

**Adoption of General Ordinance of the Town of Randolph
Concerning Stormwater Management**

Ordered: The Randolph Town Council hereby amends the General Ordinances of the Town of Randolph by adding a new Chapter 195 concerning stormwater management, as follows:

Chapter 195. Stormwater Management.

Article I. General Provisions.

§ 195-1. Purpose and Objectives.

A. Purpose

The purpose of this ordinance is to protect the health, safety, general welfare, and environment in the management, operation, and maintenance of the Town's stormwater system by regulating or prohibiting actions detrimental to either the proper quality or quantity of water in the system. Actions regulated or prohibited include unauthorized, authorized, improper or proper connections and discharges to the stormwater system, allowing or enabling pollutants to enter the system, and causing construction site runoff and post-construction runoff to enter the system. Stormwater runoff is potentially a major cause of:

- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, groundwater and drinking water supplies;
- (2) Contamination of drinking water supplies;
- (3) Contamination of downstream areas;
- (4) Alteration or destruction of aquatic and wildlife habitat;
- (5) Overloading or clogging of municipal stormwater management systems; and
- (6) Flooding.

B. Objectives

The objectives of this ordinance are to:

- (1) Protect water resources;
- (2) Comply with state and federal statutes and regulations relating to stormwater

discharges, including total maximum daily load (TMDL) requirements;

- (3) To the extent possible, prevent new pollutants from entering the Town's municipal separate storm drainage system (MS4)¹ and reduce or eliminate pollutants currently entering the Town's MS4 from existing uses;
- (4) Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
- (5) Establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (6) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
- (7) Establish the Town of Randolph's legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement.

§ 195-2. Definitions.

Definitions applicable to this ordinance are provided herein:

APPLICANT

Any entity, including without limitation any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the commonwealth or the federal government to the extent permitted by law, requesting a land disturbance permit for proposed land-disturbance activity.

BEST MANAGEMENT PRACTICE (BMP)

An activity, procedure, restraint, or structural improvement found to be effective and practical to reduce the quantity or improve the quality of stormwater runoff.

¹ Unless otherwise defined in this section, the terms in this Ordinance correspond to definitions found in the Clean Water Act (33 U.S.C. section 1251 et seq.) and the General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the U.S. Environmental Protection Agency. Such a permit is referred to at the Federal level as an "MS4" permit. The Town of Randolph has a stormwater drainage system, not a stormwater sewer system, so the Town will use the term "MS4" to refer to the Randolph "Municipal Separate Storm Drainage System," which is covered by the same Federal statutes, permit and regulations.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)

A certified specialist in soil erosion and sediment control. A CPESC refers specifically to a person holding the certification provided through the certification program sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy. That certification provides the public with evidence of professional qualifications.

CLEAN WATER ACT

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

DEVELOPMENT

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

DISCHARGE OF POLLUTANTS

The addition from any source of any pollutant or combination of pollutants into the MS4 or into the waters of the United States or commonwealth from any source.

DISTURBANCE OF LAND

A change in the position, location, or arrangement of soil, sand, rock, gravel, asphalt or similar earth material.

EROSION

The wearing away of the land surface by natural or artificial forces, such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN

A document containing a narrative, drawings and details developed by a qualified professional engineer (PE) or a certified professional in erosion and sedimentation control (CPESC), which includes best management practices (BMPs), or equivalent measures designed to control surface runoff and erosion and sedimentation during preconstruction and construction-related land disturbance activities.

GROUNDWATER

Water beneath the surface of the ground.

ILLICIT CONNECTION

A surface or subsurface drain or conveyance which allows an illicit discharge into the MS4, including without limitation sewage, process wastewater, wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of the Stormwater Management Ordinance.

ILLICIT DISCHARGE

Direct or indirect discharge to the MS4 that is not composed entirely of stormwater, except as exempted in § 195-9. The term does not include a discharge in compliance

with an NPDES stormwater discharge permit or resulting from firefighting activities exempted pursuant to § 195-9(D)(1) of the Stormwater Management Ordinance.

