

## **Chapter 175**

### **STORMWATER MANAGEMENT**

**[HISTORY: Adopted by the Town Meeting of the Town of Charlton 5-16-2011 ATM by Art. 20. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Earth removal — See Ch. 130.  
Hazardous waste — See Ch. 145.  
Zoning — See Ch. 200.  
Subdivision of land — See Ch. 210.

#### **ARTICLE I**

#### **Stormwater Management and Erosion Control**

##### **§ 175-1. Purpose.**

- A. The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Charlton water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.
- B. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:
  - (1) Impairment of water quality and decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  - (2) Contamination of drinking water supplies;
  - (3) Erosion of stream channels;
  - (4) Alteration or destruction of aquatic and wildlife habitat;
  - (5) Flooding; and
  - (6) Overloading or clogging of municipal catch basins and storm drainage systems.
- C. The objectives of this bylaw are to:
  - (1) Protect water resources;
  - (2) Require practices that eliminate soil erosion and sedimentation;

- (3) Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
- (4) Require practices to manage and treat stormwater runoff generated from new development and redevelopment;
- (5) Protect groundwater and surface water from degradation or depletion;
- (6) Promote infiltration and the recharge of groundwater;
- (7) Prevent pollutants from entering the municipal storm drainage system;
- (8) Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
- (9) Ensure adequate long-term operation and maintenance of stormwater best management practices;
- (10) Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
- (11) Comply with state and federal statutes and regulations relating to stormwater discharges; and
- (12) Establish the Town of Charlton's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring and enforcement.

**§ 175-2. Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

**ABUTTER** — The owner(s) of land abutting the land disturbance site.

**AGRICULTURE** — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00).

**ALTERATION OF DRAINAGE CHARACTERISTICS** — Any activity on an area of land that changes the water quality, or the force, quantity, 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" as defined below requesting a stormwater and erosion control permit for proposed land-disturbance activity.

**AUTHORIZED ENFORCEMENT AGENCY** — The Conservation Commission and its employees or agents will be in charge of enforcing the requirements of this bylaw.

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

**CLEARING** — Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

**CONSTRUCTION AND WASTE MATERIALS** — 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.

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

**DISTURBANCE OF LAND** — Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

**ENVIRONMENTAL SITE MONITOR** — A professional engineer or other trained professional selected by the Conservation Commission and retained by the holder of a stormwater and erosion control permit to periodically inspect the work and report to the Conservation Commission.

**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 narrative, drawings and details developed by a registered professional engineer (P.E.) or a certified professional in erosion and sediment control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction-related land disturbance activities. If a project requires a stormwater pollution prevention plan (SWPPP) per the NDPES General Permit for Stormwater Discharges from Construction Activities (and as amended), the applicant may submit the SWPPP for review as an equal to the erosion and sediment control plan.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS** — Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

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

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

**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. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

**LAND-DISTURBING ACTIVITY or LAND DISTURBANCE** — Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**LOT** — An area or parcel of land or any part thereof, in common ownership, designated on a plan filed with the administration of the Zoning Bylaw by its owner or owners as a separate lot.

**MASSACHUSETTS ENDANGERED SPECIES ACT** — MGL c. 131A and its implementing regulations at 321 CMR 10.00 which prohibit the "taking" of any rare plant or animal species listed as endangered, threatened, or of special concern.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY** — The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 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.

**MUNICIPAL STORM DRAINAGE SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Charlton.

**NON-POINT SOURCE** — Diffuse sources of pollutants that affect water quality and are or may be contained in runoff that is discharged into waters of the Commonwealth.

**OPERATION AND MAINTENANCE PLAN** — A plan describing 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 discernible, confined point source or discrete conveyance into waters of the Commonwealth.

**OUTSTANDING RESOURCE WATERS (ORWS)** — Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

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

**PERMITTEE** — The person who holds a stormwater and erosion control permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

**PERSON or PERSONS** — Any 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.

**PRIORITY HABITAT OF RARE SPECIES** — Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

**REDEVELOPMENT** — Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface that results in no net impervious area increase.

**RESPONSIBLE PARTIES** — Owner(s), persons with financial responsibility, and persons with operational responsibility.

**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** — Earth materials including duff, humic materials, sand, rock and gravel.

