

## Chapter 154

### STORMWATER MANAGEMENT

	ARTICLE I	§ 154-10.	Definitions.
	<b>General Provisions</b>	§ 154-11.	Applicability.
§ 154-1.	Findings.	§ 154-12.	Authority.
§ 154-2.	Purpose.	§ 154-13.	Responsibility for administration.
§ 154-3.	Definitions.	§ 154-14.	Regulations.
§ 154-4.	Authority.	§ 154-15.	Prohibited activities.
§ 154-5.	Administration.	§ 154-16.	Exemptions.
§ 154-6.	Applicability; exemptions.	§ 154-17.	Emergency suspension of storm drainage system access.
§ 154-7.	Enforcement; violations and penalties.	§ 154-18.	Notification of spills.
§ 154-8.	Severability.	§ 154-19.	Enforcement.
	ARTICLE II	§ 154-20.	Severability.
	<b>Illicit Discharges</b>	§ 154-21.	Transitional provisions.
§ 154-9.	Purpose.		

[HISTORY: Adopted by the Town Meeting of the Town of Dennis as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Earth removal — See Ch. 84.

Landfill — See Ch. 244.

Waterways — See Ch. 181.

Sewers — See Ch. 246.

Wetlands — See Ch. 187.

Toxic and hazardous materials — See Ch. 250.

Zoning — See Ch. 191.

## ARTICLE I

**General Provisions****[Adopted 10-27-2009 STM, Art. 7]****§ 154-1. Findings.**

- A. Construction site stormwater runoff and post-construction stormwater discharges may permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn may increase flooding, stream channel erosion, nonpoint source pollution, sediment transport and deposition, and decrease groundwater recharge;
- B. Construction site stormwater runoff and post-construction stormwater discharges can adversely affect public safety, public and private property, surface water, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of land and water;
- C. It is in the public interest to regulate construction site stormwater runoff and post-construction stormwater discharges in order to minimize the impacts identified above.

**§ 154-2. Purpose.**

- A. The purpose of this bylaw is to manage land development in order to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse impacts of construction site stormwater runoff and post-construction stormwater discharges. This bylaw seeks to meet this purpose through the following objectives:
  - (1) Establish decisionmaking processes surrounding construction site activities that protect the integrity of the watershed and preserve the health of water resources;
  - (2) Require that construction site activities maintain the post-construction runoff characteristics as equal to or less than the pre-construction runoff characteristics;
  - (3) Establish minimum construction site and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - (4) Encourage the use of nonstructural stormwater management practices or "low-impact development" practices, i.e. grass swales, french drains, etc.;
  - (5) 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 pose no threat to public safety;
  - (6) 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 bylaw; and
  - (7) Establish administrative procedures, fees and fines for violations for the submission, review, approval or disapproval of applications for stormwater management permits, and for the inspection of approved active projects, and long-term follow up.
- B. Nothing in this bylaw is intended to replace the requirements of the Town of Dennis Wetlands Protection Bylaw,<sup>1</sup> Zoning Bylaw,<sup>2</sup> Subdivision Rules and Regulations, Board Of Health

Regulations<sup>3</sup> or any other bylaw that may be adopted by the Town of Dennis, or any state or federal requirement, law, regulation or policy. Any activity subject to the provisions of this bylaw must comply with all other applicable Town, state or federal requirements.

### § 154-3. Definitions.

The following definitions shall apply in the interpretation and implementation of this bylaw. Additional definitions may be adopted by separate regulation:

**ADVERSE IMPACT** — Having a deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**ALTERATION** — Any activity, which will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, earthmoving, paving, and modification of existing vegetation.

**BUILDING COMMISSIONER** — The Town of Dennis Building Commissioner or his/her designee.

**CONSTRUCTION SITE** — Any site where activity is proposed or occurs that involves the alteration of more than 500 contiguous square feet of land.

