MUNICIPAL STORMWATER DISCHARGE BYLAW
[Adopted ATM 5/8/17 Article 35]

1. PURPOSE

1.1 The purpose of this Bylaw is to provide for the health, safety, and general welfare of the citizens of The Town of Dunstable (the "Town") through the regulation of non-stormwater discharges to the municipal storm drainage system to the maximum extent possible as required by federal and state law. This Bylaw establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

1.2 The objectives of this Bylaw are:

a) to prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
b) to prohibit illicit connections and unauthorized discharges to MS4;
c) to require the removal of all such illicit connections;
d) to comply with state and federal statutes and regulations relating to storm water discharges, including the Town's National Pollutant Discharge Elimination System (NPDES) permit for discharges from the municipal storm drain system; and
e) to establish the legal authority to ensure compliance with the provisions of this Bylaw through inspection, surveillance, monitoring, and enforcement.

2. DEFINITIONS

The terms used in this Bylaw shall have the following meanings:

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

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U. S. C §1251 et seq.) and any subsequent amendments thereto.

GROUNDWATER: Water beneath the surface of the ground.

HAZARDOUS OR TOXIC MATERIALS: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous or toxic materials include without limitation any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows any non-permitted or unlawful discharge into the municipal storm drain system, including, but not limited to, sewage, process wastewater, cooling waters or wash water, and any connections from the indoor drains, sinks, sumps or toilets, without limitation regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8 of this Bylaw.

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, 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 Dunstable.

NON-STORM WATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

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

PERSON: An individual, partnership, association, firm, company, trust, corporation, other legally established entity, 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: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, the following: 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 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; and noxious or offensive matter of any kind.

STORMWATER: Any surface flow, snow melt, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

3. APPLICABILITY

This Bylaw shall apply to all water entering directly or indirectly into the municipal storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the Planning Board.

4. AUTHORITY

This Bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the authority granted by provisions of the Clean Water Act (1987) requiring NPDES permits for storm water discharges. Under 40 CFR 122.34 (b)(3), The Clean Water Act, section 402 (p)(3)(B)(ii) requires that permits for municipal separate storm sewer systems (MS4) include a requirement to effectively regulate problematic non-stormwater discharges into storm sewers. This Bylaw in no way supersedes or diminishes the authority or jurisdiction of any state or federal regulations governing discharges or illicit discharges. Enforcement of said state and federal regulations is governed by those applicable government agencies.

5. RESPONSIBILITIES FOR ADMINISTRATION

5.1 The Planning Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board in this Bylaw may be delegated in writing to a designated agent(s) upon a majority vote of the Planning Board. Should the Planning Board designate an agent, such agent shall be approved by the Board of Selectmen.

5.2 The Planning Board shall promulgate Regulations to implement and establish fees and penalties to effectuate the purpose of this Bylaw. Failure by the Planning Board to promulgate such Regulations or fee and penalty structures shall not have the effect of suspending or invalidating this Bylaw.

6. PROHIBITED ACTIVITIES

6.1 Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal storm drain system.

6.2 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, regulations or custom at the time of connection.

6.3 Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of storm water into or out

of the municipal storm drain system without prior written approval from the Planning Board.

7. EXEMPTIONS

The commencement, conduct or continuance of any illegal or illicit discharge to the municipal storm drain system is prohibited except for non-storm waters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system as described as follows:

a) Waterline flushing;

b) Flow from potable water sources;

c) Springs;

d) Natural flow from riparian habitats and wetlands;

e) Diverted stream flow;

f) Rising groundwater

g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005 (20), or uncontaminated pumped groundwater;

h) Water from the exterior foundation drains, roof drains, footing drains (not including active groundwater dewatering systems), or air conditioning condensation;

i) Discharge from landscape irrigation or lawn watering;

j) Water from residential activities, including, but not limited to, car washing, washing walkways, patios, house siding, windows, or similar exterior structure-related washing activities;

k) Discharge from dechlorinated swimming pool water (less than one ppm total 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.

l) Discharge from street sweeping;

m) Dye testing, provided verbal notification is given to the Highway Department or its agent prior to the time of the test and providing resulting concentrations are not at levels detrimental to resident aquatic organisms;

n) Non-storm water discharge permitted under an NPDES permit or a permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

o) Discharge for which advanced written approval is received from the Planning Board or its agent as necessary to protect public health, safety, welfare or the environment.

p) Firefighting activities.