IMPERVIOUS SURFACE

Any material or structure on or above the ground that prevents water from infiltrating the underlying soil, including without limitation roads, paved parking lots, sidewalks, and rooftops.

IMPOUNDMENT

A stormwater pond created by either constructing an embankment or excavating a pit which retains a permanent or periodic pool of water, including a retention basin or a detention basin.

INFILTRATION

The act of conveying surface water into the ground to permit groundwater recharge and, where applicable, the resulting reduction of stormwater runoff from a project site.

LAND DISTURBANCE ACTIVITY

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

LAND USE OF HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL)

Land uses or activities with higher potential pollutant loadings, as defined in the Massachusetts Stormwater Management Standards, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high-intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances or marinas.

MASSACHUSETTS ENDANGERED SPECIES ACT —MGL ch. 131A

MGL ch. 131A and its implementing regulations, 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 STANDARDS

The standards issued by the Department of Environmental Protection, and as amended, that coordinate the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and 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 controlling the quantity of runoff from a site.

MS4

Municipal separate storm sewer or drainage system; the system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage

system owned or operated by the Town of Randolph, including the Randolph Municipal Separate Storm Drainage System.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

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

NONSTORMWATER DISCHARGE

Discharge to the MS4 not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN

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

OWNER

A person with a legal or equitable interest in property.

PERSON

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT(S)

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any MS4, sewage treatment works or waters of the commonwealth. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, accumulations or floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt and soils;

- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

PRECONSTRUCTION

All activity in preparation for construction.

PROCESS WASTEWATER

Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE

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

REDEVELOPMENT

Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface on previously developed sites.

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 disturbance activities are, were, or will be performed.

SOIL

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

STORMWATER

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

STORMWATER AUTHORITY

A public official or body authorized to promulgate, review and adopt stormwater regulations pursuant to this Stormwater Ordinance, to issue permits pursuant to any such stormwater regulations and/or this Stormwater Ordinance, and to enforce such stormwater regulations and this Stormwater Ordinance. The Stormwater Authority or its designee shall be the Enforcement Authority for this Ordinance and any regulations issued hereunder.

STORMWATER MANAGEMENT PLAN

A plan required as part of the application for a land disturbance permit which addresses the status of stormwater on a given site and the proposed methods for managing,

directing or controlling stormwater on that site during and after any land disturbance activity.

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, by-product or waste product.

WATERCOURSE

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

WATERS OF THE COMMONWEALTH

All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WETLAND RESOURCE AREA

Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, or in the Town of Randolph Wetlands Protection Ordinance as wetland resource areas.

WETLANDS

Tidal and nontidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include "marshes," "swamps" and "bogs."

§ 195-3. Authority.

This ordinance is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the home rule statutes, the Federal Clean Water Act and the regulations thereunder (40 CFR Part 122, Subpart B and in particular 40 CFR 122.34) as they may be amended, and the Charter of the Town of Randolph.

§ 195-4. Responsibility for Administration.

The Stormwater Authority for the Town of Randolph shall be the Superintendent of the Randolph Department of Public Works (DPW).

The Stormwater Authority shall administer, implement and enforce this ordinance. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by the Stormwater Authority to its employees or agents.

The Stormwater Authority shall promulgate, review and adopt stormwater regulations pursuant to this Stormwater Ordinance and for the purpose of effectuating this Ordinance. Said regulations shall be adopted only after public notice in a newspaper of general circulation, a public hearing and the filing of the regulations with the Town Clerk.

The Stormwater Authority shall enforce such stormwater regulations and this Stormwater Ordinance.

The Stormwater Authority shall have the authority to issue any permits provided for under this ordinance or the stormwater regulations.

Failure of the Stormwater Authority to promulgate or adopt regulations pursuant to this Ordinance or a determination of their invalidity by final order of a court of competent jurisdiction shall not have the effect of suspending or invalidating this Ordinance.

