

**WARRANT FOR
SPECIAL TOWN MEETING
OCTOBER 15, 2007
THE COMMONWEALTH OF MASSACHUSETTS**

Worcester, ss.

To any Constable of the Town of Lancaster in the County of Worcester,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Lancaster qualified to vote in the elections and Town affairs, to meet in the **Machlan Auditorium, Atlantic Union College at 338 Main Street in said Lancaster on Monday, the fifteenth day of October, at 7:00 o'clock in the evening**, then and there to act on the following Articles:

**ARTICLE 1
Board of Selectmen**

To see if the Town will vote to amend the FY 2006 Capital Plan as authorized by vote under Article 8 of the May 2, 2005 Annual Town Meeting by deleting item (i) contained in said article and inserting in place thereof the following:

(i)	Town Green Building Design and Maintenance
Amount:	\$25,000
Funds to be expended by:	Board of Selectmen
Purpose:	design and maintenance of buildings on Town Green
Funding Source:	Raise and Appropriate

**ARTICLE 2
Historic District Study Committee**

To see if the Town will vote to establish a Local Historic District and adopt according to Massachusetts General Law Chapter 40C the proposed Historic District Bylaw as set forth in the final report of the Historic District Study Committee of the Town of Lancaster, as available in the office of the Town Clerk, or act in any manner relating thereto.

**ARTICLE 3
Conservation Commission**

To see if the Town will vote to amend the Town's General Bylaws by adopting a Wetland Protection Bylaw as follows:

Wetlands Protection Bylaw- Lancaster, Massachusetts

1. Purpose

The purpose of this Bylaw is to protect the wetlands, wildlife, water resources, flood prone areas, and adjoining upland areas in the Town of Lancaster by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following:

- Public or private water supply;
- Groundwater supply;
- Flood control;
- Erosion and sedimentation control;
- Storm damage prevention;
- Water quality;
- Prevention and control of pollution;
- Fisheries;
- Forests;
- Wildlife habitat;
- Rare or threatened species habitat, whether plant or animal (according to the Natural Heritage and Endangered Species Program);
- Vernal pools;
- Agriculture;
- Aquaculture; and
- Recreational values.

This Bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (M.G.L. c. 131, §40; the “Act”) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and Regulations there under (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Lancaster.

2. ***Jurisdiction***

Except as permitted by the Conservation Commission, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas:

- Any wetlands;
- Marshes;
- Wet meadows;
- Bogs;
- Swamps;
- Vernal pools;
- Springs;
- Banks;
- Reservoirs;
- Lakes;
- Ponds of any size;
- Lands under water bodies;
- Lands adjoining these resources out to a distance of 100 feet, known as the buffer zone;
- Rivers;
- Streams, brooks and creeks, whether perennial or intermittent;
- Lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area;
- Lands subject to flooding or inundation by groundwater or surface water;
- Flood plain overlay district; and
- 25-foot no-build or no-alteration zone.

The jurisdiction of this Bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act Regulations found at 310 CMR 10.04.

3. ***Definitions***

The following definitions shall apply in the interpretation and implementation of this Bylaw:

- A. The term, ***agriculture***, shall refer to the definition as provided by M.G.L. c. 128, §1A.
- B. The term, ***alter***, shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this Bylaw:
 - Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
 - Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics;
 - Drainage or other disturbance of water level or water table;
 - Dumping, discharging or filling with any material which may degrade water quality;
 - Placing of fill, or removal of material, which would alter elevation;
 - Driving of piles and erection, expansion or repair of buildings or structures of any kind;

