

Propose to Delete Section 8.070 of the General By-laws and add new Section 11.

Section 11 STORMWATER MANAGEMENT

11.010 Definitions

The following definitions describe the meaning of the terms used in this by-law:

Adverse impact: Any harmful effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Authorized permitting agency: The Department of Public Works (DPW).

Best management practices (BMP): Structural or biological devices that temporarily store or treat urban stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be nonstructural practices that reduce pollutants at their source. BMPs are described in the Massachusetts Department of Environmental Protection's (MassDEP) stormwater design manual: Stormwater Management Handbook, Volume 2: Chapter 2: Structural BMP Specifications for the Massachusetts Stormwater Handbook (February 2008, MassDEP, as updated or amended).

Construction activity: Disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

Design storm: A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP.

Detention: The temporary storage of storm runoff in a BMP, which is used to control the "peak discharge" rates, and which provides gravity settling of pollutants.

Discharge of pollutants: The addition from any source of any pollutant or combination of pollutants into a Municipal Separate Storm Sewer System (MS4) or into the waters of the United States or Commonwealth from any source.

Disturbance: Any land clearing, grading, bulldozing, digging or similar activities.

Drainage area: That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline.

Easement: A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement and recorded in the Hampden County Registry of Deeds.

Enforcement Agency: The Department of Public Works.

Groundwater: All water beneath the surface of the ground.

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. c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000

Illicit discharge: Any direct or indirect non-stormwater discharge to an MS4, except as specifically exempted in Illicit Stormwater Section 4.(d). The term does not include a discharge in compliance with a National Pollutant Discharge and Elimination System (NPDES) stormwater discharge permit or resulting from fire fighting activities.

Illicit connection: Any surface or subsurface drain or conveyance, which allows an illicit discharge into an MS4. Illicit connections include conveyances which allow a non-stormwater discharge to an MS4 including 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 by-law.

Impervious surfaces: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surfaces include paved roads, paved parking lots, sidewalks, and rooftops.

Infiltration: The downward movement of water from the surface to the subsoil.

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 manmade or altered drain channel, reservoir, and other drainage structure that together comprise the MS4 owned and operated by the Town of East Longmeadow.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit: A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

Non-stormwater discharges: Any discharge to the MS4 not composed entirely of stormwater.

Outfall: The terminus of a storm drain or other stormwater structure where the contents are released.

Peak discharge: The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

Permeable soils: Soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as Natural Resource Conservation Service (NRCS) hydrologic soil types A and B.

Person: Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the commonwealth or political subdivision thereof or the federal government, to the extent permitted by law and any officer, employee or agent of such person.

Pollutant: Any element of property or sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include, but not be limited to:

- (1) Paints, varnishes and solvents;
- (2) Oil and other automotive fluids;
- (3) Non-hazardous liquid and solid wastes and yard wastes;
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;

- (5) Pesticides, herbicides and fertilizers;
- (6) Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) Dissolved and particulate metals;
- (8) Animal wastes and residues;
- (9) Rock, sand, salt and soils;
- (10) Construction wastes and residues;
- (11) 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.

Retention: The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

Runoff: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

Stormwater: Runoff from precipitation or snow melt.

Stormwater Management Facility: Any structural stormwater management measure, including stormwater management basins and filtration or other treatment systems.

Swale: A natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

Uncontaminated Water: Water containing no pollutants.

Uncontaminated Groundwater: Groundwater containing no pollutants.

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.

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.

11.020 Purpose

(A) The purpose of this section is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of East Longmeadow by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff.

(B) The proper management of stormwater runoff shall meet the following objectives:

1. Prevent pollutants from entering East Longmeadow's municipal separate storm sewer system (MS4) in order to minimize discharge of pollutants from the MS4;
2. Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs and streams in order to attain federal water quality standards;
3. Minimize the volume and rate of stormwater which is discharged to rivers, streams, reservoirs, and lakes that flow from any site during and following development;
4. Prevent erosion and sedimentation from land development and reduce stream channel erosion caused by increased runoff;
5. Provide for the recharge of groundwater aquifers and maintain the base flow of streams;

6. Provide stormwater facilities that are attractive, maintain the natural integrity of the environment and are designed to protect public safety;
7. Maintain or reduce predevelopment runoff characteristics after development to the extent feasible;
8. Minimize damage to public and private property from flooding;
9. Ensure that these management controls are properly maintained;
10. Comply with state and federal statutes and regulations relating to stormwater discharges; and,
11. Establish East Longmeadow's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

11.030 Authority

The Department of Public Works or their representative shall administer, enforce and implement this section. The Department of Public Works may promulgate rules, regulations and a permitting process to effectuate the purposes of this section. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this section.

