

## ARTICLE \_\_\_\_

### I. AUTHORITY

This By-Law is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution and M.G.L. Chapter 43B section 13. The Board of Selectmen is delegated hereby the responsibility and authority to enforce and administer this By-Law. The Board of Selectmen may appoint the Town Engineer or Assistant Town Engineer or such other town employee as the Board of Selectmen may from time-to-time determine and designate in a writing to aid the Board of Selectmen in the enforcement and/or administration of the By-Law.

### II. PREAMBLE

In partial fulfillment of the obligations of the Town under the Clean Water Act (33 U.S.C. 1251 & seq.) (the “Act”) and under the Town’s National Pollutant Discharge Elimination System Storm Water Permit, the Town hereby establishes a comprehensive and fair system of regulation of Discharges to the Town’s Municipal Separate Storm Sewer System (sometimes referred to herein as the “MS4”).

### III. PURPOSE

The purpose and intent of this By-Law is to:

- a. Protect the Waters of the U.S., as defined in the Act and its implementing Regulations, from uncontrolled Discharges of Storm Water or Discharges of Contaminated Water which have a negative impact on the receiving waters by changing the physical, biological and chemical composition of those waters resulting in an unhealthy environment for aquatic organisms, wildlife and people, and
- b. Reduce Discharges of Contaminated Water into the MS4 and resultant discharges from the MS4 into Waters of the U.S. and improve surface water quality, and
- c. Permit and manage reasonable access to the MS4 to facilitate proper drainage, and
- d. Assure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.

### IV. DEFINITIONS

**BOARD:** The Board of Selectmen and, to the extent delegated and designated, the Town Engineer or Assistant Town Engineer or such other town employee as delegated and designated by the Board of Selectmen.

**CONTAMINATED WATER:** Water that contains higher levels of Pollutants, including without limitation implied, heavy metals, toxins, oil and grease, solvents, nutrients, viruses and bacteria, than permitted in Waters of the U.S. by the Act and its implementing Regulations.

**DIRECT CONNECTION:** Any discernible, confined and discrete conveyance including but not limited to any pipe, drain, channel, conduit, tunnel, or swale whether above ground or below ground which directs water into the MS4.

**DIRECT CONNECTION LICENSE:** A license granted by the Town for the continued maintenance by an Owner of a Direct Connection to the MS4.

**DISCHARGE:** Any non-naturally occurring addition of water or of Storm Water to the MS4.

**DUMPING:** An act or omission of any person or entity the proximate result of which is the introduction of a Pollutant into the MS4.

**EXEMPTED DISCHARGES:** Discharges from the following sources unless in any instance such Discharge would result in a violation of 314 CMR 4.00 (Massachusetts Surface Water Quality Standards) or would result in a substantial and continuing increase in the level of a Pollutant in the Waters of the U.S:

1. water line flushing
2. landscape irrigation
3. diverted stream flows
4. rising ground water
5. pumped ground water
6. discharges from potable water sources
7. foundation drains
8. air conditioning condensation
9. irrigation water
10. springs
11. water from crawl space pumps
12. footing drains
13. lawn watering
14. individual residential car washing
15. flows from riparian habitats and wetlands
16. dechlorinated swimming pool discharges (e.g. where the Discharge contains less than 1ppm of chlorine.)
17. street wash water
18. rain run-off from roofs

**EXISTING SOURCE:** Any building, structure, facility or installation from which there is a flow of Storm Water or Exempted Discharge the construction of which building,

structure, facility or installation occurred prior to the promulgation of this By-Law.

**ILLICIT CONNECTION:** Any drain, conduit, or other conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the MS4.

**ILLICIT DISCHARGE:** Any Discharge into the MS4 of Contaminated Water, any Discharge of Storm Water from a Direct Connection for which a Direct Connection License is not in force and effect, any Discharge which is not an Exempted Discharge, or any Discharge from an Indirect Connection not in compliance with this By-Law.