- Placing of obstructions or objects in water;
 - Destruction of plant life, including cutting or trimming of trees and shrubs;
 - Changing temperature, biochemical oxygen demand or other physical, biological, or chemical characteristics of any waters;
 - Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
 - Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this Bylaw.
- C. The term, **bank**, shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low-flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.
- D. The term, **buffer zone**, shall include a 25-foot no-build or no-alteration area surrounding any type of wetland or vernal pool. It shall also include all lands within 100 feet of a wetland or flood plain resource area, and within 200 feet of a riverfront area, whether perennial or intermittent.
- E. The term, **intermittent stream**, shall include a body of water, including brooks and creeks, which moves in a definite channel due to a hydraulic gradient, and which flows within, into or out of areas subject to protection under the Wetlands Protection Act. An intermittent stream, or ephemeral stream, does not flow year round. It may flow in all seasons except during the driest summer months, or only after precipitation, or when groundwater levels or water from snowmelt are high. An ephemeral stream may have a fish population.
- F. The term, **perennial stream**, shall include a body of water, including brooks and creeks, which moves in a definite channel due to a hydraulic gradient, and which flows within, into or out of areas subject to protection under the Wetlands Protection Act. A perennial stream flows all year, except during periods of drought, or unless it is subject to withdrawals or controlled by dams or other restricting structures.
- G. The term, **person**, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.
- H. The term, **pond**, shall follow the definition of 310 CMR 10.04 except that the size threshold of 5,000 square feet shall apply.
- I. The term, **rare species**, shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife and the National Heritage Endangered Species Program (NHESP), regardless whether the site in which they occur has been previously identified by the Division or Program.
- J. The term, **vernal pool**, shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two (2) continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression, but shall not include existing lawns, gardens, landscaped or developed areas.

4. Presumptions

Buffer zones are presumed significant to the protection of wetland resources and interests because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resources, either immediately, as a consequence of construction, or over time, as a consequence of daily operations or maintenance of such activities. Such adverse impacts from construction and use include, without limitation, erosion, siltation, loss of groundwater recharge, degradation of water quality and loss of wildlife habitat.

Vernal pools are presumed to provide essential breeding and rearing habitat functions, which in the case of any seasonal wetland, may not be certified as a vernal pool by the State. It may be that the depression or area does not provide the habitat functions specified for identification of non-certified vernal pools.

5. Exemptions and Exceptions

- A. *Notwithstanding any provision of this chapter to the contrary, the alteration of any residential, business or institutional building or customary appurtenance thereto, such as lawns, gardens, landscaped or other developed areas, where such structure or appurtenance existed prior to the effective date of this Bylaw, shall not be subject to this Bylaw but shall be regulated exclusively by the provisions of M.G.L. c. 131, §40 (the Wetlands Protection Act).*
- B. The applications and permits required by this Bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04.
- C. The applications and permits required by this Bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunications services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.
- D. The applications and permits required by this Bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of

the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this Bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

- E. Other than stated in this Bylaw, the exceptions provided in the Wetlands Protection Act (M.G.L. c. 131, §40) and Regulations (310 CMR 10.00) shall not apply under this Bylaw.

6. Permits and Conditions

- A. If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.
- B. If it issues a permit, the Commission may impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions.
- C. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. It may also deny a permit:
- For failure to submit necessary information and plans requested by the Commission;
 - For failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or
 - For failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

- D. The Commission may waive specifically identified and requested procedures, design specifications, performance standards or other requirements set forth in its regulations, provided that:
- The Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations;
 - That avoidance, minimization and mitigation has been employed to the maximum extent feasible; and
 - That the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.
- E. In reviewing activities within the *100-foot buffer zone to a wetland* and the *25-foot no-build or no-alteration zone*, the Commission shall presume these areas are important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation:
- Erosion;
 - Siltation;
 - Contamination
 - Loss of groundwater recharge;
 - Poor water quality; and
 - Loss of wildlife habitat.

The Commission may establish in its regulations, design specifications, performance standards, other measures and safeguards, and other work limits for protection of such lands, including without limitation, strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the Bylaw.

- F. In reviewing activities within the *200-foot buffer zone to a riverfront*, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this Bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done, after taking into consideration the proposed property use, the overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives and overall project costs.
- G. To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible, to minimize alteration, and where alteration is unavoidable and has been minimized to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the poor performance of earlier replication technologies.