11.040 Applicability

(A) *Applicability.* This by-law shall apply to all activities that result in disturbance of one or more acres (43,560 square feet) of land that drains to the municipal separate storm sewer system. Except as authorized by the Department of Public Works as provided in this by-law, no person shall perform any activity that results in disturbance of one or more acres of land.

(B) *Exemptions.* The following uses and activities are exempt from compliance with this by-law:

1. Storm water discharges resulting from land disturbance activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission;
2. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resource Conservation Service;
3. Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation;
4. Developments that do not disturb more than one acre (43,560 square feet) of land, provided that they are not part of a larger common development plan;
5. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which shall not alter terrain or drainage patterns;
6. Repairs to any stormwater treatment system deemed necessary by the East Longmeadow Department of Public Works; and
7. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Department of Public Works.

(C) *Waivers.* The Department of Public Works may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:

1. such action 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 by-law.

11.050 Permit Procedures and Requirements.

(A) *Permit required.* Prior to the issuance of any Special Permit, Site Plan Approval or Building Permit for a regulated activity, a Stormwater Management Permit must be approved by the Department of Public Works. No person shall, on or after the effective date of the by-law, initiate any vegetation clearing, land grading, earth moving or development activities without first complying with this by-law.

(B) *Application.* Application for approval of a stormwater management permit shall include the following:

1. A stormwater and erosion control plan, which shall contain sufficient information to describe the nature and purpose of the proposed development. The plan, which contents as fully described in Subsection 11.050(H) below, shall serve as the basis for all subsequent construction.
2. Supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff shall be managed for the entire development.
3. Ongoing maintenance agreement.
4. Nonrefundable permit review fee.

(C) *Procedures for review and approval of stormwater permits.*

1. A stormwater management and erosion control plan (or an application for waiver) shall be submitted to the Department of Public Works for review and approval. Three clearly labeled copies of the stormwater management plan shall be submitted.
2. The procedures for review and approval of stormwater management and erosion control plans shall be consistent with Subsection 11.050(D), Criteria for review of stormwater permits, and Subsection 11.050(E), Authorized permitting agency action, as appropriate to the use.
3. The Department of Public Works shall have seven days from the receipt of the application to review the application for administrative completeness.
4. The Department of Public Works as authorized permitting agency may distribute copies of the stormwater management permit application to other municipal departments, such as the Planning Department, Health Department, Conservation Commission, and Building Department, for review, as deemed appropriate, and shall consider any comments submitted by said departments during the review period.
5. The Department of Public Works shall take final action within 28 days of the receipt of a complete application unless such time is extended by agreement between the applicant and the Department of Public Works.

(D) *Criteria for review of stormwater permits.* In addition to other criteria used by the authorized permitting agency in making permit decisions, for the uses specified in this by-law, said authorized permitting agency must also find that the stormwater management and erosion control plan submitted with the permit application meets the following criteria:

1. The stormwater management and erosion control plan is consistent with the purposes and objectives of this by-law in Subsection 11.020;
2. The stormwater management and erosion control plan meets the performance standards described in Subsections 11.060 and 11.070;

(E) *Authorized permitting agency action.* The authorized permitting agency's action, rendered in writing, shall consist of either:

1. Approval of the stormwater management permit application based upon determination that the proposed plan meets the purposes in Subsection 11.020 and the standards in Subsections 11.060 and 11.070 and shall adequately protect the water resources of the community and is in compliance with the requirements set forth in this by-law;
2. Approval of the stormwater management permit application subject to any conditions, modifications or restrictions required by the Department of Public Works which shall ensure that the project meets the purposes in Subsection 11.020 and the standards in Subsections 11.060 and 11.070 and adequately protects water resources, set forth in this by-law;
3. Disapproval of the stormwater management permit application based upon a determination that the proposed plan, as submitted, does not meet the purposes in Subsection 11.020 and the standards in Subsections 11.060 and 11.070 or adequately protect water resources, as set forth in this by-law.

