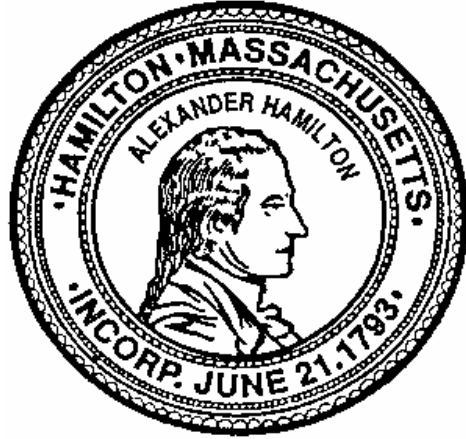




Town of Hamilton

SPECIAL TOWN MEETING
Appendixes to the Warrant

OCTOBER 22, 2007



Please note: The appendixes were omitted from the warrant mailing to save in printing and postage costs. They were made available at the Town Hall, Library, Public Safety Building, on-line @ www.hamiltonma.gov and at the meeting.

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APPENDIX A

STORMWATER MANAGEMENT GENERAL BY-LAW XXIX

1. PURPOSE AND INTENT:

The purpose and intent of this bylaw are to:

- A. protect water resources
- B. require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
- C. promote infiltration and the recharge of groundwater;
- D. ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
- E. encourage the use of Low-Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
- F. comply with state and federal statutes and regulations relating to stormwater discharges;
- G. establish the Town of Hamilton as the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

2. DEFINITIONS

ABUTTER: The owner(s) of land abutting the legal boundaries of the land on which the land-disturbing activity is proposed.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act M.G.L. c. 131, §40, and its implementing regulations.

APPLICANT: 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 Stormwater Management Permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Planning Board, the Zoning Board of Appeals, and/or their respective employees or agents designated to enforce this by-law.

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

CLEARING: Any activity that removes the vegetative surface cover.

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

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.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOW IMPACT DEVELOPMENT: A set of strategies that seek to maintain natural systems during the development process. The idea is to create homes and businesses that are integrated into the landscape, not imposed on it. Natural areas and important features are protected, and stormwater is managed with a distributed network of swales and rain gardens, rather than a centralized system of pipes and ponds.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and Massachusetts Clean Waters Act M.G.L. c. 21, §26-53. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

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 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 Hamilton.

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 insure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

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

PERMIT AUTHORITY: The Planning Board or the Zoning Board of Appeals, as outlined in Section 5.

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.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area 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-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

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

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit. See Section 6 and Planning Board Rules and Regulations. A document containing 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, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

3. AUTHORITY

- A. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §22.34
- B. Nothing in this Bylaw is intended to replace the requirements of any other bylaw that has been made or may be adopted by the Town of Hamilton.

4. APPLICABILITY

- A. This bylaw shall apply to all activities that result in disturbance of one or more acres of land that drains to the Municipal Separate Storm Sewer System. A permit from the Permit Authority shall be required for any construction activity including clearing, grading and excavation, that results in a land disturbance that will disturb equal to or greater than one acre of land, or will disturb less than one acre of land but which is part of a larger common plan of development or sale which will ultimately disturb equal to or greater than one acre of land, draining to the Town's Municipal Separate Storm Sewer System.

B. Construction activities that are exempt are:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04 and M.G.L. Chapter 40A, §3;
2. Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, or alteration of drainage patterns;
3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
4. Normal maintenance of Town owned public land, ways, and appurtenances;
5. Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, etc., provided that the post-repair condition drainage is equal to the pre-repair condition.
6. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw section.
7. Maintenance, reconstruction or resurfacing of any public or private way; and the installation of drainage structures or utilities within or associated with such ways that have been approved by the appropriate authorities provided that written notice be filed with the Planning Board fourteen (14) days prior to commencement of activity;

5. RESPONSIBILITY FOR ADMINISTRATION

- A. For the purpose of this Bylaw section, as noted in B. below, the term Permit Authority shall indicate the Planning Board or the Zoning Board of Appeals, as appropriate. Any powers granted to or duties imposed upon the Permit Authority may be delegated in writing by the Permit Authority to its employees or agents.
- B. To the extent that the Zoning Board of Appeals is the Permit Authority under M.G.L. Chapter 40B and for certain activity, development, construction or reconstruction under the Zoning Bylaw for which the Applicant must also seek a Stormwater Management Permit, then the Zoning Board of Appeals shall also be the Permit Authority in that instance.
- C. For all other applications which fall under the purview of this bylaw, the Planning Board shall be the Permit Authority.
- D. Applications, plans and accompanying data under this bylaw may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.
- E. Planning Board Rules and Regulations. The Planning Board shall adopt, and may periodically amend Rules and Regulations to effectuate the purposes of this Bylaw section. Failure by the Planning Board to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this bylaw. The Rules and Regulations shall include but shall not be limited to: the size, quantity, and distribution of plans; filing fee; required details for Stormwater Management Plan; Operation and Maintenance Plan; and Inspection and Site Supervision, etc.
- F. Stormwater Management Manual
 1. The Permit Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy to execute the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Regulations, stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
 2. Stormwater Credit System. The Permit Authority may adopt a Stormwater Credit System as part of the regulations authorized by this Bylaw section. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure of the Permit Authority to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