§ 195-5. Waivers.

- A. Following a public hearing on a waiver request, the Stormwater Authority may waive strict compliance with any requirement of this ordinance or the rules and regulations promulgated hereunder, where such action:
 - (1) is allowed by federal, state and local statutes and/or regulations; and
 - (2) is in the public interest; and
 - (3) is not inconsistent with the purpose and intent of this ordinance.
- B. All waiver requests shall be submitted in writing and shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the ordinance does not further the purposes or objective of this ordinance.
- C. Whenever an applicant files an application under this Ordinance or the accompanying regulations, the applicant shall include waiver requests that relate to the application. If the application requires a public hearing, the waiver request and the application shall be heard at the same public hearing. If the application does not otherwise require a public hearing, a public hearing shall be held concerning the waiver request prior to action being taken on the application. Subsequent waiver requests relating to the application shall not be permitted

unless the Stormwater Authority determines that the waiver request could not have been made as part of the original application and that the subsequent waiver request is necessitated by a change in circumstances.

- D. If in the Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the Stormwater Authority may request such additional information and, with the applicant's permission, may continue a hearing to a certain date announced at the meeting. In the event the applicant fails to provide requested information relating to the waiver request, the waiver request shall be denied.

§ 195-6. Regulations.

- A. The Stormwater Authority may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this ordinance, but only after conducting a public hearing to receive comments on such proposed adoption. Such hearing shall be advertised in a newspaper of general local circulation, at least 14 days prior to the hearing date.
- B. Such regulations, rules or guidance may include without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the Stormwater Authority, without the requirement for a public hearing. Administrative review approval shall comply with all other provisions of this ordinance.

§ 195-7. Severability.

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

Article II. Discharges to Municipal Separate Storm Drainage System (MS4).

§ 195-8. Applicability.

Article II of this ordinance shall apply to all water and other material entering the Town of Randolph MS4, whether that water and other material is generated on any developed or undeveloped lands or otherwise, except as explicitly exempted in this ordinance or where the Stormwater Authority has issued a waiver in accordance with Article I, § 195-5.

§ 195-9. Prohibited activities; exemptions.

- A. Illicit discharges.

No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4, onto an impervious surface directly connected to the MS4, into a watercourse, or into the waters of the Commonwealth.

B. Illicit connections.

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

C. Obstruction of MS4. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior consent from the Stormwater Authority.

D. Exemptions. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the MS4:

- (1) Discharge or flow resulting from firefighting activities;
- (2) Waterline flushing;
- (3) Flow from potable water sources, with the exception of landscape irrigation and lawn watering;
- (4) Springs;
- (5) Natural flow from riparian habitats and wetlands;
- (6) Diverted stream flow;
- (7) Rising groundwater;
- (8) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Stormwater Authority prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Stormwater Authority;
- (9) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- (10) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided that 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;
- (11) Discharge from street sweeping;
- (12) Dye testing, provided that verbal notification is given to the Stormwater Authority prior to the time of the test;

- (13) Non-stormwater discharge permitted under a National Pollutant Discharge Elimination System (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
- (14) Discharge for which advanced written approval is received from the Stormwater Authority as necessary to protect public health, safety, welfare or the environment.

§ 195-10. Additional prohibited pollutants.

A. Pet waste: Because pet feces are a major component of stormwater pollution, it shall be the duty of each person who owns, possesses, or controls a pet to remove and properly dispose of any feces left by the pet on any public or private property neither owned nor occupied by said person, or on any private property where untreated stormwater flows to the MS4. It is prohibited to dispose of pet feces in any public or private storm drain, catch basin, wetland or water body or on any paved or impervious surface. However this provision shall not be applicable to a person using a registered service animal. For specific requirements and penalties for violations see General Ordinance Chapter 79-4(M).