Failure of the authorized permitting agency to take final action upon an application within the time specified above shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without Department of Public Works' action, approval shall be issued by Department of Public Works.

(F) *Inspections.* Filing an application for a permit grants the Department of Public Works, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit. The applicant shall arrange with the authorized permitting agency (or its appointed agent) for scheduling the following inspections:

Initial inspection. Prior to approval of any plan

Erosion control inspections. After erosion control installation, site clearing, rough grading and final grading to ensure erosion control practices are in accordance with the plan.

Bury inspection. Prior to backfilling of any underground drainage or stormwater conveyance structures;

Final inspection. When all work, including construction of stormwater management facilities and landscaping have been completed.

The authorized permitting agency or its agent shall inspect the work and either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant shall be subject to the bonding provisions of Subsection 11.090 or the penalty provisions of Subsection 11.150. The town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction, when it has a reasonable basis to believe that a violation of this by-law is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this by-law.

(G) *Application review fees.* For permits issued by the Department of Public Works the fee for review of any land development application shall be based on the amount of land to be disturbed at the site and the fee structure established by the Department.

(H) *Contents of the stormwater and erosion control plan.* The application for a stormwater management permit shall consist of submittal of a stormwater management and erosion control plan prepared by a professional engineer licensed by the commonwealth which meets the design requirements provided by this by-law. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential

impacts of the proposed development on water resources; and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The plan must be designed to meet the Massachusetts Stormwater Management Standards as set forth in Subsection 11.060, the erosion and sediment control performance standards in Subsection 11.070, and the Stormwater Management Handbook (February 2008, MassDEP, as updated or amended). The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management and erosion control plan shall be as follows:

1. A locus map,
2. The existing zoning, and land use at the site,
3. The proposed land use,
4. The location(s) of existing and proposed easements,
5. The location of existing and proposed utilities,
6. The site's existing and proposed topography with contours at two-foot intervals,
7. The existing site hydrology,
8. A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which storm water flows,
9. A delineation of 100-year flood plains, if applicable,
10. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration,
11. The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
12. A drainage area map showing pre and postconstruction watershed boundaries, drainage area and storm water flow paths,
13. A description and drawings of all components of the proposed drainage system including:
 - a. Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
 - b. All measures for the detention, retention or infiltration of water,
 - c. All measures for the protection of water quality,
 - d. The structural details for all components of the proposed drainage systems and storm water management facilities,
 - e. Notes on drawings specifying materials to be used, construction specifications, and typicals,
14. Expected hydrology with supporting calculations,
15. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
16. Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, clearing, stripping, interim grading, construction, final grading, material stockpiling areas and vegetative stabilization,

17. A description of construction and waste materials expected to be stored on site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response,
18. Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures, and
19. A maintenance schedule for the period of construction.

11.060 Stormwater Management Performance Standards

(A) *Minimum control requirements.* Projects that require a permit under this by-law must meet the standards of the Massachusetts Stormwater Management Policy. These standards are:

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the commonwealth.
2. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed predevelopment peak discharge rates.
3. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the predevelopment or existing site conditions, based on soil types.
4. For new development, stormwater management systems must be designed to remove 80 percent of the average annual load (post development conditions) of total suspended solids (TSS). It is presumed that this standard is met when:
 - (a) Suitable nonstructural practices for source control and pollution prevention are implemented;
 - (b) Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
 - (c) Stormwater management BMPs are maintained as designed.
5. Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management Handbook, February 2008, MassDEP, as updated or amended). The use of infiltration practices without pretreatment is prohibited.
6. Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see Management Handbook, February 2008, MassDEP). Critical areas are outstanding resource waters (ORWs), shellfish beds, swimming beaches, cold-water fisheries, vernal pools and recharge areas for public water supplies.
7. Redevelopment of previously developed sites must meet the stormwater management standards to the maximum extent practicable. However, if it is not practicable to meet all the standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.
8. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
9. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed. The operation and maintenance plan must be implemented for the life of the system.

10. All illicit discharges to the stormwater management system are prohibited.

(B) When the proposed discharge may have an impact upon a sensitive receptor, including streams, wetlands, vernal pools, and/or storm sewers, the authorized permitting agency may require an increase in these minimum requirements, based on existing stormwater system capacity.