6. PERMITS AND PROCEDURES

A. Application.

A completed application for a Stormwater Management Permit (SMP) shall be filed with the Permit Authority. The Stormwater Management Permit Application package shall include:

1. a completed Application Form with original signatures of all owners;
2. a list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);
3. Stormwater Management Plan and project description;
4. Operation and Maintenance Plan;
5. payment of the application and review fees;
6. one (1) complete copy filed with the Town Clerk, by the Applicant, which shall serve to establish the filing date.
7. A full electronic copy submitted by e-mail or on a CD.

See Stormwater Management Permit Rules and Regulations for additional filing requirements.

B. Entry.

1. Filing an application for a permit grants the Permit Authority or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, after proper notification to the Applicant at least 24 hours in advance.

C. Public Hearing

1. If an application is filed concurrently for a Definitive Subdivision Plan approval, for a project under the Zoning Bylaw, or for a 40B filing, the public hearing and decision requirements shall follow the requirements of the particular application.
2. To the extent possible, required hearings of the Permit Authority shall run concurrently with the Stormwater Management Permit hearing, and every effort shall be made to handle the permitting process expeditiously.
3. If an application is filed independently of other filings, the Permit Authority shall hold a public hearing within sixty (60) days of the receipt of a complete application and shall take final action within sixty (60) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Permit Authority. Notice of the public hearing shall be given by publication in a newspaper of local circulation, public posting, and by certified mail at the Applicant's expense to abutters at least fourteen (14) days prior to the hearing date. The Permit Authority shall make the application available for inspection by the public during business hours at the Hamilton Town Hall.

D. Information requests.

The applicant shall submit all additional information requested by the Permit Authority to issue a decision on the application.

E. Waivers

1. The Permit Authority may waive strict compliance with any requirement of this bylaw or the Rules and Regulations of the Planning Board, where
 - a. Such action is allowed by federal, state and local statutes and/or regulations
 - b. It is in the public interest
 - c. It is not consistent with the purpose and intent of this bylaw.
2. Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purpose or objectives of this bylaw.
3. All waiver requests shall be discussed and voted on at the Public Hearing for the project.

4. If in the Permit Authority's opinion, additional time or information is required for review of a waiver request, the Permit Authority may continue the hearing to a date certain announced at the meeting. In the event the Applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

F. Actions by the Permit Authority may include:

1. Approve the Stormwater Management Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law;
2. Approve the Stormwater Management Permit Application and issue a permit with conditions, modifications or restrictions that the Permit Authority determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law;
3. Disapprove the Stormwater Management Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law.

G. Failure of the Permit Authority to take final action.

Failure of the Permit Authority 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 the Permit Authority's action, the Stormwater Management Permit shall be issued by the Town Clerk.

H. Vote required. A simple majority of the Permit Authority shall be required in order to grant a Stormwater Management Permit.

I. The Permit Authority shall enforce all violations of the Stormwater Management Permit approval and conditions. See Section 12. below for enforcement of violations of this bylaw section which do not fall under a valid Stormwater Management Permit.

J. Appeals. A decision of the Permit Authority shall be final. Further relief of a decision by the Permit Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days of filing a Decision with the Town Clerk, in accordance with M.G.L. Ch. 249 §4.

7. FINAL REPORT

Upon completion of the work, the Applicant shall submit a report (including certified as-built construction plans, as outlined in Subdivision Regulations, Section IV.B.8.a), from a Registered Professional Engineer (P.E.), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

8. CERTIFICATE OF COMPLETION

The Permit Authority will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

9. EMPLOYMENT OF OUTSIDE CONSULTANTS

The Permit Authority may employ outside consultants, at the Applicant's expense, under the terms of M.G.L. Ch. 44 §53G, the Zoning Bylaw, and Planning Board Rules and Regulations, to assist in its permit decision, including but not limited to plan review, drainage and stormwater analysis; to determine conformance with this Bylaw section and other requirements; and for construction inspection, etc.

10. PERFORMANCE GUARANTEE

- A. The Permit Authority may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Permit Authority has received the Final Report as required by Section 7 of this bylaw and issued a Certificate of Completion.

- B. The Planning Board Rules and Regulations shall establish reasonable criteria for assessing the Performance Guarantee.

