

CITY OF BROCKTON  
STORMWATER MANAGEMENT ORDINANCE

Ordinance No. 496

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**ARTICLE I**

**Section 1: Purpose and Objective**

The City of Brockton enacted this Stormwater Ordinances, is to effect proper management of stormwater runoff and its control facilities, in a prudent manner; to comply with state and federal environmental regulations. The City of Brockton is the permitting authority for all land disturbing activities. The Ordinance requires the land owner to maintain all on-site stormwater control facilities and all open space areas, such as parks or other green areas, within their property that are part of an approved stormwater control plan. The City of Brockton will only provide construction permits to projects that develop a plan to manage stormwater runoff occurring during the construction process that is in compliance with this Ordinance, the state and federal regulations. The City of Brockton, under the NPDES program, also has the authority to inspect properties for noncompliance; to ensure that they are properly maintained and functioning properly, and can issue a notice of violation (NOV) for any deficiency or onsite infraction. It is the responsibility of Property owners to maintain of any stormwater facilities or management practices located on their property. This ordinance is adopted to accomplish the following objectives:

1. To protect, maintain and enhance the public health, safety, environment and general welfare;
2. Prevent flood and drainage hazards resulting from new development or redevelopment;
3. Prevent the creation of unstable conditions susceptible to erosion;
4. Protect new buildings and major improvements from flood damage due to increased stormwater runoff;
5. Protect human life and health from the hazards of increased flooding on a watershed basis;
6. Lessen the burden on taxpayers for flood control projects, repairs to flood-damaged public facilities and utilities, correction of channel erosion/siltation problems, caused by increased stormwater runoff quantities from new development;
7. Protect, conserve, and promote the orderly development of land and water resources;
8. Protect the hydrology, hydraulics, and other beneficial functions of streams, lakes, wetlands, floodplains and flood-prone areas;
9. Preserve stream corridors to moderate flooding and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.
10. Prevent additional disruption of governmental services and the economy due to flooding and drainage problems;
11. Establish requirements and promote regular, planned maintenance of stormwater management facilities.
12. Protect water resources;
13. Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;
14. To prevent pollutants from entering the City's municipal separate storm sewer system (MS4) and reduce or eliminate pollutants entering the City's MS4 from existing uses;
15. To prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
16. To establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
17. To establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed are maintained, and ensure they do not pose a threat to public safety; and

18. To establish the City of Brockton's legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement.

Proper management of these runoff sources will minimize damage to public and private property and infrastructure; safeguard the public health, environment, and general welfare of the public; protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies. It also eliminates or reduces the adverse effects of soil erosion and sedimentation on the environment, and municipal facilities. These adverse effects are usually the result of unmanaged construction and other activities including, but not limited to, earth alteration, excavation, removal of vegetation, and general construction activities. This Ordinance seeks to meet the above purposes through the following:

1. Establish decision-making processes surrounding land development activities to protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development, redevelopment, and all land conversion activities maintain the post-development runoff characteristics to equal or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, nonpoint 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 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; establish minimum design criteria to minimize nonpoint source pollution from stormwater runoff, which would otherwise degrade water quality;
4. Establish design and application criteria for the construction and use of structural and non-structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of nonstructural stormwater management, 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;
6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices, to ensure that they continue to function as designed;
7. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this Ordinance;

8. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, and of erosion and sediment control plans; for the inspection of approved active projects, and their long-term monitoring inspection.

## **Section 2: Definitions**

**ABUTTER:** The owner(s) of land abutting the activity.

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquaculture use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. 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 in the area.

**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 soil erosion and sediment control permit for proposed land disturbing activity.

**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.

**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.

**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.

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

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a Certified Professional in Erosion and Sedimentation Control (CPESC), and/or a qualified professional engineer (PE), 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.

**EROSION CONTROL:** The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS:** Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

**FLOODING:** A local and temporary inundation or rise in the surface of a body of water, such that it covers land not usually under water.

**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.

**ILLCIT 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 Ordinance.

**ILLCIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system or a watercourse or the waters of the Commonwealth that is not composed entirely of stormwater, except for projects exempted by this Ordinance or by Regulations issued thereunder. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities.

**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.

**IMPOUNDMENT:** A stormwater pond created by either constructing an embankment or excavating a pit which retains a permanent pool of water.

