

5. Briefly describe in reports to MDE how the education programs complement and strengthen other programs of the MS4 permit.

B. Public Involvement and Participation

Permittees are required to create and foster opportunities for public participation in the MS4 management program for controlling stormwater discharges. Recommended activities include adopt-a-stream programs, public surveys, storm drain stenciling, stream cleanups, tree plantings, and Earth Day events. This program may be coordinated with other portions of the permittee's MS4 program or developed independent of other pollution control efforts.

Renewal permittees must update and continue to maintain their public involvement and participation program. New permittees must begin development of this program within the first year of permit issuance and initiate implementation thereafter. All permittees must provide program updates in accordance with the MS4 Progress Report specified for this MCM. MS4 Progress Reports must document program development and demonstrate full implementation of all permit requirements by the end of the five-year permit term.

In order to comply with this MCM, all permittees must:

1. Determine the target audience within the jurisdiction to promote public involvement and participation activities;
2. Specify activities appropriate for the target audience and promote participation;
3. Perform at least five public events during the permit term and report to MDE in accordance with reporting requirements;
4. Provide public access to the permittee's MS4 Progress Reports via website or other method and consider any substantive public comments received concerning the permittee's MS4 program; and
5. Comply with all State and federal public notice requirements for any regulated activity associated with this general permit.

C. Illicit Discharge Detection and Elimination (IDDE)

Permittees are required to develop, implement, and enforce a program to detect and eliminate illicit discharges into the MS4 in accordance with 40 CFR § 122.34(b)(3). A permittee will satisfy this MCM by field screening outfalls, inspecting the MS4 to identify sources of illicit discharges, eliminating illegal connections or illicit discharges, and enforcing penalties where appropriate. The illicit discharge program must also address illegal dumping and spills. Additional guidance is provided in Appendix B, Section II to assist permittees with the development of an acceptable IDDE program.

Renewal permittees must update and continue to maintain their IDDE program. New permittees must begin development of this program within the first year of permit issuance and initiate implementation thereafter. All permittees must provide program updates in accordance with the MS4 Progress Report specified for this MCM. MS4 Progress Reports must document program development and demonstrate full implementation of all permit requirements by the end of the five-year permit term.

In order to comply with this MCM, all permittees must:

1. Develop and maintain an updated map of the MS4 that identifies all stormwater conveyances, outfalls, stormwater best management practices (BMPs), and waters of the U.S. receiving stormwater discharges;
2. Adopt an ordinance or other regulatory means that prohibits illicit discharges into the MS4;
3. Establish and document legal means for gaining access to private property to investigate and eliminate illicit discharges (e.g., ordinance, easements);
4. Develop and implement written standard operating procedures (SOPs) that specify the following:
 - a. An inspection checklist describing how outfalls are screened for dry weather flows (see Figure B.2 of Appendix B for an example of an outfall screening checklist);
 - b. Screening of 20% of total outfalls per year, up to 100 outfalls;
 - c. Procedures for identifying the source, and eliminating spills, illegal dumping, and other suspected illicit discharges;
 - d. Identification of priority areas for illicit discharge screening based on pollution potential;
 - e. Enforcement and penalty procedures;
 - f. Procedures to inform employees, businesses, and the general public of the issues relating to illegal discharges and improper waste disposal; and
 - g. Coordination with adjacent/interconnected MS4 operator(s).
5. Submit SOPs to MDE for review and approval within two years of permit issuance. MDE will review for consistency with guidance in Appendix B, Section II;
6. Document results of illicit discharge screening efforts, including a description of how screening locations were prioritized and any necessary follow-up investigations, enforcement, and remediation measures implemented to address any suspected discharge. Submit to MDE in accordance with reporting requirements; and

7. Maintain complete records of IDDE program investigations and make available to MDE during field reviews of the permittee's MS4 program.

D. Construction Site Stormwater Runoff Control

Permittees are required to comply with Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland and State erosion and sediment control regulations under COMAR 26.17.01. The statute and COMAR specify the requirements for any construction activity that disturbs 5,000 square feet of land area or 100 cubic yards or more of earth movement. MDE considers compliance with the State statute to be compliance with this MCM of this general permit, and 40 CFR § 122.34(b)(4).

