

SECTION 8-500 STORMWATER MANAGEMENT

8-501 STORMWATER MANAGEMENT

8-501.1.0 General Provisions

8-501.1.1 Title, Purpose, and Intent

- A. This Section shall be known as the Stormwater Management By-law of the Town of Southbridge (the "By-law") and may be so cited.
- B. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of: impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; flooding; and overloading or clogging of municipal catch basins and storm drainage systems.
- C. Regulation of illicit discharges and land disturbance activities contributing contaminated stormwater runoff to the municipality's storm drain system is necessary for the protection of the municipality's water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment. This By-law is required to meet all applicable federal and state requirements of the Town's National Pollutant Discharge Elimination System Small Municipal Separate Storm Sewer Systems General Permit, commonly known as the "NPDES MS4 permit."
- D. The purposes, objectives, and intent of this By-law are as follows:
 1. To prevent pollutants from entering the municipality's storm drainage system and waters of the Commonwealth of Massachusetts;
 2. To establish an Authorized Enforcement Agency to promulgate, adopt, implement, enforce and amend stormwater regulations;
 3. To prohibit non-stormwater and unauthorized discharges, connections and obstructions to the municipal storm drainage system;
 4. To require the removal of all such illicit discharges, connections and/or obstructions;
 5. To comply with state and federal statutes and regulations relating to stormwater discharges;
 6. To establish procedures to regulate construction and post-construction stormwater runoff management from new development and redevelopment; and
 7. To establish legal authority to ensure compliance with the provisions of this By-law through inspection, monitoring, and enforcement.

8-501.1.2 Definitions

- A. The terms used in this By-law shall have the following meanings:
1. ALTERATION OF DRAINAGE CHARACTERISTICS: Any land disturbing activity, as defined herein, 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.
 2. AUTHORIZED ENFORCEMENT AGENCY: The Director of Public Works and/or his/her designees, who have the authority to enforce the Stormwater Management By-law and the Stormwater Management Rules & Regulations.
 3. CLEAN WATER ACT: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
 4. CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.
 5. COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities are occurring under one plan.
 6. CRITICAL AREA: A geographical area which has been identified by the Town, the Massachusetts Department of Environmental Protection, or the United States Environmental Protection Agency as being an area with high potential for causing stormwater pollution, and has its geographical limits defined in the Stormwater Rules & Regulations promulgated in accordance with *Subsection 8-501.1.7* of this By-law.
 7. DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.
 8. DIRECTOR: The Director of the Department of Public Works.
 9. DISCHARGE: The addition from any source of any substance or combination of substances into the municipal storm drain system or into the waters of the United States or Commonwealth.
 10. DISCHARGER: The person or party responsible for a discharge.
 11. 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.

12. GRADING: Changing the level or shape of the ground surface.
13. GROUNDWATER: Water beneath the surface of the ground.
14. GRUBBING: The act of clearing land surface by digging up roots and stumps.
15. ILLICIT CONNECTIONS: An illicit connection is defined as either of the following:
 - (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the municipal storm drain system, including but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the municipal storm drain system, and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the municipal storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Town.
16. ILLICIT DISCHARGE: Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as exempted in *Subsection 8-501.2.2* of this By-law.
17. 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, roof tops, and solar panels. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 0.85
18. LAND-DISTURBING ACTIVITY, LAND DISTURBANCE, or DISTURBANCE of LAND: Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.
19. MASSACHUSETTS STORMWATER POLICY – The Policy and guidance Handbook 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 §§ 23-56. 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. The Handbook provides detailed guidance on the Policy.

20. MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):
The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.
21. MUNICIPALITY: Refers to the Town of Southbridge.
22. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMITS: General, group, and individual stormwater discharge permits issued by the United States Environmental Protection Agency which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act.
23. NON-STORMWATER DISCHARGE: Any discharge to the municipal storm drain system that is not composed entirely of stormwater.
24. OWNER: A party with a legal or equitable interest in property.
25. PARTY or PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, legal entity, agency, public or quasi-public body, authority, department, or political subdivision of the Town, the Commonwealth, or the federal government, to the extent permitted by law, and any officer, employee, or agent of such party or person.
26. PLAN: Any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot.
27. POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.
28. POLLUTION: The human-made or human-induced alteration of the quality of waters by pollutants to a degree which unreasonably affects, or has the potential to unreasonably

- affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.
29. RECHARGE: The replenishment of underground water reserves.
 30. REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.
 31. RESPONSIBLE PARTY(IES) or PERSON(S): owner(s), persons with financial responsibility, and persons with operational responsibility.
 32. RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.
 33. SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.
 34. SEDIMENTATION: The process or act of deposition of sediment.
 35. SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.
 36. SLOPE: The incline of a ground surface expressed as a ratio of vertical distance to horizontal distance.
 37. SOIL: Earth materials including duff, humic materials, sand, rock, gravel or similar materials.
 38. STORMWATER: Any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.
 39. STORMWATER ADVISORY TEAM: A team consisting of the Director of Public Works, the Deputy Director of Public Works, the Town Planner, the Conservation Agent, the Director of Inspection Services, and a citizen member appointed by the Town Manager. Any member acting in their capacity as a Town employee may elect to send a qualified delegate in their place. The purpose of the Stormwater Advisory Team is to advise the Authorized Enforcement Agency on Stormwater Management matters. Their decisions shall be non-binding.
 40. STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.
 41. 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.
 42. TOWN: Town of Southbridge, Massachusetts.