B. Pavement sealers: Coal-tar-based driveway and pavement sealers have been identified as a primary source of poly-aromatic hydrocarbons affecting water quality in developed areas. Poly-aromatic hydrocarbons are classified by the United States Environmental Protection Agency as a probable human carcinogen and are highly toxic to aquatic life. The application of coal-tar-based driveway and pavement sealers is prohibited for all paved areas directly and indirectly connected to the MS4. Asphalt-based driveway and pavement sealers contain low concentrations of poly-aromatic hydrocarbons and are thus permitted.

§ 195-11. Emergency suspension of storm drainage system access.

The Stormwater Authority may suspend MS4 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 Stormwater Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

§ 195-12. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a property, facility or operation, or responsible for emergency response for a property, facility or operation, has information of or suspects a release of materials at that property, facility or operation resulting in or which may result in: i) discharge of pollutants to the MS4 or waters of the commonwealth; or ii) discharge of any prohibited material into the MS4, the person shall take all necessary steps to ensure containment and cleanup of the

release and, if a discharge had taken place into the MS4 or the waters of the commonwealth, shall notify the Stormwater Authority no later than the next business day.

In the event that such a person has information of or suspects a release of oil or hazardous materials resulting in or which may result in discharge of those materials to the MS4 or waters of the commonwealth, in addition to all other legally required notice, the person shall immediately notify the Randolph Fire and Police Departments.

In the event of any release or suspected release as described in either of the two preceding paragraphs, the person responsible for the property, facility or operation shall provide to the Stormwater Authority written confirmation of having made all required notifications (including any electronic, telephonic or in-person notifications) within three business days after the release or suspected release. If the discharge of pollutants is from a commercial or industrial facility, the facility owner or the 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.

Article III. Stormwater Management and Land Disturbance.

§ 195-13. Land Disturbance and High Pollutant Potential Uses.

A. Applicability.

Article III of this ordinance shall apply to the following activities, which shall not be permitted without authorization from the Stormwater Authority pursuant to this ordinance or the regulations promulgated hereunder:

- (1) All activities that result in disturbance of 5,000 square feet of land or more that drains to the municipal separate storm drainage system (MS4);
- (2) All activities that result in a disturbance of land that drains to the MS4 if the land disturbance activities relate to a use or proposed use that is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards, regardless of the amount of land to be disturbed.

The following Stormwater Authority reviews shall be required based on the amount of land proposed to be disturbed as part of a single project:

- (1) Administrative Land Disturbance Review by the Stormwater Authority or its designee is required for projects disturbing at least 5,000 square feet but less than 1/2 acre (21,780 square feet) of land.
- (2) A Land Disturbance Permit from the Stormwater Authority or its designee is required for disturbance of 1/2 acre (21,780 square feet) or more of land or if the proposed use is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards, regardless of the amount of land to be disturbed.

The Stormwater Authority may include reasonable conditions on any permits or approvals that it issues, including the condition that an applicant comply with an erosion and sedimentation control plan or an operation and maintenance plan. Failure to obtain the required approvals before engaging in land disturbance or to comply with any permits or conditions that are issued by the Stormwater Authority or its designee shall constitute a violation of this ordinance.

B. Exemptions:

The following activities may take place without the need for approval or a permit from the Stormwater Authority:

- (1) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling conducted in such a way as not to cause a nuisance;
- (2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (3) Construction of utilities other than drainage (gas, water, electric, communication, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment to the MS4;
- (4) Normal maintenance and improvement of land in agricultural or aquacultural use, as those terms are defined by the Wetlands Protection Act Regulation 310 CMR 10.04; or
- (5) Disturbance of land or redevelopment that is subject to jurisdiction under the Massachusetts Wetlands Protection Act and that has received a valid order of conditions issued by the Randolph Conservation Commission, when sufficient time has passed to allow that order of conditions to become final and where the order of conditions includes a determination by the Conservation Commission that the proposed disturbance of land or redevelopment will be in compliance with the Massachusetts Stormwater Management Standards and the Stormwater Management standards contained in this ordinance and in any regulations promulgated hereunder.

§ 195-14. Permit procedure.