**INDIRECT CONNECTION:** The natural drainage of Storm Water over or under the surface of the ground (whether instigated by human endeavor or not) via gravity into the MS4.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4:** The Storm Water collection system which is made up of open water courses, swales, ditches, culverts, canals, streams, catch basins and pipes through which the Storm Water flows and the Town Public Ways over which it flows which are owned and operated by the Town for the purpose of collecting or conveying Storm Water to a discharge point.

**NEW SOURCE:** Any building, structure, facility or installation from which there is or may be a Discharge of Storm Water the construction of which building, structure, facility or installation commenced after adoption of this By-Law.

**NPDES PERMIT:** The National Pollution Discharge Elimination System Permit issued by the federal Environmental Protection Agency to the Town.

**OWNER:** The owner of a parcel of land recorded in the Assessor's Office of the Town.

**POLLUTANT:** Dredged spoil, solid waste, incinerator residue, filter back-wash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rocks, sand, animal or agricultural waste, oil, grease, gasoline or diesel fuel.

**PUBLIC WAYS:** Any road (including such appurtenances as berms, curbs, drains, catch basins, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper lay-out) to which the public has access and that the Town is responsible for maintaining.

**STORM WATER:** Rainfall that exceeds the soil's capacity contemporaneously to absorb it and which, instead, runs across the surface of the ground as run-off.

## V. PROHIBITIONS

a. No person or entity shall do or suffer to be done any Dumping into the MS4, including without limitation implied, the placing or emptying into any catch basin or other portal to

the MS4, of any Pollutant.

- b. No Owner shall cause an Illicit Discharge to be made to the MS4 whether from a Direct or Indirect Connection.
- c. No Direct Connections whether from a New or Existing Source shall be installed after the Effective Date of this By-Law.
- d. Direct Connections from an Existing Source shall be allowed to continue after the Effective Date provided that:
  - (i) The Owner must disclose the Direct Connection and must within 30 days of the effective date of this By-Law apply for and thereafter be granted a Direct Connection License, and
  - (ii) The Owner must Discharge only Storm Water which is not Contaminated Water via the Direct Connection.
- e. Indirect Connections from Existing Sources shall be allowed provided that:
  - (i) Only Storm Water which is not Contaminated Water is Discharged, or a Discharge constituting an Exempted Discharge occurs, and
  - (ii) The Discharge does not cause safety problems due to icing or flooding of the Public Ways or cause damage to the Town's property.
- f. Indirect Connections from New Sources shall be allowed provided that:
  - (i) Sub-surface infiltration shall comply with criteria established in the Town's Subdivision Rules and Regulations, and
  - (ii) Only Storm Water which is not Contaminated Water is discharged or a Discharge constituting an Exempted Discharge occurs.

## VI. PENALTIES FOR VIOLATIONS

- a. Any person or entity which causes or suffers to occur a Dumping shall be subject to a fine of one hundred (\$100.00).
- b. Any Owner who causes or suffers to occur an Illicit Discharge to emanate from his property shall be subject to a fine of one hundred dollars (\$100.00) per day for each day that the Illicit Discharge continues after Notice thereof is given by or at the direction of the Board of Selectmen. This fee may be waived by the Selectmen to allow time for compliance.
- c. Any Owner who allows a Direct Connection to be maintained on his property (whether or not it results in an Illicit Discharge) without applying for and receiving a Direct Connection License from the Town shall be subject to a fine of one hundred dollars (\$100.00) per day for each day that the unlicensed Direct Connection continues after the deadline set for abatement by the Board of Selectmen.

The penalties set out herein may be assessed by the Board of Selectmen and are in addition to and not in substitution for any remedial action the Board of Selectmen may order under the ENFORCEMENT section of this By-Law.