8. NOTIFICATION OF RELEASES

Notwithstanding other requirements of local, state, or federal law, as soon as any person responsible for a facility, or responsible for emergency response for a facility or operation resulting in or which may result in discharge or pollutants to the municipal drainage system, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous or toxic materials, the person shall immediately notify the municipal fire department. In the event of a release of non-hazardous material, the reporting person shall as soon as practical notify the Planning Board and provide a written notification within three (3) business days thereafter of the spill occurrence. 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 (3) years. Failure to provide notification of a release as provided above is a violation of this Bylaw.

9. VIOLATION, ENFORCEMENT, AND PENALTIES

9.1 It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Bylaw. The Planning Board or its agent shall enforce this Bylaw and may pursue all civil and criminal remedies for violations.

9.2 Enforcement Orders.

9.2.1 If any person violates or fails to comply with any of the requirements of this Bylaw, the Planning Board may order compliance by written notice to the responsible person via certified mail or hand delivery. The order shall include the name and address of the alleged violator, the address at which the violation is occurring or has occurred, a statement specifying the nature of the violation, a description of the actions needed to resolve the violation and come into compliance, the deadline within which such actions must be completed, and a statement that, if the violator fails to come into compliance by the specified deadline, the Town may do the work necessary to resolve the violation at the expense of the violator.

9.2.2 Said order may require, without limitation:

a) Elimination of illicit connections or discharges to the municipal storm drain system;
b) Performance of monitoring, analyses and reporting;
c) Remediation of contamination caused by the illicit connection or discharge; and
d) The implementation of source control or treatment Best Management Practices.

9.2.3 Any person aggrieved by an enforcement order may appeal the order to the Board of Selectmen. Appeals shall be made by submitting to the Board of Selectmen, within 30 days of the order being appealed, a letter explaining why the order or decision was not justified. A copy of the letter shall be submitted simultaneously to the Planning Board. The decisions of the Board of Selectmen regarding appeals shall be final. Any further appeal shall be to a court of competent jurisdiction.

9.3 Action by the Town to Remedy a Violation. If a violator fails to come into compliance by the deadline specified in an enforcement order, the Planning Board or its agent may do the work necessary to resolve the violation at the expense of the violator and/or property owner. For situations involving an immediate threat to public health, safety or natural resources, the Planning Board or its agent may remove the illicit connection immediately and take such other action as is necessary to protect public health, safety or natural resources; written notice of the removal shall be provided to the property owner by hand within 48 hours of the removal or by certified mail postmarked no later than the next business day following the removal.

9.4 Recovery of Costs. If the Planning Board or its agent undertakes work to correct or mitigate any violation of this Bylaw, the Department or Board shall (within thirty (30) days after completing the work) notify the violator and the owner(s) of the property (if different) in writing of the costs incurred by the Town, including administrative costs, associated with that work. The violator and the property owner(s) shall be jointly and severally liable to pay the Town those costs within thirty (30) days of the receipt of that notice. The violator and/or the property owner(s) (if different) may file a written protest objecting to the amount or basis of costs with the Board of Selectmen within thirty (30) days of receipt of the notice. If the amount due is not received by the Town by the expiration of the time in which to file such a protest, or within sixty (60) days after the final decision of the Board of Selectmen or (if appealed to court) a court of competent jurisdiction resolving that protest, the Town may seek collection of the Town's costs in accordance with applicable law.

9.5 Civil Relief. If a person violates the provisions of this Bylaw or an order issued thereunder, the Town may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the

person to abate or remedy the violation. Any such civil action must be authorized by the Board of Selectmen.

9.6 Criminal Penalty. Any person who violates any provision of this Bylaw or any order issued thereunder may be punished by a fine of not more than $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. A criminal complaint may be filed by the Planning Board, with the authorization of the Board of Selectmen.

9.7 Non-Criminal Disposition (Ticketing). As an alternative to criminal prosecution, this Bylaw may be enforced by non-criminal disposition pursuant to the Non-Criminal Disposition Bylaw and Section 21D of Chapter 40 of the General Laws, in which case the enforcing agents will be: Planning Board or Planning Board's agent. The penalty for the first violation shall be $100.00. The penalty for each subsequent violation shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

9.8 Entry to Perform Duties Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Town and its agents, officers and employees may enter privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys, sampling, or remedial activities as the Town deems reasonably necessary.

9.9 Remedies Not Exclusive. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

10. COMPATIBILITY WITH OTHER TOWN LAWS AND REGULATIONS.

The requirements of this Bylaw are in addition to the requirements of any other policy, rule, regulation or other provision of law. Where any provision of this Bylaw imposes restrictions different from those imposed by any other policy, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

11. SEVERABILITY

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

12. TRANSITIONAL PROVISIONS

Property owners shall have 30 days from the effective date of the bylaw to comply with its provisions.