11. DURATION OF STORMWATER MANAGEMENT PERMIT

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

12. ENFORCEMENT of VIOLATIONS Which do not Fall under a Stormwater Management Permit

- A. In any instance where a SWM Permit has not been applied for or granted, a disturbance of earth equal to or greater than one acre of land shall constitute a violation of this bylaw section. The Planning Board, or an authorized agent of the Planning Board, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1. The Planning Board or an authorized agent of the Planning Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
 - (a) a requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the land-disturbance permit;
 - (b) maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) monitoring, analyses, and reporting
 - (d) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
- 2. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. 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 the property owner shall reimburse the Town expenses.
- 3. Within thirty (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 of Hamilton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within thirty (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 thirty (30) days following a decision of the Planning Board 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, as provided in M.G.L. Ch. 59, §57, after the thirty-first day following the day on which the costs were due.

- C. **Criminal Penalties** Any person who violates any provision of this Bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.

- D. **Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch.. 40 §21D and General Bylaw Chapter XIII, *Penalties for Violation* in which case the Planning Board shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- E. **Appeals.** The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.

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

13. SEVERABILITY

If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

APPENDIX B

ILLICIT DISCHARGE DETECTION AND ELIMINATION BY-LAW GENERAL BY-LAW XXX

1. PURPOSE

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The objectives of this bylaw are:

1. to prevent Pollutants from entering the town's municipal separate storm drain system (MS4);
2. to prohibit illicit connections and unauthorized discharges to the MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

2. DEFINITIONS

For the purposes of this bylaw, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The Board of Selectmen, as the Board of Public Works, with the Director of Public Works as its Designated Agent.

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.) as hereafter amended.

DISCHARGE OF POLLUTANTS: The addition from any source of any Pollutant or combination of Pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation 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 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. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8, of this bylaw.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) or MUNICIPAL STORM SEWER 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 Hamilton .

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of Pollutants to waters of the United States.

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

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: 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 sewage treatment works or waters of the Commonwealth.

Pollutants shall include without limitation:

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, and accumulations;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. dissolved and particulate metals;
8. animal wastes;
9. rock, sand, salt, soils;
10. construction wastes and residues; and
11. noxious or offensive matter of any kind.

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.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT: A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of Pollutants to waters of the Commonwealth of Massachusetts.

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 M.G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal 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.

3. APPLICABILITY

This bylaw shall apply to flows entering the municipally owned storm drainage system.

4. AUTHORITY

A. This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

B. Nothing in this Bylaw is intended to replace the requirements or authority of any other bylaw, state, federal, or superseding authority.

5. RESPONSIBILITY FOR ADMINISTRATION

The Board of Selectmen shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board of Selectmen may be delegated in writing by the Board of Selectmen to the Designated Agent or to another authorized agent.

6. REGULATIONS

The Board of Selectmen may promulgate Rules and Regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this bylaw.

7. PROHIBITED ACTIVITIES

A. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any Pollutant or non-stormwater discharge into the municipal separate storm drain system (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 municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

C. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Designated Agent.

8. EXEMPTIONS

- A. Discharge or flow resulting from fire fighting activities.
- B. 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 municipal storm drain system:
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 infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space 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. Plowing, sanding, and salting, and other measures during snow and ice conditions;
 13. Discharge from street sweeping;
 14. Dye testing, provided verbal notification is given to the Designated Agent at least 7 days prior to the time of the test;
 15. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, 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
 16. Discharge for which advanced written approval is received from the Designated Agent as necessary to protect public health, safety, welfare or the environment.
 17. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town Administrator, the Board of Selectmen or the Board of Health.

9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Designated Agent may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of Pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

10. NOTIFICATION OF SPILLS

A. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of Pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release.

B. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police Departments and the Designated Agent. In the event of a release of non-hazardous material, the reporting person shall notify the Designated Agent no later than the next business day. The reporting person shall provide to the Designated Agent written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter.

C. 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. ENFORCEMENT

A. The Board of Selectmen shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board of Selectmen 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 perform abatement or remediation of the violation.

C. Orders. The Board of Selectmen may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. 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.

E. Within thirty (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 or basis of costs with the Board of Selectmen within thirty (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 thirty (30) days following a decision of the Board of Selectmen, 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. Ch. 59 §57 after the thirty-first day at which the costs first become due.

F. Criminal Penalties. Any person who violates any provision of this Bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.

G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Hamilton may elect to utilize the non-criminal disposition procedure set forth in M. G.L. Ch. 40 §21D and General Bylaw Chapter XIII, in which case the Board of Selectmen shall be the enforcing person. The penalty for each violation shall be \$100.00 for the first offense, \$200.00 for the second violation, and \$300.00 for the third violation.. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

H. 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 Board of Selectmen may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Selectmen deems reasonably necessary.