**INFILTRATION:** The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**LAND-DISTURBING ACTIVITY:** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters, involves clearing and grading, or results in an alteration of drainage characteristics.

**LAND-DISTURBING PERMIT (LDP):** A permit issued by the Stormwater Authority, established by this Ordinance.

**LOAD ALLOCATION:** The maximum concentration or mass of a pollutant which can be discharged to a waterway non-point sources without causing a violation of surface water quality standards as established in an applicable TMDL.

**MASSACHUSETTS ENDANGERED SPECIES ACT:** (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the “taking” of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS:** The Stormwater Standards as further defined by the Massachusetts Stormwater Handbook both issued by the Department of Environmental Protection, and as amended, that coordinate the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Standards address 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 City of Brockton.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

**NONSTORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.

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

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

**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314

CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

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

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

**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.

**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 of Massachusetts.

Pollutants shall include without limitation:

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

**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

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

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

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites. The creation of new areas of impervious surface or new areas of land disturbance on a site constitutes development, not redevelopment, even where such activities are part of a common plan which also involves redevelopment. Redevelopment includes maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and remedial projects specifically designed to provide improved stormwater management such as projects to separate storm drains and sanitary sewers and stormwater retrofit projects.

**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.

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

**STORMWATER AUTHORITY:** Established by the City of Brockton, as its authorized agent.

**STORMWATER:** Runoff from precipitation or snowmelt and surface water runoff and drainage.

**STORMWATER MANAGEMENT PLAN:** A plan required as part of the application for a Stormwater Management Permit, the issued by the Stormwater Authority, established by this Ordinance.

**STORMWATER UTILITY FEE:** Fee establishes for implementing, maintaining, upgrading, constructing, and managing the Stormwater Infrastructure; made payable to City of Brockton, Stormwater Enterprise Fund (SEF), for the Authority.



**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**TOTAL MAXIMUM DAILY LOAD or TMDL:** A plan required under the Clean Water Act for a pollutant which causes or contributes to a violation of state surface water quality standards in a specific geographic area, and which establishes the maximum amount of that pollutant (referred to as the load allocation and waste load allocation) which may be discharged to the affected waters of the Commonwealth by one or more categories of users without violating state surface water quality standards.

**TOXIC OR HAZARDOUS MATERIAL OR WASTE:** Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**TSS:** Total Suspended Solids.

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

**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.

**WASTE LOAD ALLOCATION:** The maximum concentration or mass of a pollutant which can be discharged to a waterway from point sources without causing a violation of surface water quality standards as established in an applicable TMDL.

**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, coastal waters, and groundwater.

**WETLAND RESOURCE AREA:** Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the City of Brockton Wetlands Protection Bylaw.

**WETLANDS:** Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels

rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

### **Section 3: Stormwater Authority**

Stormwater Authority (Authority) is the Agency established by this Ordinance, by the City of Brockton to oversee the proper execution of regulations contained in this Ordinance. The Ordinance is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Status, M.G.L. Chapter 40, Section 21, M.G.L. Chapter 43B, the regulations of the Federal Clean Water Act found at 40 CFR 122.34,

The Stormwater Authority shall consist of five (5) members comprised of a delegate from each of the following City bodies. The members shall be from the Department of Public Works, the Engineering Division, the Highway Division, the Conservation Agent/Planning Department and one delegated by the Mayor. The City Engineer shall be the chairman of the Authority; a vice chairman shall be elected annually, at the first meeting in January and shall act in the absence of the chairman.

### **Section 4: Responsibility for Administration**

- A. Stormwater Authority shall administer, implement and enforce this Ordinance. Any powers granted to or duties imposed upon Stormwater Authority may be delegated in writing by Stormwater Authority to City employees or agents.
- B. Establish administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, and the inspection of approved projects.
- C. Assess and impose penalties for illegal connection/discharges and/or wanton violation of the provisions of the Stormwater Ordinance. Procedure for penalty assessment shall be, as detailed in the City of Brockton Stormwater Manual.
- D. Nothing in this Ordinance is intended to replace the requirements of the City of Brockton Zoning Ordinance, the City of Brockton General Wetlands Protection Ordinance, or any other Ordinance that may be adopted by the City of Brockton. Except that in the area of drainage, erosion and pollution control, this Ordinance takes precedence. Any activity subject to the provisions of the above cited Ordinances must comply with the specifications of each. Where the requirements of this Ordinance conflicts with or overlaps with one of the above ordinances, the more stringent requirement applies, as defined by the Stormwater Authority. The requirements of this Ordinance are in addition to applicable Stormwater requirements of State and Federal agencies. The requirements of this Ordinance

are detailed in the City of Brockton Stormwater Management Manual (latest revision).