- H. The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering, but not limited to, such factors as proximity to other areas suitable for wildlife, importance of wildlife corridors in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).
- I. The Commission shall presume that all areas meeting the definition of *vernal pools*, including the adjacent *wetland buffer zone* and *25-foot no-build or no-alteration zones*, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60). The Commission holds the right to assign its own consultant for review.
- J. A permit, Determination of Applicability (DOA) or Order of Resource Area Delineation (ORAD) shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.
- K. For good cause, the Commission may revoke any permit, DOA, ORAD or any other order, determination or other decision issued under this Bylaw after notice to the holder, the public, abutters within 300 feet, and town boards (Board of Selectmen, Planning Board, Board of Appeals, Board of Health, and Building Commissioner), and after a public hearing. Amendments to any permits, DOA or ORAD shall be handled in the manner set out in the Wetlands Protections Act Regulations and policies thereunder.
- L. The Commission, in an appropriate case, may combine the decision issued under this Bylaw with the Order of Conditions, Determination of Applicability, Order of Resource Area Delineation or Certificate of Compliance issued under the Wetlands Protection Act and Regulations.
- M. No work proposed in any application shall be undertaken until the permit, DOA or ORAD issued by the Commission, with respect to such work, has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a Certificate of Compliance, or issue a Cease Work Order until evidence of such recording is received by the Commission.

7. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate Rules and Regulations to effectuate the purposes of this Bylaw, effective when voted and filed with the Town Clerk. Failure by the Commission to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

At a minimum the Regulations shall reiterate the terms defined in this Bylaw, define additional terms not inconsistent with the Bylaw, and impose filing and consultant fees.

8. Relation to the Wetlands Protection Act

This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. c. 131, §40) and Regulations (310 CMR 10.00) thereunder. It is the intention of this Bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and Regulations.

9. Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

10. Transitional Provisions

Applicants that have filed an application (Notice of Intent, Request for Determination of Applicability, or Abbreviated Notice of Resource Area Delineation) prior to the effective date of this Bylaw shall not be subject to this Bylaw, but shall be regulated exclusively by the provisions of the Wetlands Protection Act (M.G.L. c. 131, §40).

11. Effective Date

This Bylaw shall take effect upon approval of the Attorney General in accordance with M.G.L. c. 40, §32.

Filed with the Town Clerk:

Town Clerk

Date

Or act in any manner relating thereto.

ARTICLE 4
Board of Public Works

To see if the Town will vote to amend the Town's General Bylaws by adopting a Roadside Memorial Bylaw as follows:

In cases where a death is caused by a fatal accident or occurrence in or along a public street, sidewalk or walkway, a temporary "roadside memorial" may be left for a period of not more than 60 days from the date of accident or occurrence.

The temporary memorial shall be within the boundary of the Town's property abutting the street, sidewalk or walkway, and not obstruct or hinder persons or vehicles traveling on the roadway, sidewalk, or walkway.

Or act in any manner relating thereto.

ARTICLE 5
Planning Board

To see if the Town will vote to amend the Town's General Bylaws by adopting a Stormwater Management Bylaw as follows:

Stormwater Management Bylaw - Lancaster, Massachusetts

Introduction

The Town of Lancaster hereby determines that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn have led to increased flooding, stream channel erosion, and sediment transport and deposition, and decreased groundwater recharge.

As the area of house and building roofs, parking lots and road surfaces increase, the rate of stormwater runoff from these surfaces increases, along with the preponderance of greater flooding. Unregulated stormwater runoff from historic development has led to the flooding we see today.

Land development projects and other land use conversions also contribute to increased non-point source pollution and degradation of receiving waters.

The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, groundwater resources, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters.

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and re-development, by the use of both structural and non-structural Best Management Practices.

Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and non-point source pollution.

The United States Environmental Protection Agency has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, flooding, post-construction soil erosion and sedimentation, stream channel erosion, and non-point source pollution associated with post-development stormwater runoff.

Therefore, the Town of Lancaster has established this Stormwater Management Bylaw to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. This Bylaw regulates the post-construction stormwater controls for both new and re-development projects.

1.0 Purpose

The purpose of the Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, flooding and non-point source pollution associated with new development and re-development and to comply with Phase II NPDES Stormwater requirements. It has been determined that proper management of post-development stormwater runoff will minimize flood damage to the public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies.