An applicant seeking an approval and/or permit pursuant to this ordinance or any of the regulations promulgated hereunder shall file an appropriate application with the Stormwater Authority. The application shall be in a form and contain information as specified in this ordinance and in regulations adopted by the Stormwater Authority. The application shall include a proposed erosion and sedimentation control plan and/or a proposed operation and maintenance plan, whenever those plans are applicable to the approval or permit sought, and compliance with said plans may be included as conditions on any permit or other approval issued under this ordinance or the regulations promulgated hereunder.

§ 195-15. Entry.

Filing an application for an approval or permit grants the Stormwater Authority and its employees or agents permission to enter the site that is the subject of the proposed approval or permit to verify the information in the application and to inspect for compliance with approval or permit conditions.

§ 195-16. Inspection and site supervision.

The Stormwater Authority or its designated agent shall make inspections periodically to verify and document compliance with any approval or land disturbance permit issued pursuant to this ordinance or the regulations promulgated hereunder.

§ 195-17. Surety.

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit or other approval issued hereunder. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit or other approval.

§ 195-18. Final reports.

Upon completion of any approved/permitted land disturbance activity and any work related thereto, the applicant shall submit a report, including certified as-built construction plans, from a professional engineer (P.E.), surveyor, or certified professional in erosion and sedimentation control (CPESC), certifying that all conditions placed on the applicable approval or permit have been satisfied and that any erosion and sedimentation control plan, operation and maintenance plan or other condition or requirement, and approved changes and modifications thereto, have been completed. Any discrepancies or changes from the original approval shall be noted in the cover letter and, if substantial, will require approval from the Stormwater Authority.

Article IV. Enforcement and Transitional Provisions.

§ 195-19. Enforcement.

The Stormwater Authority or its authorized agent shall be the Enforcement Authority under this ordinance and shall enforce this ordinance, the regulations, and any associated orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Civil injunctive relief. If a person violates the provisions of this ordinance, or any associated regulations, approval, permit, notice, or order issued thereunder, the Enforcement

Authority may, in its discretion, choose to 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. The Enforcement Authority may also, simultaneously, pursue any other actions authorized by this ordinance.

B. Orders. If the Enforcement Authority or its authorized agent determines that a person has failed to follow the requirements of this ordinance, including the requirements of any approval or permit issued under this ordinance or the requirements of any regulation promulgated hereunder, then the Enforcement Authority may issue a written order to enforce the provisions of this ordinance or any such approval, permit or regulation, and to remediate any adverse impact, which may include an order to:

- (1) Eliminate illicit connections or discharges to the MS4;
- (2) Cease and desist from land disturbance activity until there is compliance with the ordinance and with the provisions of any applicable approval, land disturbance permit, or other permit or regulation;
- (3) Require that unlawful discharges, practices or operations shall cease and desist;
- (4) Implement measures designed to minimize the discharge of pollutants until such time as an illicit connection shall be eliminated;
- (5) Remediate pollutants in connection therewith;
- (6) Maintain, install or perform erosion and sediment control measures;
- (7) Perform monitoring, analyses, and reporting; and/or
- (8) Remediate erosion and sedimentation resulting directly or indirectly from the land disturbance activity.

If the Stormwater Authority determines that any person is creating an adverse impact to a wetland resource area that is contrary to the purposes of this ordinance or to the purposes of the Massachusetts Wetlands Protection Act or the Town of Randolph Wetlands Protection Ordinance, the Stormwater Authority shall work with the Conservation Commission to reduce or eliminate that adverse impact.

C. Reimbursement of costs. If the Enforcement Authority determines that abatement or remediation of erosion and sedimentation is required, or if the Enforcement Authority determines that abatement or remediation of pollutants is required, the order shall set

forth a deadline for the completion of abatement or remediation and a procedure for appealing the Order. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town or its agent may, at its option, undertake such work, and the costs thereof shall be charged to the violator or property owner.