All permittees must provide program updates in accordance with the MS4 Progress Report specified for this MCM. MS4 Progress Reports must document program development and demonstrate full implementation of all permit requirements by the end of the five-year permit term. In order to comply with State and federal laws and regulations pertaining to an acceptable erosion and sediment control program, all permittees must:

1. Adopt an MDE approved ordinance that includes a process for plan review and approval of proposed construction drawings and erosion and sediment control plans, and inspection and enforcement procedures in accordance with COMAR 26.17.01. Subsequently, any proposed amendments to the ordinance must be submitted to MDE for review and approval;
2. A municipality may accept the program that is being implemented by its respective county or the State of Maryland. Each permittee that relies on its respective county for the implementation of an erosion and sediment control program must execute a binding agreement or resolution with said county. The agreement must clarify respective roles of all parties related to plan review and approval, construction site inspections, and enforcement;
3. Require compliance with requirements under MDE's *2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control* or most recent revision and COMAR 26.17.01;
4. Ensure all necessary permits have been obtained, including MDE's General Permit for Stormwater Associated with Construction Activity for projects disturbing one acre or more, and local sediment and erosion control plan approval;
5. Develop a process for receiving, investigating, and resolving complaints from any interested party related to construction activities within the jurisdiction. Notify the complainant of the investigation and findings within seven days;

measures that are more stringent than the conditions in 40 CFR § 122. Therefore, the statewide regulatory requirements under the Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland for erosion and sediment control and Title 4, Subtitle 2 for stormwater management are considered to be “qualifying local programs”. Compliance with these laws will meet the “Construction Site Stormwater Runoff Control” and “Post Construction Stormwater Management” permit requirements. The permittee remains responsible for the implementation of these measures through compliance with Maryland’s erosion and sediment control and stormwater management laws.

C. Sharing Responsibility.

A permittee may rely on another entity such as a State, federal, or municipal partner to satisfy one or more of the permit obligations. All permit obligations of each entity must be noted in the NOI submitted to MDE according to Part II of this general permit and 40 CFR § 122.35. Other responsible entities must implement control measures that are at least as stringent as the corresponding requirements found in this NPDES general permit. Additionally, the other entity must agree to implement the minimum control measures on the permittee’s behalf. However, the permittee remains responsible for all regulatory obligations. Therefore, MDE encourages the permittee to enter into a legally binding agreement such as a memorandum of understanding with the other entity to minimize uncertainty about compliance with the permit. This information must be specified in the NOI (Appendix C).

Section II. Illicit Discharge Detection and Elimination (IDDE) Program Guidance

Small municipalities and State and federal agencies covered under this NPDES MS4 permit are required to implement an IDDE program. The goal of this program is to find and eliminate pollutants entering the MS4. IDDE program activities include mapping the stormwater conveyance system, inspecting outfalls to discover polluted discharges, investigating the source of pollution, and taking steps to eliminate the discharge, which may include enforcement actions. Permittees are required to develop SOPs that detail the steps to implement these activities. This section provides guidance that permittees may use as a starting point to develop and implement their programs.

A discharge to an MS4 is illicit if it is not composed entirely of stormwater (40 CFR § 122.26(b)(2)). Illicit discharges can originate from a number of different types of sources, including incorrect plumbing, broken infrastructure, inappropriate business practices, and illegal dumping. For example, sanitary sewer lines or car wash drains may be connected to the MS4 instead of the sanitary sewer system. Drinking water lines or sanitary sewer pipes may be broken and leaking effluent into the MS4. Businesses may be inappropriately washing vehicles, allowing wash water to drain into stormwater inlets. Illicit discharges may also result from purposeful dumping of pollutants into an MS4.

A. Mapping

As part of their IDDE programs, permittees must develop a map of the MS4 that they own or operate. Map features must include stormwater conveyances, outfalls, stormwater best management practices (BMPs), and waters of the U.S. receiving stormwater discharges. As defined in 40 CFR § 122.26(b)(9), an outfall is a point source “at the point where a municipal separate storm sewer discharges to waters of the United States” (see Figure B.1). Mapping outfalls, stormwater conveyances, and stormwater BMPs will assist the permittee with tracking the source of a suspected illicit discharge. In addition, permittees must add the locations of private outfalls as they are discovered in the field to allow more effective coordination with private property owners, document hotspots, and identify and require the elimination of third party discharges. In this permit term, permittees may prioritize their initial mapping efforts to areas with a higher potential to pollute, such as areas that are urbanized, commercial, or rapidly developing.

If submitting a map would compromise the operational security of a State or federal agency, the agency may indicate that the map is available for MDE review on site.



Figure B.1. The above outfalls are examples of different types of outfalls that must be identified on MS4 maps and included in the permittee's screening program. Areas with highly developed land uses (e.g., commercial business complexes, aging infrastructure) have a greater potential to pollute and must be prioritized. Structural stability and erosion concerns must also be identified as part of an effective IDDE program.