- E. The Stormwater Authority shall make a master plan study of the city's drainage system and shall from time to time make a careful evaluation of the system, when necessary to prepare stormwater management optimization plan and resources necessary for implementation of the plan. The Authority will work with the Department of Public Works, to implement the Plan.

### **Section 5: Stormwater Utility Fee**

The City of Brockton shall institute Stormwater Utility fees, for funding the Environmental Protection Agency's mandated stormwater utility services. Stormwater credits will also made available for properties that engage in stormwater best management practices, as established by the Stormwater Authority, in the Brockton Stormwater Manual and Massachusetts Department of Environment Protection (DEP).

The Stormwater Authority shall establish, Stormwater Utility Fees, pursuant to M.G.L. Chapter 83 Section 16 and Chapter 40 Section 1A. The Stormwater Authority shall administer, implement and enforce this Utility. An Enterprise Account shall be established for the Stormwater Utility services. The Stormwater Authority shall include a full accounting of the Enterprise Account, as part of its annual report to the City.

### **Section 6: Waiver and Abatements**

#### **A. Waivers**

Following a public hearing on a waiver request, the Stormwater Authority may waive strict compliance with any requirement of this Ordinance or the rules and regulations promulgated hereunder, where:

- (1) Such action is allowed by federal, state and local statutes and/or regulations; and
- (2) Is in the public interest; and
- (3) Is not inconsistent with the purpose and intent of this Ordinance.
- (4) Any applicant must 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 Ordinance does not further the purposes or objectives of this Ordinance.
- (5) All waiver requests shall be discussed and voted on at the public hearing of the Stormwater Authority, for the project.
- (6) If in the Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the Stormwater Authority may continue a

hearing to a certain date 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.

### **Section 7: Stormwater Management Manual**

The City of Brockton Stormwater Management Manual (latest revision) constitutes the regulations and guidance document that specifies the program by which parameters of this Ordinance are to be met. The manual is included by reference in this Ordinance. The Stormwater Authority reserves the right to periodically revise and/or amend the Stormwater Management Manual to incorporate changes in industry standards, community needs, enforcement actions, fees, procedures, and regulations, by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Ordinance. Such regulations, rules or guidance may include without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the Stormwater Authority, without the requirement for a public hearing as detailed in Stormwater Management Manual. Administrative review approval shall comply with all other provisions of this Ordinance. The requirements of the Stormwater Management Manual shall be utilized in conjunction with all other relevant review processes currently established by the City of Brockton.

### **Section 8: Staffing**

The Engineering Division of the Public Works Department shall delegate (if necessary hire) engineer(s) to serve the Authority, under the supervision of the chairman. The engineer shall be proficient in all aspect of stormwater management, including but not limited to drainage study, analysis and design; site grading or with ability & temperament to acquire both skills within six months. The engineer shall also be proficient in AutoCAD Civil 3D. Proficiency in GIS or ability to acquire it within one year of employment.

### **Section 9: Severability**

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

**ARTICLE II**

**DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM AND TO WATERCOURSES OR WATERS OF THE COMMONWEALTH**

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**Section 1: *Applicability***

Article II of this Ordinance shall apply to all water entering the municipally owned storm drainage system or going, directly or indirectly, into a watercourse or waters of the Commonwealth, generated on any developed or undeveloped lands except as explicitly exempted in this Ordinance or where the Stormwater Authority has issued a waiver in accordance with Article I Section 6.

**Section 2: *Prohibited activities; exemptions.***

A. Illicit discharges. No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), onto an impervious surface directly connected to the MS4, or directly or indirectly, into a watercourse or 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 consent from the Stormwater Authority.

D. Exemptions.

- (1) Discharge or flow resulting from fire-fighting activities;

(2) The following non-stormwater discharges or flows are exempt from the prohibitions of Section 2 A.