I. Appeals. The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

J. 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.

SECTION 12. SEVERABILITY

The provisions of this bylaw are hereby declared to be severable. If any provision, 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.

SECTION 13. TRANSITIONAL PROVISIONS

Property owners shall have 90 days from the effective date of the bylaw to comply with its provisions or petition the Board of Selectmen for an extension provided good cause is shown for the failure to comply with the bylaw during the specified period.

APPENDIX C

CHAPTER XIV DISPOSAL OF REFUSE AND GARBAGE

EXISTING LANGUAGE:

Section 4. The following materials are prohibited from collection at street side by the town's regular refuse collection contractor.

- Leaves, yard waste, branches, tree limbs, shrubs, or tree stumps of any kind or other quantities of organic waste.
- Recyclables which are defined as: newspapers, magazines, phone books, clear and colored glass bottles, aluminum or metal cans, and plastics codes 1 and 2, clear and colored.
- Toxic materials, tires, car batteries, oil, oil base paints or other hazardous wastes.
- White goods/appliances, heavy metal items.
- Construction or demolition materials.
- Large quantities of commercially originated food, food products, or other organic or liquid wastes.

Section 5. The Board shall establish rules and regulations as from time to time are necessary to insure that recycling of specific waste materials is encouraged throughout the town, and shall procure the services of a recycling contractor to collect recyclable products (as defined in Section 4). One recycling container will be supplied at no cost to all residents in town, and will be used for the purpose of curbside recycling.

PROPOSED LANGUAGE

Section 4. A listing of materials prohibited from collection at street side by the town's regular refuse collection contractor may be obtained from the Town Website or the Department or Public Works.

Section 5. The Board of Selectmen may establish a charge for municipal rubbish collection, disposal services, and recycling in the Town of Hamilton. Such charge shall be limited to the costs associated with such collection, services, and/or recycling. The Board of Selectmen may amend said charge from time to time in order to recover the cost of providing for some or all of the costs for disposal or collection of municipal rubbish.

APPENDIX D

WINTER PARKING BY-LAW CHAPTER X

WAYS

Current Language:

SECTION 9. The parking of any vehicle on any public way between the hours of 1:00 AM and 6:00 AM during the period from December 1st until April 1st of any year is prohibited and shall be punishable by a fine of Twenty Dollars (\$20.00). The parking of any vehicle on Town property at Depot Square on the west side of the railroad tracks for more than two (2) hours between the hours of 8:00 A.M. and 6:00 P.M. is prohibited and shall be punished by a fine of fifteen dollars (\$15.00).

Proposed Language:

The Chief of Police, in consultation with the Director of Public Works, shall have the authority to declare a winter storm-parking ban on all public ways. The public will be notified of a winter storm parking ban by notices carried on the local access cable TV station, local radio station and by flashing lights and signage that will be activated in advance of predicted storms at locations determined by the Chief of Police and the Director of Public Works. Parking on streets during the parking ban is prohibited, and shall be punishable by a fine of \$20, and any vehicle so parked may be subject to towing at the expense of the owner.

APPENDIX E

**CHAPTER XVIII
DOG BY-LAW**

Amend the by-law to read as follows:

SECTION 4.

Notwithstanding the provision of Section 139 of said Chapter 140 or any other provision of law to the contrary, the annual fees to be charged by the Town of Hamilton for the issuance of licenses for dogs shall be:

Males and Females	Fifteen Dollars
Neutered Males and Spayed Females	Fifteen Dollars
All Dogs Whose Registered Owners are Older Than 60 as of January 1 of the Year of Licensure	Ten Dollars
All Dogs Whose Registered Owners are Older than 70 as of January 1 of the Year of Licensure	No Fee

For kennels, if not more than four dogs are kept in said kennel, Fifty Dollars; if more than four but not more than ten dogs are kept in said kennel, One Hundred Dollars; and if more than ten dogs are kept in said kennel, One Hundred Fifty Dollars, said kennels to require Special Permit as per the Hamilton Zoning By-laws, Section V.A. 11d.

For Previously licensed dogs, the Town will charge a late fee, in addition to the license fee, as follows:

On or after June 1, a late fee of \$10	Total Due = \$25, per dog
On or after June 16, a late fee of \$25	Total Due = \$40, per dog
On or after August 1, a late fee of \$50	Total Due = \$65, per dog

The owner, or keeper, of a dog registered in Hamilton shall cause it to wear around its neck or body, a collar or harness to which shall be securely attached a tag in a form as prescribed by the Town Clerk and available at the Town Clerk' Office.

APPENDIX F

**CHAPTER XXI
SCHEDULE OF FEES**

Amend fees as follows:

For furnishing certificate of a birth	\$10.00
For furnishing a certificate of death	\$10.00
For issuing a certificate of marriage	\$10.00