In the event that the Town or its agent performs the required work, within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount on the basis of cost with the Stormwater Authority 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 Stormwater Authority affirming or reducing the costs, or 30 days from a final decision of a court of competent jurisdiction if the matter is appealed, the cost shall become a special assessment against the property owner of said costs pursuant to MGL ch. 40, section 58 and, pursuant to that statute, if uncollected, the costs will become a Municipal Charges Lien that may be added to the property owner's property tax bill. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, on the 30th day after the costs first become due.

- D. Criminal penalties and noncriminal disposition. Any person who violates any provision of this ordinance, the regulations promulgated hereunder, or the terms or conditions in any permit, approval or order issued hereunder, shall be subject to a criminal fine not to exceed \$300 a day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

As an alternative to initiating a criminal fine, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1-9 of the Town of Randolph General Ordinances, in which case the Stormwater Authority or its agent shall be the enforcement authority for this ordinance. The noncriminal disposition penalty for the first violation of this ordinance, the regulations promulgated hereunder, or the terms or conditions in any permit, approval or order issued hereunder, shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- E. Entry to perform duties under this ordinance. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and the regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater

Authority deems reasonably necessary.

- F. Appeals. Unless specifically provided otherwise in this ordinance, the decisions or orders of the Enforcement Authority shall be final. Further relief shall be to a court of competent jurisdiction.
- G. Remedies not exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 195-20. Effective Date and Transitional Provisions.

- A. This ordinance shall become effective as of its date of adoption, except as specifically provided below.
- B. Residential Property Compliance. With regard to the application of this ordinance to any parcel of land that has a primary use as of the date of adoption of this ordinance that is an existing residential use, this ordinance shall become effective and shall apply to said parcels as of the date that is 60 days after the adoption of this ordinance.

§ 195-21. Existing Commercial and Industrial Uses.

With regard to any parcel of land that has a primary legal use as of the date of adoption of this ordinance that is an existing commercial or industrial use:

- A. The owners of all such parcels shall be notified, based on the Assessor's address list, by U.S. Mail of the adoption of this ordinance within 90 days of its adoption.
- B. The owners of all such parcels or their successors shall have 3 years from the date of adoption of this ordinance to provide the Stormwater Authority with a Stormwater assessment concerning all water and other material entering the Town of Randolph MS4 from the commercial or industrial parcels that they own. Said assessment shall include: i) an inventory of all discharges, connections, or obstructions both illegal and legal of the MS4 located on or coming from the property-owner's property to include any and all runoff from the site, whether that runoff enters the MS4 on the property or enters the MS4 at another location; ii) an assessment of all non-permeable surfaces on the property and the impact of those surfaces on stormwater; and iii) a description of any use or proposed use on the property that is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards. Within 60 days of receipt of such an assessment, the Stormwater Authority shall meet with the property-owner to review the assessment, if possible, and shall create a plan to remedy any non-compliance with this ordinance that exists on the property. The owner shall be provided with formal notice of

that plan. If the owner does not timely file an assessment or timely bring the property into compliance consistent with the plan, the owner and the property shall be considered to be in violation of this ordinance, and any appropriate enforcement measures may be taken. Nothing in this section shall alleviate the property-owner from the obligation to comply with this ordinance as of the date of its adoption. However, a property-owner who is conducting an assessment as described in this section in good faith or who is complying with an approved plan to bring the property into compliance as described in this section in good faith shall not be subject to enforcement for any violations that existed as part of the existing conditions on the property on the date of adoption of this ordinance.

- C. The Stormwater Authority shall maintain records reflecting the commercial and industrial uses that existed in Town as of the date of adoption of this ordinance, the date that notice of this ordinance was sent to the owner of each such property/parcel, the date the assessment is submitted for each such property/parcel, and the date that compliance is achieved for each such property/parcel.
- D. Nothing in this section shall prevent a person from being required to comply with this ordinance if there are any changes or alterations to their property, including new land disturbance, after the date of adoption of this ordinance.

The Authority may institute programs to assist property owners with Compliance.