upon completion of work, the applicant shall submit a written notice to the Conservation Commission with photographic evidence that the work has been completed in accordance with the approved plan.
- B. Land Disturbance Permit: Upon completion of work, the applicant shall submit a Final Report to the Conservation Commission, including a topographical as-built plan stamped by a MA Professional Land Surveyor (PLS) and a MA Registered Professional Engineer (P.E.) as applicable, certifying that the site has been developed in substantial compliance with the approved plan including all permanent erosion control devices, stormwater management facilities and, any approved changes and modifications. Any discrepancies from the approved plan should be noted in the cover letter. The final report shall also include documentation to verify the stormwater management system has been properly operated and maintained in accordance with the approved O&M Plan.

SECTION 7. Enforcement

The Conservation Commission or its authorized agent shall enforce Article III of this bylaw and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations. The Town may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

- A. Orders of the Stormwater Authority

- 1) The Conservation Commission or its authorized agent may issue a written order to enforce the provisions of this bylaw or any regulations thereunder, which may include:
 - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the Land Disturbance 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 the land-disturbing activity;
 - (e) A requirement to eliminate discharges, directly or indirectly, into a watercourse or into waters of the Commonwealth.
 - 2) Said orders shall specify a deadline by which the required action shall be completed and the Conservation Commission or its designee may further advise that, should the violator or property owner fail to perform the required action or remediation within the specified deadline, the Town may, at its option, undertake such work, at the owner and/or violator's sole cost and expense, that it deems necessary to protect public health, safety and welfare. The property owner may appeal to the Conservation Commission any order to enforce within 30 days of receipt of the notification unless superseded by a Department of Environmental Protection Enforcement Order.
 - 3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written appeal objecting to the amount or basis of costs with the Conservation Commission within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal or within 30 days following a decision of an appeal by the Conservation Commission 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 M.G.L. Ch.59 §57 after the 31st day at which the costs first become due.
- B. Civil relief. If a person violates the provisions of this bylaw, or any associated regulations, permit, notice, or order issued thereunder, the Conservation Commission 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. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, permit, approval or order issued there under, may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each

violation or offense shall be three hundred dollars (\$300). Each day such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

- D. Non-Criminal Disposition. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as an alternative to criminal prosecution or civil action, the Town of North Attleborough may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch.40, §21D and in the revised Bylaws of the Town of North Attleborough Article XXI. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- E. Entry to perform duties under this bylaw. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Conservation Commission, or its authorized agent may enter upon privately owned property for the purpose of performing their enforcement duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary.
- F. Appeals. The decisions and orders of the Conservation Commission in enforcement of Article III of this bylaw shall be final, subject to the appeal process as set out in Section 7.A.2 and .3. Further relief shall be to a court of competent jurisdiction pursuant to M.G.L. Ch.249, §4, M.G.L. Ch.30A, §14.