The objectives of this Bylaw are:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development, re-development and all land conversion activities result in after-development runoff characteristics that are equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, non-point source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff; and establish minimum design criteria for measures to minimize non-point source pollution from stormwater runoff which would otherwise degrade water quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of non-structural stormwater management measures and better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable; and coordinate site design plans, including green space, with the Town of Lancaster’s design guidelines;
6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and non-structural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
7. Establish provisions to ensure there is an adequate funding mechanism, including financial security or surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented under this Bylaw;
8. Establish administrative procedures and fees for the submission, review, approval or disapproval of stormwater management plans, the inspection of approved active development projects, and for long-term follow-up inspection to ensure ongoing care of approved facilities.
9. Establish the Town of Lancaster’s legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

Nothing in the Bylaw is intended to replace the requirements of the Town of Lancaster Wetlands Protection Bylaw or any other Bylaw or regulations that may be adopted by the Town of Lancaster, or any State or Federal requirement, law, regulation or policy. Any activity subject to the provisions of this Bylaw must comply with the requirements of all other applicable laws and regulations.

2.0 Definitions

The definitions contained herein apply to issuance of a Stormwater Management Permit (SMP) established by the Town of Lancaster Stormwater Management Bylaw. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

ALTERATION: Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alteration may be similarly represented as “alteration of drainage characteristics” and “conducting land disturbance activities”. Such changes include change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Applicant shall refer to a property owner or agent of a property owner who has filed a stormwater management plan.

BEST MANAGEMENT PRACTICES (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Non-structural” BMPs are natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BUILDING: A building shall refer to any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property, and occupying more than 100 square feet of area.

CHANNEL: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*) and as it is amended from time to time.

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DETENTION: The temporary storage of storm runoff in a stormwater management facility, with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DEVELOPER: A person who undertakes land disturbance activities.

DEVELOPMENT: The modification of land 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 storm drain or into waters of the United States or Commonwealth from any source.

DISTURBANCE OF LAND: Any action, including clearing and grubbing that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

DRAINAGE WAY: Any channel that conveys surface runoff throughout the site.

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 CONTROL: A measure that prevents erosion.

EROSION AND SEDIMENTATION CONTROL PLAN: 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.

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

GROUNDWATER: Water beneath the surface of the ground.

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 infiltration to the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks, rooftops, compacted soils, hard-packed gravel driveways and similar surfaces.

INFILTRATION: The process of percolating stormwater into the sub-soil.

LAND DISTURBANCE ACTIVITY: Any activity which changes the volume or peak flow discharge rate of rainfall from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural man-made watercourse.

LANDOWNER: The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding property rights in the land.

LOW IMPACT DEVELOPMENT (LID): An approach to environmentally friendly land use planning. It includes a suite of landscaping and design techniques designed to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques capture water on site, filter it through vegetation, and allow seeping into the ground rather than being lost as surface runoff so that the local water table can recharge. An important LID principle embodies the concept that rainwater is a resource and not merely a superfluous waste product.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21 § 23-56. 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 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 manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Lancaster.

NON-POINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

NON-STORMWATER DISCHARGE: Discharge to the storm drain not comprised entirely of stormwater.

OPERATION AND MAINTENANCE PLAN: A plan describing 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.

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

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or 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.

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 non-point 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, antifreeze 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, ordinances, accumulations and floatables;
- 5) Pesticides, herbicides, and fertilizers;
- 6) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- 7) Dissolved and particulate metals;
- 8) Animal wastes;
- 9) Rock, sand salt, soils;
- 10) Construction wastes and residues; and
- 11) Noxious or offensive matter of any kind.

POST-DEVELOPMENT: Conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to conditions after culmination of a new development or re-development project and does not depict conditions during the construction phases of a project.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Authority. Where phased development or phased plan approval occurs (preliminary grading, roads, utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESOURCE AREA: Any area protected under the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, or the Town of Lancaster Wetlands Bylaw.

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.

SEDIMENT CONTROL: Measures that prevent eroded sediment from leaving the site or entering off-site drainage structures.

SITE: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

STABILIZATION: The use, singly or in combination, of mechanical, structural or vegetative methods to prevent or retard erosion.