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

**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 registered professional engineer (P.E.), which includes structural and nonstructural best management practices to manage and treat stormwater runoff 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. The stormwater management plan shall comply with all applicable Mass. DEP and Federal EPA requirements.

**STORMWATER MANAGER** — The Conservation Commission will serve in this capacity.

**STRIP** — Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**TSS** — Total suspended solids, material, including but not limited to trash, debris, soils, sediment and sand suspended in stormwater runoff.

**VERNAL POOLS** — Confined basin depression which, at least in most years, holds water for a minimum of two (2) continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within one hundred (100) feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Mass. Division of Fisheries and Wildlife.

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

**WETLAND RESOURCE AREA** — Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40.

**WETLANDS** — Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five (5) months of the year; emergent and submergent communities in inland waters; that portion of any bank which touches any inland water.

#### **§ 175-3. 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 the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

#### **§ 175-4. Applicability.**

This bylaw shall apply to all land-disturbing activities within the jurisdiction of the Town of Charlton that results in land disturbance of forty-three thousand five hundred sixty (43,560) square feet [one (1) acre] or more.

A. Regulated activities. Regulated activities shall include, but not be limited to:

- (1) Land disturbance of greater than forty-three thousand five hundred sixty (43,560) square feet, associated with construction or reconstruction of structures.
- (2) Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs forty-three thousand five hundred sixty (43,560) square feet or more of land.

- (3) Paving or other change in surface material over an area of forty-three thousand five hundred sixty (43,560) square feet or more causing a significant reduction of permeability or increase in runoff.
  - (4) Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than forty-three thousand five hundred sixty (43,560) square feet.
  - (5) Any other activity altering the surface of an area exceeding forty-three thousand five hundred sixty (43,560) square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drainage system.
- B. Exempt activities. The following activities are exempt from the requirements of this bylaw:
- (1) Normal maintenance and improvement of Town-owned public ways and appurtenances.
  - (2) Normal maintenance and improvement of land in agricultural use.
  - (3) Repair of septic systems when required by the Board of Health for the protection of public health.
  - (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.) that will not alter terrain or drainage patterns.

**§ 175-5. Administration.**

- A. The Charlton Conservation Commission shall administer this bylaw. Any powers granted to or duties imposed upon the Conservation Commission may be delegated in writing to its agent.
- B. The Conservation Commission and its agents shall review all applications for a stormwater and erosion control permit, conduct inspections, issue a final permit and conduct any necessary enforcement action. Following receipt of a completed application, the Conservation Commission shall seek review and comments from the Planning Board and the Highway Department. The Conservation Commission shall not make a decision on the stormwater and erosion control permit until it has received comments from the Planning Board and Highway Department or until fourteen (14) days have elapsed after receipt of the application materials without submission of comments thereon.
- C. The Conservation Commission may adopt and periodically amend stormwater regulations relating to receipt and content of stormwater and erosion control permit applications; review time periods, permit terms, conditions, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this bylaw by majority vote of the Conservation

Commission, 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 seven (7) days before the hearing date. After public notice and hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

- D. The Conservation Commission will refer to the policy, criteria and information, including specifications and standards of the latest edition of the *Massachusetts Stormwater Management Policy* for execution of the provisions of this bylaw.
- E. The applicant will publish a notice in the local newspaper that the Conservation Commission is accepting comments on the stormwater and erosion control permit application. The stormwater and erosion control permit application shall be available for inspection by the public during normal business hours at the Town Hall for five (5) business days from the notice. A public hearing is not required. The public may submit their comments within the time that the stormwater and erosion control permit application is available for inspection. Comments may be submitted to the Conservation Commission during business hours.
- F. Filing an application for a stormwater and erosion control permit grants the Conservation Commission, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- G. The Conservation Commission may:
  - (1) Approve the application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this bylaw;
  - (2) Approve the application and issue a permit with conditions, modifications, requirements for operation and maintenance requirements of permanent structural BMPs, designation of responsible party, or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and will meet the objectives and requirements of this bylaw; or
  - (3) Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this bylaw. If the Conservation Commission 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, the Conservation Commission may disapprove the application, denying a permit.
- H. The Conservation Commission shall take final action on an application within thirty (30) days from submission. Failure to take action shall be deemed to be approval of said application.