- 43. VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species or as defined in the Town's Wetlands By-law.
- 44. WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
- 45. 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, groundwaters, and vernal pools.
- 46. WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act MGL c. 131 § 40 and in the Town's Wetlands By-law (if applicable).
- 47. WETLANDS: Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to MGL c. 131 § 40 and 310 CMR 10.00 et seq.

8-501.1.3 Authority and Responsibility for Enforcement

- A. This By-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act (MGL c. 43B), the Town Charter, MGL c. 40 § 21, pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and any other enabling authority available to the Town.
- B. The Director of Public Works or an authorized agent thereof (hereafter known as the Authorized Enforcement Agency), shall administer, implement, and enforce the provisions of this By-law, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- C. The Authorized Enforcement Agency shall have the authority to seek remedies, as described within the stormwater regulations, to enforce this By-law, its regulations and/or the terms and conditions of its permit.
- D. Any person found to be violating any of the provisions of this By-law and regulations promulgated by the Authorized Enforcement Agency pursuant to the authority granted by this By-law and by any and all applicable federal, state or local laws, regulations or rules shall be subject to enforcement action, as described within the stormwater regulations. Each day in which any such violation continues shall be deemed a separate offense.
- E. Any person found to be violating any of the provisions of this By-law and regulations promulgated by the Authorized Enforcement Agency pursuant to the authority granted by this By-law and by

any and all applicable federal, state or local laws, regulations or rules shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

- F. Any person receiving notice of an enforcement action may appeal the determination of the Authorized Enforcement Agency. Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under *Subsection 8-501.1.7* of this By-law.

- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Authorized Enforcement Agency may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40 § 21D and Town By-law 1-111 Schedule of Penalties D through F, to be enforced by an officer of the Southbridge Police Department. The penalty for the 1st violation in one calendar year shall be \$250. The penalty for the 2nd violation of the same provision within the same calendar year shall be \$275. The penalty for the 3rd and subsequent violations of the same provision within the same calendar year shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8-501.1.4 Applicability

- A. This By-law shall apply to every user of the municipal storm drainage system, including dischargers to the municipal storm drainage system and to the waters of the Commonwealth of Massachusetts, and shall also apply to any land-disturbing activity within the Town of Southbridge where land disturbance is undertaken on a single property or as part of a larger common plan of development or sale that results in total cumulative disturbance of one acre or more of land, or:
 - 1. Total cumulative added impervious surface meets or exceeds 5,000 square feet
 - 2. Land disturbance totals a volume of over 1,000 cubic yards of soil
 - 3. Project occurs in a Critical Area
 - 4. Land disturbance occurs in sloped areas (15% slope or greater)
 - 5. Imperviousness is increased to >50% of parcel area

- B. The following land disturbance activities are exempt from the requirements of this By-law:
 - 1. Normal maintenance and improvement of municipal-owned public ways and related infrastructure.
 - 2. Normal maintenance of land in agricultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.04.

3. Repair or replacement of septic systems when required by the Board of Health for the protection of public health.
4. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage characteristics.
5. The construction of fencing that will not alter existing terrain or drainage patterns.
6. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
7. Activities conducted in accordance with an approved Massachusetts Department of Conservation and Recreation Forest Stewardship Plan.
8. Regular and approved maintenance of Stormwater Management structures.
9. Emergency work to protect life, limb, or property.

8-501.1.5 Ultimate Responsibility of Discharger

- A. The standards set forth herein and promulgated pursuant to this By-law are minimum standards. This By-law does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the Commonwealth caused by said person. This By-law shall not create liability on the part of the municipality, or any agent or employee thereof for any damages that result from any discharger's reliance on this By-law or any administrative decision lawfully made thereunder.

8-501.1.6 Authority to Enter, Inspect, Sample, Establish Sampling Devices, and Test

- A. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Authorized Enforcement Agency, or other agents, officers, and employees of the Department of Public Works may enter upon privately owned property for the purpose of performing their duties under this By-law and may make or cause to be made such examinations, surveys or sampling as the Authorized Enforcement Agency deems reasonably necessary. During any inspection as provided herein, the Authorized Enforcement Agency may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.
- B. The Authorized Enforcement Agency may require by written notice that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to

stormwater pollution, Illicit Discharges, and/or non-stormwater discharges to the Municipal Storm Drain System or waters of the Commonwealth, undertake at said person's expense such monitoring and analyses and furnish such reports to the Town as deemed necessary to determine compliance with this Authorized Enforcement Agency.