(C) The basic design criteria methodologies and construction specifications, subject to the review and approval of the Department of Public Works, shall be those generally found in the most current edition of the Stormwater Management Handbook, Volume 2: Chapter 2: Structural BMP Specifications for the Massachusetts Stormwater Handbook (February 2008, MassDEP, as updated or amended).

11.070 Erosion and Sediment Control Performance Standards

(A) The design requirements of the erosion and sediment control plan are:

1. Minimize total area of disturbance.
2. Sequence activities to minimize simultaneous areas of disturbance.
3. Minimize peak rate of runoff in accordance with the MassDEP Stormwater Policy.
4. Minimize soil erosion and control sedimentation during construction. Prevention of erosion is preferred over sedimentation control.
5. Divert uncontaminated water around disturbed areas.
6. Maximize groundwater recharge.
7. Install and maintain all erosion and sediment control measures in accordance with the manufacturers' specifications and good engineering practices
8. Prevent off-site transport of sediment.
9. Protect and manage on- and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project).
10. Comply with applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control.
11. Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species.
12. Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site.
13. Properly manage on-site construction and waste materials.
14. Prevent off-site vehicle tracking of sediments.

11.080 Post-Construction and Operation and Maintenance

(A) *As-built Plan.*

Within 90 days of completion of construction projects, the applicant shall submit as-built drawings including final location of easements and confirmation of the establishment of said easements.

(B) *Operation, maintenance and inspection agreement.*

1. Prior to issuance of any building permit for which stormwater management is required, the authorized permitting agency shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the town or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:

a. *Names of owners.* The name(s) of the owner(s) for all components of the system.

b. *Maintenance agreements.* Maintenance agreements that specify:

1. The names and addresses of the person(s) responsible for operation and maintenance.
2. The person(s) responsible for financing maintenance and emergency repairs.
3. A maintenance schedule for all drainage structures, including swales and ponds.
4. A list of easements with the purpose and location of each.
5. The signature(s) of the owner(s).

c. *Stormwater management easements* as necessary for:

1. Access for facility inspections and maintenance.
2. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
3. Direct maintenance access by heavy equipment to structures requiring regular cleanout.

d. *Stormwater management easement requirements.*

1. Purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
2. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the town.
3. Easements shall be recorded with the registry of deeds prior to issuance of a certificate of completion.

e. *Changes to operation and maintenance plans.*

1. The owner(s) of the stormwater management system must notify the authorized enforcement agency in writing of changes in ownership or assignment of financial responsibility.
2. The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this by-law by mutual agreement of the authorized permitting agency and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.
3. The agreement shall be recorded by the applicant and/or owner in the land records of the registry of deeds. Proof of such recording shall be filed by the applicant and/or owner with the authorized permitting agency.

4. The agreement shall also provide that, if after notice by the Department of Public Works to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within 30 days, the Department of Public Works may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties.

(C) Maintenance responsibility.

1. The owner of the property on which work has been done pursuant to this by-law for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

2. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

3. Records of installation shall be maintained on-site in perpetuity. Records of maintenance shall be maintained on-site for a period of at least five years. Installation and maintenance records shall be made available for inspection by the enforcement agency.

4. Failure to maintain best management practices shall be considered a violation of this by-law and enforceable under Subsection 11.150.

11.090 *Performance Bond*

The authorized permitting agency shall require from the developer a cash bond or other means of security acceptable to the authorized permitting agency prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this subsection shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this by-law and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Department of Public Works, submission of "as-built" plans, and certification of completion by the authorized permitting agency of the stormwater management facilities being in compliance with the approved plan and the provisions of this by-law.

11.100 *Certificate Of Completion*

The Department of Public Works will issue a letter certifying completion upon receipt and approval of the final inspection reports, final plans, including evidence of recording of permanent easements, and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

11.110 *Illicit Discharges Purpose*

The purpose of this by-law is to regulate illicit connections and discharges to the municipal separate storm sewer system (MS4), which is necessary for the protection of East Longmeadow's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this section are:

- (a) To prevent pollutants from entering East Longmeadow's MS4;
- (b) To prohibit illicit connections and unauthorized discharges to the MS4;
- (c) To require the removal of all such illicit connections;
- (d) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (e) To establish the legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement.