- I. Appeals of action by the Conservation Commission. A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this bylaw shall be reviewable in the Superior Court in an action filed within ten (10) days thereof. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**§ 175-6. Permits and procedures.**

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 175-4 of this bylaw.

**§ 175-7. Fees.**

The Conservation Commission shall establish fees to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover Town secretarial staff and professional staff. The Conservation Commission is also authorized to retain and charge the applicant fees to cover a registered professional engineer or other professional consultant to advise the Conservation Commission on any or all aspects of the project. The applicant for a stormwater and erosion control permit may be required to establish and maintain an escrow account to cover the costs of said consultants. Applicants must pay review fees to the Conservation Commission before the review process may begin.

**§ 175-8. Surety.**

The Conservation Commission may require the permittee to post, before the start of land disturbance 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 Conservation Commission to insure 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, but the bond may not be fully released until the Conservation Commission has received the final report as required in the regulations and issued a certificate of completion.

**§ 175-9. Waivers.**

- A. The Conservation Commission may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action:
  - (1) Is allowed by federal, state and local statutes and/or regulations;
  - (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 objectives of this bylaw.

- C. All waiver requests shall be discussed and a decision will be made by the Conservation Commission within thirty (30) days of receiving the waiver request.
- D. If, in the Conservation Commission's opinion, additional time or information is required for review of a waiver request, the Conservation Commission may continue a consideration of the waiver request to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

**§ 175-10. Enforcement.**

- A. The Conservation Commission or its authorized agent shall enforce this bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders. The Conservation Commission or its authorized agent may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
  - (1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw or provisions of the stormwater and erosion control permit;
  - (2) Maintenance, installation or performance of additional erosion and sediment control measures;
  - (3) Monitoring, analyses, and reporting;
  - (4) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
  - (5) Compliance with the operation and maintenance plan.
  - (6) If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Charlton may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.
  - (7) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator (if different than the property owner) and the property owner shall be notified of the costs incurred by the Town of Charlton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission 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 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, as provided in MGL c. 59, § 57, after the thirty-first (31st) day following the day on which the costs were due.

- C. Criminal penalty. 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 three hundred dollars (\$300). Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.
- D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Charlton may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, which has been adopted by the Town in Chapter 10, Penalties, Article I, of the General Bylaws, in which case the Conservation Commission or authorized agent shall be the enforcing person. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Tax liens. The Town of Charlton shall require the repayment of services provided to the responsible party which the responsible party was obligated to perform as put forth in the operation and maintenance plan. Such services may include but are not limited to the following: removing sediment from stormwater devices, repairing stormwater devices or revegetating stormwater devices. The Town will send the responsible party a bill for services provided. If the bill is not paid, the Town may impose a tax lien on the responsible party or parties' property.

#### **§ 175-11. 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 II Illicit Discharges**

#### **§ 175-12. Purpose.**

- A. 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. 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 drainage system is necessary for the protection of the Town of Charlton's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town.

B. The objectives of this bylaw are:

- (1) To prevent pollutants from entering the Town of Charlton's municipal storm drainage system;
- (2) To prohibit illicit connections and unauthorized discharges to the municipal storm drainage 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 for the Town of Charlton to ensure its compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

**§ 175-13. Definitions.**

For the purposes of this bylaw, the following definitions shall apply:

**CLEAN WATER ACT** — Often referred to as the "CWA," the Clean Water Act is found in the Federal Water Pollution Control Amendment of 1972 (33 U.S.C. § 1251 et seq.), with subsequent amendments.

**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 from any source.

**GROUNDWATER** — Water beneath the surface of the ground, including confined or unconfined aquifers.

**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 bylaw.

**ILLICIT DISCHARGE** — Direct or indirect discharge to the municipal storm drainage system that is not composed entirely of stormwater, except as exempted in § 175-18. The term does not include a discharge regulated and in compliance with its own separate NPDES stormwater discharge permit or a surface water discharge permit, or resulting from fire-fighting activities exempted pursuant to § 175-18B of this bylaw.

**MUNICIPAL STORM DRAINAGE SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Charlton.

**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-POINT SOURCE** — Diffuse sources of pollutants that affect water quality and are or may be contained in runoff that is discharged into waters of the Commonwealth.