START OF CONSTRUCTION: The first land-disturbing activity associated with a development, including but not limited to, land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

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

STOP WORK ORDER: An order issued which requires that all construction activity on a site will be stopped.

STORMWATER AUTHORITY: The Stormwater Authority for Town of Lancaster shall be the Planning Board or their authorized agent(s). The Stormwater Authority is responsible for coordinating the review, approval and permit process as defined in this Chapter. Boards and/or departments may participate in the review process as defined in this Bylaw or the Stormwater Regulations adopted by the Planning Board of the Town of Lancaster. The Conservation Agent and the Building Commissioner are authorized to act as agents of the Planning Board in enforcing this Bylaw.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Stormwater Authority, after review of an application, plans, calculations and other supporting documents, that is designed to protect the Town from deleterious effects of uncontrolled or untreated stormwater runoff.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a qualified professional engineer (PE), a professional public land surveyor (PLS), or a certified professional in erosion and sedimentation control (CPESC), that includes structural and non-structural best management practices (BMPs) to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing maintenance requirements for structural BMPs.

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: Any body of water, including but not limited to, lakes, ponds, rivers and streams.

3.0 Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rules statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Lancaster at Town Meeting, dated October 15, 2007.

4.0 Jurisdiction

No person shall undertake a regulated construction activity, as described below, without a Stormwater Management Permit from the Planning Board.

A) Regulated Activities shall include any of the following:

1. Land disturbance of greater than one acre (43,560 square feet), associated with construction or re-construction of structures.
2. Development or re-development involving multiple, separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that together disturbs one acre or more.
3. Paving or other change in surface material over an area of one acre or more causing a significant reduction of permeability or increase in runoff.
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than one acre.
5. Any other activity altering the surface of an area exceeding one acre that will, or may, result in increased stormwater runoff flowing from the property into a public way, the municipal storm drain system, or to a watercourse or wetland. An exception is the removal of tree cover when the stumps are left in place.

B) Exempt Activities

1. Normal maintenance and improvement of land in agricultural or forestry use as defined by the Massachusetts Wetlands Protection Act and its Regulations.
2. Normal 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 30 cubic yards of soil material, construction of walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
3. The construction of fencing, irrespective of materials used, that will not alter existing terrain or drainage patterns.
4. Construction, maintenance and operation of utilities (gas, water, sewer, electric, telephone, etc.) other than drainage that will not alter terrain or drainage patterns.
5. Those activities that are subject to the jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Lancaster Conservation Commission, are exempt from compliance of this Bylaw.
6. Agriculture, horticulture, floriculture and viticulture exempted from prohibition by Section 3 of Massachusetts General Law Chapter 40A on parcels of property of five (5) acres in size and larger.

5.0 Administration

The Lancaster Planning Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents (who may include the Conservation Agent and the Building Commissioner).

6.0 Regulations

The Lancaster Planning Board may adopt and periodically amend stormwater rules and regulations relating to receipt and content of stormwater management applications, review time periods, permit terms, conditions, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures, administration and enforcement of this Bylaw subsequent to a majority vote of a meeting of the Planning Board and after conducting a public hearing to receive comments on the proposed regulations and/or any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) calendar days before a hearing date.

Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

7.0 Permits and Procedures

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 6 of this Bylaw.

8.0 Inspections

Filing an application for a Stormwater Management Permit grants the Planning Board, or its agent, permission to enter the site of the land-disturbing activity, as permitted by law, to verify the information in the application and to inspect for compliance with permit conditions.

The Planning Board, in their discretion, may conduct an inspection at any stage of land-disturbing activity to ensure compliance with the terms of this Bylaw and any permit. The Planning Board also may require the applicant to submit self-inspection reports at any stage of development or post-development. The Planning Board may inspect sites before construction, weekly during construction, and within 24 hours of a rainstorm of two inches or greater.

9.0 Fees

The Planning Board by regulation shall promulgate an application fee schedule for Stormwater Management Permit applications and completion certificates. The fee schedule shall be reasonably related to the costs of processing, reviewing and acting upon the application, including review of the application by a professional engineer or other consultant retained by the Board to advise it on technical, legal, economic, or other aspects of the proposed work. The fee specified in such a fee schedule shall be made payable to the Town of Lancaster and shall accompany the permit application or request for certificate of completion. The Planning Board may require an additional fee for review of any change in or alteration from an approved permit.