- C. The Authorized Enforcement Agency may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- D. Filing an application for a Stormwater Management Permit grants the Authorized Enforcement Agency and his/her designees, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.

8-501.1.7 Regulations

- A. Under the powers granted by Chapter 6 Section 2-1 of the Home Rule Charter of the Town of Southbridge, The Director of Public Works (acting as Authorized Enforcement Agent) or his/her designees shall from time to time propose to the Town Manager adoption of, or amendments or revisions to rules and regulations to effectuate the purposes of this By-law. Said regulations may include but shall not be limited to provisions regarding administration, application requirements, fees, permitting procedures and requirements, design standards, surety requirements, inspection and site supervision requirements, waivers and exemptions, and enforcement procedures.
- B. A true copy of the rules and regulations, with their most recent amendments, shall be kept on file available for inspection in the office of the inspector of buildings, in the office of the director of public works, and in the office of the town clerk.
- C. Failure by the Authorized Enforcement Agent or his/her designees to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-law.

8-501.1.8 Severability

- A. The provisions of this By-law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this By-law 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 By-law.

8-501.1.9 Transitional Provisions

- A. Owners shall have 60 days from the effective date of this By-law to comply with its provisions, provided good cause is shown for the failure to comply with the By-law during that period.

8-501.2.0 Illicit Discharge Detection and Elimination

8-501.2.1 Prohibited Activities

- A. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged into the municipal storm drain system, watercourses, or waters of the Commonwealth any pollutant or non-stormwater discharge. 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 or illicit discharges into stormwater, to the municipal storm drainage system, or waters of the Commonwealth, the person shall immediately notify the Authorized Enforcement Agency and take all necessary steps to ensure discovery, containment, and cleanup of the release.
- 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. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Authorized Enforcement Agency.

8-501.2.2 Exceptions

- A. The following non-stormwater discharges and flows to the municipal storm drain system and to waters of the Commonwealth are exempt from the prohibition on illicit discharges, provided that, in the opinion of the Authorized Enforcement Agency, the source is not a significant contributor of a pollutant to the Municipal Storm Drain System or to waters of the Commonwealth:
 - 1. Potable water line flushing;
 - 2. Uncontaminated pumped groundwater and other discharges from potable water sources;
 - 3. Landscape irrigation and lawn watering;

4. Diverted stream flows;
5. Rising groundwater;
6. Groundwater infiltration to the municipal storm drain system;
7. Uncontaminated foundation and footing drains;
8. Uncontaminated water from crawl space pumps;
9. Air conditioning condensation;
10. Uncontaminated non-industrial roof drains;
11. Natural springs;
12. Individual residential and occasional non-commercial car washing;
13. Flows from riparian habitats and wetlands;
14. Dechlorinated swimming pool discharges (provided that the chlorine content is < 1 ppm, water has been allowed to stand for one week prior to draining, and that the discharge is performed in such a way as not to cause a nuisance);
15. Street sweeping waters;
16. Flows resulting from firefighting activities;
17. Water from dyed water testing, with written authorization from the Authorized Enforcement Agency.
18. Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, or a surface water discharge permitted by DEP, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided further that written approval has been granted by the Authorized Enforcement Agency for any discharge to the municipal storm drain system;
19. Any other non-stormwater discharges that are not a source of pollutants to the Municipal Storm Drain System nor waters of the Commonwealth, as set forth in a written determination by the Authorized Enforcement Agency.

8-501.3.0 Stormwater Management and Erosion Control

8-501.3.1 Permits & Procedures

- A. No person may undertake Land Disturbance Activity regulated by this By-law in *Subsection 8-501.1.4 Applicability* without a Stormwater Management Permit from the Authorized Enforcement Agency pursuant to this By-law and regulations promulgated hereunder.

- B. Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under *Subsection 8-501.1.7 Regulations* of this By-law.

8-501.3.2 Fees

- A. The Authorized Enforcement Agency shall establish fees to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover the costs of Town secretarial staff and professional staff time for the review, processing, and monitoring an application and permit.
- B. The Authorized Enforcement Agency may require the Owner to pay reasonable costs to be incurred by the Authorized Enforcement Agency for the employment of outside consultants pursuant to regulations as authorized by MGL c. 44 § 53G.

8-501.3.3 Surety

- A. The Authorized Enforcement Agency may require the permittee to post before the start of any 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, if necessary, and be in an amount deemed sufficient by the Authorized Enforcement Agency to ensure that the work will be completed in accordance with the permit. If the project is phased, the Authorized Enforcement Agency may, in its sole and absolute discretion, 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 Authorized Enforcement Agency has received a final report stating that all the work has been satisfactorily completed, as required in the Regulations.

8-501.3.4 Waivers

- A. The Authorized Enforcement Agency may waive strict compliance with any requirement of the rules and regulations promulgated hereunder, where such action: is allowed by federal, state and local statutes and/or regulations, is in the public interest, and is not inconsistent with the purpose and intent of this By-law.