**HOTSPOT AREA** — Land uses or activities, without regard to square footage, that have the potential for high stormwater runoff pollutant loadings, including, but not limited to, auto fueling facilities, fleet storage yards, road salt storage areas and designated snow disposal areas, staging areas for construction or landscaping operations, commercial and industrial outdoor maintenance, storage or loading areas.

**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.

**STORMWATER MANAGEMENT PERMIT** — A document signed by the Town of Dennis Building Commissioner which allows the alteration of the land within a hotspot area or construction site based upon the person's proposed work on a project plan which was submitted as required by this Stormwater Management Bylaw.

### § 154-4. 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 voters of the Town of Dennis at the October 27, 2009, Special Town Meeting under Article 7.

### § 154-5. Administration.

- A. The Town of Dennis Select Board shall adopt, and may periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), fines and penalties, application requirements, procedures and administration

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1. Editor's Note: See Ch. 187, Wetlands.

2. Editor's Note: See Ch. 191, Zoning.

3. Editor's Note: See Division 3, Board of Health Regulations, of this Code.

of this Stormwater Management Bylaw, after conducting a public hearing to receive comments on any proposed rules and regulations, or revisions thereto. Failure by the Town of Dennis Select Board to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw. **[Amended 10-3-2020 STM by Art. 12 ]**

- B. The Building Commissioner shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Building Commissioner may be delegated by the Building Commissioner to his/her designee.
- C. The Building Commissioner may take any of the following actions as a result of an application for a stormwater management permit: approval, approval with conditions, disapproval, or disapproval without prejudice.

#### **§ 154-6. Applicability; exemptions.**

- A. All persons that create a construction site or hotspot area are required to satisfy the purpose and intent of this bylaw and in accordance with the "Dennis Stormwater Management Rules and Regulations," as revised.
- B. In addition, all construction sites altering more than 20,000 square feet of total area, and all hotspot areas are required to secure a stormwater management permit prior to starting any land disturbance within the person's property.
- C. The following exemptions from this Stormwater Management Bylaw apply:
  - (1) Any land disturbance of 500 square feet or less;
  - (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04;
  - (3) Emergency activities necessary to protect public health or safety, so long as all necessary emergency permits or emergency certifications have been or will be obtained;
  - (4) Normal maintenance and improvements of Town of Dennis publicly owned roads;
  - (5) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw.

#### **§ 154-7. Enforcement; violations and penalties.**

- A. This bylaw shall be administered by the Building Commissioner. The Building Commissioner shall approve no application of any kind nor drawings or specifications which are not in all respects in conformance with this bylaw.
- B. The Building Commissioner shall be under the supervision of the Select Board and shall be subject to such administrative procedures as it may prescribe for the proper conduct of this office. The Building Commissioner shall submit an annual report in January of each year of the work of his office. **[Amended 10-3-2020 STM by Art. 12 ]**
- C. The Building Commissioner shall make inspections of all sites covered under this bylaw within the Town and may, for these purposes, enter upon the premises where such operations are carried on at all reasonable times.
- D. Violations and penalties.

- (1) Any person, corporation or entity found in violation of any provisions of this bylaw shall be punished by a fine in accordance with the following schedule of fines, and each day that the violation continues shall constitute a separate offense:

<b>Number of Offense</b>	<b>Penalty</b>
First offense	Written notice of violation
Second offense	\$100
Third offense and subsequent offenses	\$300

- (2) Notice of violation and procedure shall be in accordance with MGL c. 40, § 21D (noncriminal disposition).

**§ 154-8. Severability.**

The invalidity of any section, provision, paragraph, sentence or clause of this bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

ARTICLE II  
**Illicit Discharges**  
[Adopted 5-7-2019 ATM, Art. 44]

**§ 154-9. Purpose.**

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Dennis's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- B. The objectives of this bylaw are:
- (1) To prevent pollutants from entering the Town of Dennis's municipal separate storm sewer system (MS4);
  - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
  - (3) To require the removal of all such illicit connections;
  - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
  - (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

**§ 154-10. Definitions.**

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

**AUTHORIZED ENFORCEMENT AGENCY** — The Board of Health (hereafter, the "Board"), its employees or agents designated to enforce this bylaw.