Said fee shall be paid into a special account set up by the Town Treasurer and may be expended by the Planning Board for the purpose allocated without further appropriation in accordance with the provisions of M.G.L., Chapter 44, § 53E ½.

10.0 Waivers

- A) The Planning Board may waive strict compliance with any requirement of this Bylaw or the rules and regulations promulgated hereunder, where such action:
 - 1. Is allowed by federal, state and local statutes and/or regulations;
 - 2. Is in the public interest;
 - 3. Is not inconsistent with the purpose and intent of this Bylaw.
- B) Any applicant may submit a written request to be granted such a waiver. Such a waiver request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Bylaw does not further the purposes or objectives of this Bylaw.
- C) All waiver requests shall be discussed by the Planning Board and a decision will be made by the Planning Board within 30 days of receiving the waiver request.
- D) If, in the Planning Board's opinion, additional time or information is required for review of a waiver request, the Planning Board may continue consideration of the waiver request to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide the requested information, the waiver request shall be denied.

11.0 Enforcement

The Planning Board, or an authorized agent of the Planning Board, shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A) Civil Relief

If a person violates the provisions of this Bylaw, regulations, permit, notice or order issued thereunder, the Planning Board 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.

B) Orders

The Planning Board, or its authorized agent, may issue a written order to enforce the provisions of this Bylaw, or the regulations thereof, which may include:

- 1. A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or provisions of the Stormwater Management Permit;
- 2. Maintenance, installation or performance of additional erosion and sediment control measures;
- 3. Monitoring, analyses, and reporting;
- 4. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
- 5. Compliance with the Stormwater Management Plan and Permit;

6. Repair, maintenance or replacement of the stormwater management system or portions thereof in accordance with the Operation and Maintenance Plan.
7. Remediation of adverse impact resulting directly or indirectly from malfunction of the stormwater management system.

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.

C) Criminal Penalty

Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.

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. c. 40, § 21D, which has been adopted by the Town in the Code of the Town of Lancaster Chapter 125, § 125-1, Complaints, in which case the Planning Board or authorized agent shall be the enforcing person. The penalty for each violation shall be \$50.00 for the first violation, \$100.00 for the second violation, and \$300.00 for the third and subsequent violations. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E) Appeals

The decision 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 are not exclusive of any other remedies available under any application Federal, State or local law.

12.0 Public Education

The Planning Board, within its available resources, shall provide education programs on soil erosion, sediment control and stormwater management to the general public and persons regulated by this Bylaw. The Planning Board shall provide guidelines and advice to ease the permit application process and foster acceptance of good erosion control and stormwater management practices.

13.0 Severability

If any provision, paragraph, sentence, or clause of this Bylaw is held invalid for any reason by a court of competent jurisdiction, all other provisions shall continue in full force and effect.

14.0 Effective Date

This Bylaw shall take effect upon approval of the Attorney General in accordance with M.G.L. c. 40, § 32.

Filed with the Town Clerk:

Town Clerk

Date

Or act in any manner relating thereto.

ARTICLE 6 Board of Public Works

To see if the Town will vote to amend the Town's General Bylaws by adopting an Illicit Discharge Bylaw as follows:

Illicit Discharge Bylaw - Lancaster, Massachusetts

1.0 Purpose

The purpose of this Bylaw is to eliminate non-stormwater discharges to the Town of Lancaster's municipal storm drain system. Non-stormwater discharges contain contaminants and supply additional flows to the Town's storm drain system. Non-stormwater discharges are major causes of:

1. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. Contamination of drinking water supplies;
3. Alteration or destruction of aquatic and wildlife habitat; and
4. Flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town's natural resources, municipal facilities, general public health and safety, and the environment.

The objects of this Bylaw are:

1. To prevent pollutants from entering the municipal storm drain system;
2. To prohibit illicit connections and unauthorized discharges to the storm drain system;
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.

2.0 Definitions

The definitions contained herein apply to the administration and enforcement of this Illicit Discharge Bylaw. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*) and as it is amended from time to time.