**NON-STORMWATER DISCHARGE** — Discharge to the municipal storm drainage system not composed entirely of stormwater.

**PERSON or PERSONS** — Any 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.

**POLLUTANT** — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heat, or other matter, whether originating at a point or nonpoint source, that is considered toxic to humans or the environment. Pollutants shall include, but not be limited to:

- (1) Paints, varnishes, and solvents;
- (2) Automotive oil and other fluids;
- (3) Cleaning products and other hazardous and nonhazardous liquids.
- (4) Solid waste, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) Fats and oils and grease;
- (6) Yard waste, pesticides, herbicides, and fertilizers;
- (7) Poisons, hazardous materials and wastes;
- (8) Sewage, fecal coliform and pathogens;
- (9) Dissolved and particulate metals;
- (10) Pet and animal wastes;
- (11) Rock; sand; salt, soils;
- (12) Construction wastes and residues; and
- (13) Noxious or offensive matter of any kind.

**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.

**SANITARY SEWER** — The system of conveyances designed or used for collecting or conveying domestic and industrial wastewater, owned or operated by the Town of Charlton.

**STORMWATER** — Runoff from precipitation or snow melt.

**SURFACE WATER DISCHARGE PERMIT** — A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**TOXIC OR HAZARDOUS MATERIAL OR WASTE** — Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 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, byproduct or waste product.

**WATERCOURSE** — A natural or man-made channel through which water flows, or a stream of water, including, but not limited to, a river, brook or underground stream.

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

#### **§ 175-14. Applicability.**

This bylaw shall apply to all flows and dumping to the municipal storm drainage system, waters of the Commonwealth and adjoining land areas that drain to waters of the Commonwealth in the Town of Charlton.

#### **§ 175-15. 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 the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

#### **§ 175-16. Administration.**

The Conservation Commission shall administer, implement and enforce this bylaw. Any powers granted to the Conservation Commission may be delegated in writing to its designated agent.

**§ 175-17. Regulations.**

The Conservation Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

**§ 175-18. Prohibited and exempt activities.**

**A. Prohibited activities.**

- (1) Illicit discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drainage system, into a watercourse, or into the waters of the Commonwealth.
- (2) Illicit connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drainage system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- (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 Conservation Commission or its agent.

**B. Exemptions.**

- (1) Discharge or flow resulting from fire-fighting activities;
- (2) 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 drainage 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 (1) ppm chlorine], provided test data is submitted to the Town substantiating that the water meets the one (1) 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 verbal notification is given to the Conservation Commission 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 Conservation Commission as necessary to protect public health, safety, welfare or the environment.
- (3) 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 Charlton Town Administrator, Board of Selectmen or Board of Health.

**§ 175-19. Registration of sump pumps.**

The owner of a sump pump discharging to the municipal storm drainage system shall register the discharge with the Conservation Commission by February 1, 2012. Procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 175-17 of this bylaw.

**§ 175-20. Emergency suspension of storm drainage system access.**

The Conservation Commission 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 Conservation Commission may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.



**§ 175-21. 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. Procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 175-17 of this bylaw.

**§ 175-22. Enforcement.**

- A. Authorized agent. The Conservation Commission or its authorized agent shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil relief. If a person violates the provisions of this bylaw, 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. Orders.
  - (1) The Conservation Commission or its authorized agent may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
    - (a) Elimination of illicit connections or discharges to the municipal storm drainage system;
    - (b) Performance of monitoring, analyses, and reporting;
    - (c) That unlawful discharges, practices, or operations shall cease and desist; and
    - (d) Remediation of contamination in connection therewith.
  - (2) 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 of Charlton may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.
  - (3) 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 Conservation Commission 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 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 MGL c. 59, § 57, after the thirty-first (31st) day at which the costs first become due.

- D. Criminal penalty. 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 three hundred dollars (\$300). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Charlton may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Conservation Commission or its authorized agent shall be the enforcing person. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. 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 Conservation Commission, its agents, officers, and employees 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 Conservation Commission deems reasonably necessary.
- G. Appeals. The decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.
- H. 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.

#### **§ 175-23. 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.

#### **§ 175-24. Transitional provisions.**

Residential property owners shall have sixty (60) days from the effective date of the bylaw to comply with its provisions or petition the Conservation Commission for an extension.