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

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**GROUNDWATER** — Water beneath the surface of the ground.

**ILLICIT CONNECTION** — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sump pumps, 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 § 154-16. The term does not include a discharge in compliance with a National Pollutant Discharge Elimination System ("NPDES") Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to

§ 154-16A of this bylaw.

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Dennis.

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

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

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

**POLLUTANT** — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Non-hazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, 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.

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

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

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

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

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

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that, during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

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.

#### **§ 154-11. Applicability.**

This bylaw shall apply to any and all illicit discharges entering the municipally owned storm drainage system.

#### **§ 154-12. Authority.**

- A. This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.
- B. Nothing in this bylaw is intended to replace the requirements or authority of any other bylaw, state, federal or superseding authority.

#### **§ 154-13. Responsibility for administration.**

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

#### **§ 154-14. Regulations.**

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

#### **§ 154-15. Prohibited activities.**

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm drain system (MS4), into a watercourse,

or into the waters of the Commonwealth, or abutting property.

- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board.
- D. Pumping of Water. No person shall direct, discharge, lead, or pump water, clear or otherwise, including groundwater and/or rooftop runoff, onto any public ways or streets, adjacent property, into the Town's municipal separate storm drain system, or into any watercourse or waters of the Commonwealth. Any pumping of groundwater shall be done in such a way that the water is contained in its entirety on the originating property and shall not create a public nuisance to the Town or abutting properties.
- E. Discharging of Pool Water. No person shall pump pool water, dechlorinated or otherwise, onto any public ways or streets, adjacent property, into the Town's municipal separate storm drain system, or into any watercourse or waters of the Commonwealth. Any pumping of pool water shall be done in such a way that the water is contained in its entirety on the originating property and shall not create a public nuisance to the Town or abutting properties.

#### **§ 154-16. Exemptions.**

The following non-stormwater discharges or flows are exempt from this bylaw provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- A. Discharge or flow resulting from firefighting activities;
- B. Waterline flushing;
- C. Flow from potable water sources;
- D. Springs;
- E. Natural flow from riparian habitats and wetlands;
- F. Diverted stream flow;
- G. Uncontaminated groundwater infiltration directly into the drainage system and/or MS4 as defined in 40 CFR 35.2005(20);
- H. Incidental discharges from landscape irrigation or lawn watering;
- I. Water from individual residential car washing;
- J. Discharge from street sweeping of minor amounts of water during operations;
- K. Dye testing, provided verbal notification is given to the Board prior to the time of the test;
- L. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable

laws and regulations; and

- M. Discharges for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.

**§ 154-17. Emergency suspension of storm drainage system access.**

The Board 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 Board and/or any other authorized Town Official and/or any other authorized employee or agent of the Town may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**§ 154-18. 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 Town of Dennis Fire and Police Departments and the Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Board 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.

**§ 154-19. Enforcement.**

- A. The Board or an authorized agent of the Board shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
- (1) Elimination of illicit connections or discharges to the MS4;
  - (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.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform

remediation within the specified deadline, the Town of Dennis may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Dennis including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.
- F. **Criminal Penalty.** Any violation of any provision of this bylaw, regulation, order or permit issued thereunder shall be punishable by a criminal penalty of not more than \$100 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. **Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Town of Dennis may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter I, Article I, of the Town of Dennis Bylaws. The fine for the first violation shall be \$100. The fine for the second violation shall be \$200. The fine for the third and all subsequent violations shall be \$300. Each day or part thereof that such violation(s) occurs or continues shall constitute a separate offense. The Town of Dennis may also impose additional penalties for reimbursement of labor and/or materials used to temporarily remedy the violation.
- H. **Entry to Perform Duties Under this Bylaw.** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.
- I. **Appeals.** The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.
- J. **Remedies Not Exclusive.** The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **§ 154-20. Severability.**

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

#### **§ 154-21. Transitional provisions.**

Residential property owners shall have 90 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.