11.120 *Illicit Discharges Applicability*

This section shall apply to flows entering the municipal separate storm sewer system or municipal storm drain system owned and operated by the Town of East Longmeadow.

11.130 *Illicit Discharges Prohibited Activities*

(A) *Illicit discharges.* No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into MS4s or into waters of the Commonwealth.

(B) *Illicit connections.* No person shall construct, use, allow, maintain or continue any illicit connection to an MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

(C) *Obstruction of storm drain systems.* No person shall obstruct or interfere with the normal flow of stormwater into or out of an MS4 without prior approval from the Department of Public Works or its designated agent.

(D) *Exemptions.* This section shall not apply to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to MS4s:

1. waterline flushing;
2. flow from potable water sources;
3. springs;
4. natural flow from riparian habitats and wetlands;
5. diverted stream flow;
6. rising groundwater;
7. uncontaminated groundwater infiltrating (entering the MS4 from the ground through such means as defective pipes, pipe joints, connections, or manholes), or uncontaminated pumped groundwater;
8. water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), sump pumps, or air conditioning condensation;
9. discharge from landscape irrigation or lawn watering;
10. water from individual residential car washing;
11. 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;

12. discharge from street sweeping;
13. discharge or flow resulting Department of Public Works ice and snow control operations
14. dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
15. discharge or flow resulting from fire fighting activities
16. 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
17. discharge for which advanced written approval is received from the Department of Public Works as necessary to protect public health, safety, welfare, and the environment.

11.140 Notification of Spills

Notwithstanding any other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility operation which is resulting or may result in illicit discharge of pollutants that 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 East Longmeadow Fire and Police Departments, Department of Public Works and Board of Health. In the event of a release of nonhazardous material, said person shall notify the authorized permitting agency no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the authorized permitting agency 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.

11.150 Enforcement

(A) *Department of Public Works to enforce.* The Department of Public Works or its authorized agent shall enforce this by-law, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

(B) *Violations.* Any development activity that has commenced or is conducted contrary to this by-law may be restrained by injunction or otherwise abated in a manner provided by law.

(C) *Notice of violation.* When the authorized permitting agency or its designated agent determines that an activity is not being carried out in accordance with the requirements of this by-law, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner or applicant;
2. The address when available or the description of the building, structure, or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the development activity into compliance with this by-law and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

(D) *Civil relief.* If anyone violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compelling the person to abate or remediate the violation.

(E) *Orders.* The Department of Public Works may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) termination of access to the MS4; (c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; (e) stop work orders to halt all construction activities; and (e) remediation of contamination in connection therewith. If the Department of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner.

Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department 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 a protest or within 30 days following a decision of the Department 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.A. c. 59, § 57 after the 31st day at which the costs first become due.

(F) The Department of Public Works may suspend MS4 access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illicit discharge that presents or may 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 authorized permitting agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

(G) Any person discharging to an MS4 in violation of this by-law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Department of Public Works shall notify a violator of the proposed termination of MS4 access. The violator may petition the Department of Public Works for reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without prior approval from the Department of Public Works.

(H) *Criminal and civil penalties.* Any person who violates any provision of this by-law, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$200.00 for each day such violation occurs or continues or subject to a civil penalty, which may be assessed in an action brought on behalf of the town in any court of competent jurisdiction.

(I) *Noncriminal disposition.* As an alternative to criminal prosecution or civil action, the Town of East Longmeadow may elect to utilize the non-criminal disposition procedure set forth in the non-criminal disposition procedure in M.G.L. Chapter 40, §21D or in the Town of East Longmeadow General By-laws 1.010(D). The East Longmeadow Department of Public

Works shall be the enforcing entity. The penalty shall be up to \$200 per day each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(J) *Entry to perform duties under this by-law.* To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees 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 Department of Public Works deems reasonably necessary.

(K) *Restoration of lands.* Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the East Longmeadow Department of Public Works may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(L) *Appeals.* The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

(M) *Severability.* The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.

11.160 Transitional Provisions

Residential property owners shall comply with the illicit discharges sections of this by-law on a schedule set forth in the Department of Public Works compliance order, but such property owners shall in no case have more than six months from the effective date of the by-law to comply with its provisions, unless good cause is shown for the failure to comply with the by-law during that period.