## VII. ENFORCEMENT

- a. Violations of Section V of this By-Law may, without limitation, be disposed of through the non-criminal procedure specified in M.G.L. c. 40, §21D.
- b. If an Illicit Discharge or a Dumping occurs or an Illicit Connection is maintained, the Board shall give or cause to be given written notice directed to the Owner of the parcel from which the Illicit Discharge is emanating, or on which the Illicit Connection is maintained, ordering an immediate cessation of any act or condition in violation of this By-Law.
- b. The Board either with such notice or at any reasonable time thereafter may order the Owner or any other person or entity responsible for violating this By-Law to begin and thereafter diligently prosecute to completion, such remediation efforts as the Board in its reasonable discretion may deem appropriate.
- c. If the Board determines that the Illicit Discharge resulted from a Direct Connection to the MS4, the Board shall revoke the Owner's Direct Connection License forthwith. After the Owner has fully completed all remediation ordered by the Board, the Owner may thereafter apply to the Board on the form included herein as Exhibit A and utilizing the procedures from time to time prescribed by the Board, for a new Direct Connection License which the Board shall consider in the same manner as any other new application. A Direct Connection License form is included herein as Exhibit B. The forms set forth in Exhibits A and B are intended to serve as examples and may be changed from time to time at the discretion of the Board.

## VIII. APPEALS

Any person or Owner aggrieved by an action of the Board which was neither (i) the assessment of a penalty for which the provisions of M.G.L. c. 40, §21D apply, nor (ii) an action taken by the Board at a meeting of which the aggrieved person or Owner was given notice and was afforded the opportunity to present evidence and argument with a view to causing the Board to modify its earlier action (such action being a "final action") shall, within thirty days of such Board action, request a hearing before the Board at which the aggrieved person or Owner may present evidence and argument concerning final action by the Board. The Board shall hold such hearing within a thirty days following said request and within thirty days thereafter shall either confirm the Board's previous action or order such other final action as it may determine.

A person or Owner aggrieved by a decision of the Board of Selectmen under this By-Law may appeal such decision to the appropriate court of competent jurisdiction.

## IX. SEVERABILITY

If any clause, section, or other part of this By-Law shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this By-Law shall not be affected thereby but shall remain in full force and effect.

## X. EFFECTIVE DATE

This By-Law shall take effect upon approval by the Office of the Attorney General and as otherwise required by M.G.L. c. 40, §32.

or to take any other action relative thereto.

EXHIBIT A

APPLICATION FOR A LICENSE TO MAINTAIN A DIRECT CONNECTION TO  
THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)  
OF THE TOWN OF SHARON

1. Owner owns a parcel of land in the Town of Sharon generally known and numbered as \_\_\_\_\_ and the property is more particularly described in the copy of Owner's deed to the property attached to this Application.

2. On this land is a \_\_\_\_\_ which connects with the MS4 at \_\_\_\_\_  
(describe physical connection)  
, at the location shown on the enclosed map which has been drawn on a scale of one inch equals forty feet and which has been stamped by a Professional Engineer. (Show MS4 to which the Direct Connection is attached on this map as well.)

3. The reason for this Direct Connection is \_\_\_\_\_  
\_\_\_\_\_  
This Direct Connection was installed on \_\_\_\_\_.  
(Date)

4. Owner requests that the Town issue him a Direct Connection License in order to maintain the above-described physical connection.

Owner covenants that no Contaminated Storm Water is now or will hereafter be discharged from his property to the MS4 via this Direct Connection. Owner further agrees that if the Board of Selectmen determines that Contaminated Storm Water is being discharged from his property via this Direct Connection, Owner will take such remedial action as the Selectmen, in their discretion, may order and, if Owner fails to do so by the deadline set by the Board of Selectmen, Owner gives the Town permission to take such ordered remedial action at Owner's sole cost and expense.

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Date of Application

EXHIBIT B

CONDITIONAL LICENSE TO MAINTAIN A DIRECT CONNECTION  
TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OF THE  
TOWN OF SHARON

The Board of Selectmen of the Town of Sharon voted at their meeting held

on \_\_\_\_\_ to grant a revocable License to \_\_\_\_\_  
(Date) (Owner's Name)

for a Direct Connection as described in the Application which Connection is located at

\_\_\_\_\_ and which connects to the MS4 as shown on the attached  
(street address)

map for the purpose of draining uncontaminated Storm Water or Exempted Water Flows  
from the property. Violation of the terms of the Town's Illicit Discharge By-Law will  
result in termination of this License. The Town may revoke this License if necessitated  
by the terms of its NPDES Permit.

\_\_\_\_\_  
Signature of Chairman, Board of Selectmen

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_