DETENTION: The temporary storage of storm runoff in a stormwater management facility, with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DEVELOPMENT: The modification of land 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 municipal storm drain system or into waters of the United States or Commonwealth from any source.

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

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or sub-surface 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 4.0 of the Lancaster Illicit Discharge Bylaw. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or resulting from fire fighting activities that are exempted.

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 manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Lancaster.

NON-STORMWATER DISCHARGE: Discharge to the storm drain not comprised entirely of stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or 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.

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 non-point 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, antifreeze and other automotive fluids;
3. Non-hazardous liquid and solid wastes and yard wastes;
4. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5. Pesticides, herbicides, and fertilizers;
6. Hazardous materials and wastes, sewage, fecal coliform and pathogens;
7. Dissolved and particulate metals;
8. Animal wastes;

9. Rock, sand, salt, soils;
10. Construction wastes and residues; and
11. Noxious or offensive matter of any kind.

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

SITE: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

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

WATERCOURSE: Any body of water, including but not limited to, lakes, ponds, rivers and streams.

3.0 Authority

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 122.34 and as authorized by the residents of the Town of Lancaster at Town Meeting, dated October 15, 2007.

4.0 Jurisdiction

A) Prohibited Activities shall include, but not be limited to:

1. Illicit Discharges – No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into waters of the United States and/or Commonwealth.
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, regulation or custom at the time of connection.
3. Obstruction of the 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 approval from the Stormwater Authority.

B) Exempt Activities

The following non-stormwater discharges or flows are considered exempt from the prohibition of non-stormwater discharges, provided that the source is not a significant contributor of pollution 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; also water from sump pumps and other pumps that remove uncontaminated flood waters from basements (note: sump pumps that connect to the municipal storm drain system must file an application with the Board of Public Works);
9. Discharge from landscape irrigation or lawn watering;
10. Water from individual residential car washing;
11. Water from individual residences used for washing walkways, patios, house siding, windows, or similar house-related activities;
12. Discharge from de-chlorinated 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;
13. Dye testing, providing verbal notification is given to the Board of Public Works prior to the time of the test;
14. Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
15. Discharge for which advanced written approval is received from the Stormwater Authority as necessary to protect public health, safety, welfare and the environment.
16. Discharge resulting from municipal street sweeping activities.
17. Any other source of non-stormwater discharges or flows that has applied for, and received, a written determination from the Board of Public Works that the source is not likely to be a significant contributor of pollution to the municipal storm drain system.

C) Special Exemptions

1. Discharge or flow resulting from fire fighting activities.
2. Discharge or flow resulting from municipal ice and snow control operations.

5.0 Administration

The Lancaster Board of Public Works shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Board of Public Works may be delegated in writing by the Board of Public Works to its employees or agents.

6.0 Regulations

The Board of Public Works may adopt and periodically amend regulations relating to additional definitions, enforcement, fees (including inspections, costs of chemical and/or biological analyses, and/or consultant fees), procedures, administration and enforcement of this Bylaw subsequent to a majority vote of a meeting of the Board of Public Works and after conducting a public hearing to receive comments on the proposed regulations and/or any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) calendar days before a hearing date. After public notice and hearing, the Board of Public Works may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Board of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

7.0 Emergency Suspension of Storm Drainage System Access

The Board of Public Works may suspend municipal storm drain 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 public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

8.0 Notification of Spills

Any spills or releases that require notification under local, State or Federal law will be the responsibility of the person responsible for a facility or operation, or for an emergency response for a facility or operation (i.e., construction). In the event of a spill or release which may result in a discharge of pollutants or non-stormwater discharge to the municipal storm drain system, waters of the United States and/or waters of the Commonwealth, the responsible parties, potentially responsible parties, or any person or persons managing a site or facility, shall take all necessary steps to ensure containment, and remediate any municipal storm drains that have been impacted. However, if in the opinion of the Board of Public Works there is an excessive amount of pollutants in the storm drain system, the Authority can require remediation by the responsible party, regardless of other State or Federal regulations.