E. provided that the source is not a significant contributor of a pollutant to the municipal storm drain system or, directly or indirectly, to a watercourse or waters of the Commonwealth:

(a) Waterline flushing;

(b) Flow from potable water sources, with the exception of landscape irrigation and lawn watering;

(c) Springs;

(d) Natural flow from riparian habitats and wetlands;

(e) Diverted stream flow;

(f) Rising groundwater;

(g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator shall seek a permit from the Authority prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Authority;

(h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation, as long as it does not drain to the public way;

(i) Discharge from de-chlorination of 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;

(j) Discharge from street sweeping;

(k) Dye testing, provided verbal notification is given to the Stormwater Authority prior to the time of the test;

(l) 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

(m) Discharge for which advanced written approval is received from the Stormwater Authority as necessary to protect public health, safety, welfare or the environment.

### **Section 3: *Additional Prohibited Pollutants***

A. Pet Waste: City of Brockton is subject to a Bacteria TMDL, and because dog feces are a major component of stormwater pollution, it shall be the duty of each person who owns, possesses, or controls a dog to remove and properly dispose of any feces left by the dog on any public or private property neither owned nor occupied by said person. It is prohibited to dispose of dog feces in any public or private storm drain, catch basin, wetland or water body or on any paved or impervious surface. However, this provision shall not be applicable to a person using a Service Animal registered as such. It shall comply with Americans with Disabilities Act (ADA) definition, which states: Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Persons walking dogs must carry with them a device designed to dispose of dog feces including, but not limited to, a plastic bag or “pooper scooper.” For specific requirements and penalties for violations see the Brockton Stormwater Manual.

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

### **Section 4: *Emergency suspension of storm drainage system access***

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

### **Section 5: *Notification of spills***

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. In the event of a release of oil or hazardous materials, the person shall immediately notify the Municipal Fire and Police Departments. In the event of a release of nonhazardous material, the reporting person shall notify the authorized enforcement agency no later than the next business day. The reporting person shall provide to the Stormwater Authority 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.

### **Section 6: *Transitional provisions***

Residential property owners shall have six months (185 days) from the effective date of the Stormwater Ordinance to comply with its provisions. Provided good cause is shown for the failure to comply with the provisions of the Ordinance during that period; the Stormwater Authority may at its discretion, grant an extension, which shall not exceed sixty days.

### **Section 7: *Enforcement of prohibitions on illicit discharges and connections***

A. The Stormwater Authority or an authorized agent of the Stormwater Authority shall enforce this Ordinance, Stormwater Manual provisions (Manual), orders, violation notices, and enforcement orders, and may pursue all civil, criminal and non-criminal remedies for such violations.

#### **B. Notices and Orders**

1. The Stormwater Authority or an authorized agent of the Stormwater Authority may issue a written notice of violation or enforcement order to enforce the provisions of the Manual or this Ordinance there under, which may include requirements to:

- a. Cease and desist from construction or land disturbing activity until there is compliance with the Manual and Permits described herein;
- b. Repair, maintain; or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
- c. Repair maintain; or replace the erosion and sedimentation control system or portions thereof in accordance with the erosion and sedimentation, control system;
- d. Perform monitoring, analyses, and reporting;
- e. Fix adverse impact resulting directly or indirectly from malfunction of the stormwater management system.



2. If the Authority or its agent or representative determines that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Authority may, at its option, undertake such work, and the property owner shall reimburse the City of Brockton for expenses incurred.

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 City of Brockton including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority 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 Stormwater Authority 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 G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

#### C. Criminal Penalty.

Any person who violates any provision of the City of Brockton Stormwater Management Manual, or ordinance, order or permit issued there under, may be ordered to correct the violation and/or shall be punished by a fine of not more than \$1,000.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense, but no further notification is required.

#### D. Non-Criminal Disposition.

As an alternative to criminal prosecution or civil action, the City of Brockton may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in which case the Representative of the Stormwater Authority of the City of Brockton shall be the enforcing person. The penalty for the 1st violation shall be no more than \$500. The penalty for the 2nd violation shall be \$750. The penalty for the 3rd and subsequent violations shall each be \$1000.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### E. Appeals.

The decisions or orders of the Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.

#### F. Remedies

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