In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Board of Public Works no later than the next business day. The reporting person shall provide the Board of Public Works written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

9.0 Enforcement

The Board of Public Works, or an authorized agent of the Board of Public Works, shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A) Civil Relief

If a person violates the provisions of this Bylaw, regulations, permit, notice or order issued thereunder, the Board of Public Works 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.

B) Orders

The Board of Public Works, or an authorized agent of the Board of Public Works, may issue a written order to enforce the provisions of this Bylaw, which may include:

1. Elimination of illicit connections or discharges to the storm drain system;
2. Performance of monitoring, analyses and reporting;
3. That unlawful discharges, practices or operations shall cease and desist; and
4. Remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contaminations is required and is the responsibility of the property owner, the order shall set forth a deadline by which such abatement or remediation must be completed.

C) Criminal Penalty

Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.

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. c. 40, § 21D, which has been adopted by the Town in the Code of the Town of Lancaster Chapter 125, § 125-1.

Complaints, in which case the Board of Public Works or authorized agent shall be the enforcing person. The penalty for each violation shall be \$50.00 for the first violation, \$100.00 for the second violation, and \$300.00 for the third and subsequent violations. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E) 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 Public Works, its agents, officers and employees may enter upon privately-owned property for the purpose of performing their duties and may make or cause to be made such examinations, surveys or sampling as the Board of Public Works deems reasonably necessary.

F) Appeals

The decision or orders of the Board of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

G) Remedies Not Exclusive

The remedies listed are not exclusive of any other remedies available under any applicable Federal, State or local law.

10.0 Public Education

The Board of Public Works, within its available resources, shall provide educational programs on illicit discharge to the municipal storm drain system to the general public and persons regulated by this Bylaw.

11.0 Severability

If any provision, paragraph, sentence, or clause of this Bylaw is held invalid for any reason by a court of competent jurisdiction, all other provisions shall continue in full force and effect.

12.0 Transitional Provisions

Residential property owners shall have sixty (60) days from the effective date of the Bylaw to comply with its provisions provided good cause is shown for the failure to comply with the Bylaw during that period.

13.0 Effective Date

This Bylaw shall take effect upon approval of the Attorney General in accordance with M.G.L. c. 40, § 32.

Filed with the Town Clerk:

Town Clerk

Date

Or act in any manner relating thereto.

ARTICLE 7
Board of Selectmen

To see if the Town will vote to transfer from free cash a sum not to exceed \$48,000.00 to be expended by the Board of Public Works for the purchase of a new Dump Truck for the Highway Division, GVW 12,000 or greater, 4X4 complete with snow plow attachments, or to act in any manner relating thereto.

ARTICLE 8
Registered Citizens Petition

To see if the Town will vote to amend the Section 3.20 Use Regulation Schedule of the Lancaster Zoning By-law in order to allow the keeping of poultry and livestock as a “by right” principal use in the Residential District, on less than five acres or where otherwise not exempted by Section 3 of Massachusetts General Laws Chapter 40A, by changing the “SP” notation for Item B in Subsection 3.22 Rural Uses to “P”, or to take any other action relative thereto.

(This articles appears as printed as a result of a Registered Voters Petition)

And you are directed to serve this Warrant by posting up attested copies thereof at the South Lancaster Post Office, the Center Post Office, the Fifth Meeting House and the Town Hall, in said Town fourteen days at least before the time for holding said meeting. Hereof fail not and make due return of the Warrant with your doings thereon to the Town Clerk at the time and place of meeting aforesaid.

SELECTMEN OF LANCASTER

Christopher J. Williams, *Chairman*

Shawn S. Winsor, *Clerk*

Jennifer B. Leone, *Member*

Date of Execution

CONSTABLE'S CERTIFICATION

I hereby certify under the pains and penalties of perjury that I posted an attested copy of this Warrant at the South Lancaster Post Office, the Center Post Office, the Fifth Meeting House, and the Town Hall on the date attested. I further certify that this Warrant was posted in accordance with the By-laws of the Town of Lancaster and the provisions of M.G.L. c.39, §10.

Attest: _____
Constable

Date: _____

The full text of the Warrant is available in the Town Hall and Thayer Memorial Library.
The Warrant will also be available at Town Meeting.