B. Standard Operating Procedures

Permittees must develop SOPs that outline methods to conduct dry weather outfall inspections, locate the source of a suspected illicit discharge, and address illicit discharges. Program implementation as detailed in the SOPs can be prioritized in the areas that have a higher potential to pollute (e.g., urbanized, commercial, or areas with older stormwater infrastructure) and must include a long-term schedule for completing a jurisdiction-wide map. The SOPs must identify the number of outfalls to be investigated per year and include an inspection checklist to document the outfall screening. A good resource for developing the IDDE program and field checklist is found in the 2004 *Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments*, authored by the Center for Watershed Protection and Dr. Robert Pitt. Figure B.2, the “Outfall Reconnaissance Inventory/Sample Collection Field Sheet”, is one of several tools permittees may choose to use in their own programs. This checklist will assist a permittee in identifying any potential illicit discharge, determining the need for a more in-depth investigation, and noting any other outfall maintenance needs (e.g., cracks, erosion, excessive vegetation).

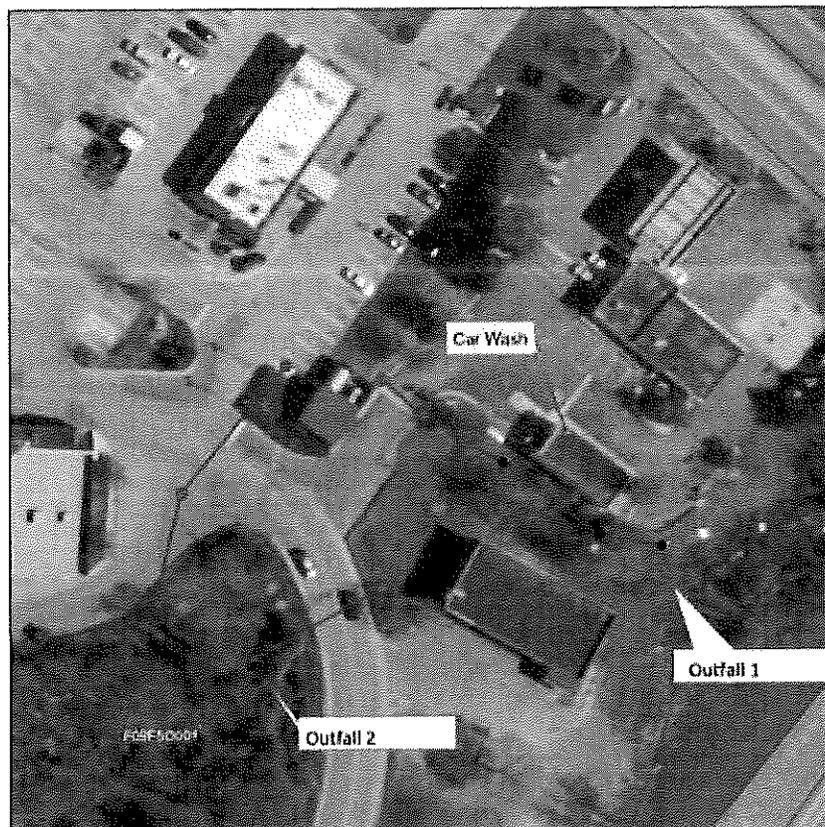
A Phase II MS4 municipality must screen 20% of total outfalls per year, up to 100 outfalls. Screening efforts for State and federal properties are tiered based on property size. For small properties (i.e., less than 100 acres), all outfalls must be screened each year. Medium size properties (i.e., 100 - 2,000 acres) must screen 50% of total outfalls. Large properties (i.e., more than 2,000 acres) must screen 20% per year, up to 100 outfalls. A tiered approach takes into consideration the scale of each State or federal property. For example, a small property with a total of five outfalls is expected to screen all five outfalls per year. Likewise, larger properties may screen a smaller percentage per year to account for the increased effort a greater number of outfalls would require.

C. Illicit Discharge Investigation

A dry weather screening is an outfall inspection conducted at a time when rain has not occurred recently, e.g., within the past 48 hours. During a period of dry weather, it is expected that any observed flow would be the result of some type of discharge other than precipitation. In some cases, the permittee may find that an outfall is not a useful inspection point to detect an illicit discharge (e.g., outfall is submerged, significant groundwater flow is present, the outfall serves a large drainage area). In these cases, the permittee has the discretion to pick an inspection point further up the system (e.g., a manhole or inlet, inflow to a stormwater BMP, or point source discharge in a commercial or industrial area) and document the adjustment in the inspection report. MDE encourages approaches where the permittee conducts screenings closer to the source of potential illicit discharges. When a dry weather flow is observed, a permittee must initiate an investigation to discover the source. If the source is determined to be illicit, the permittee is required to take corrective measures to eliminate the discharge and initiate enforcement actions when necessary. Two examples of illicit discharge

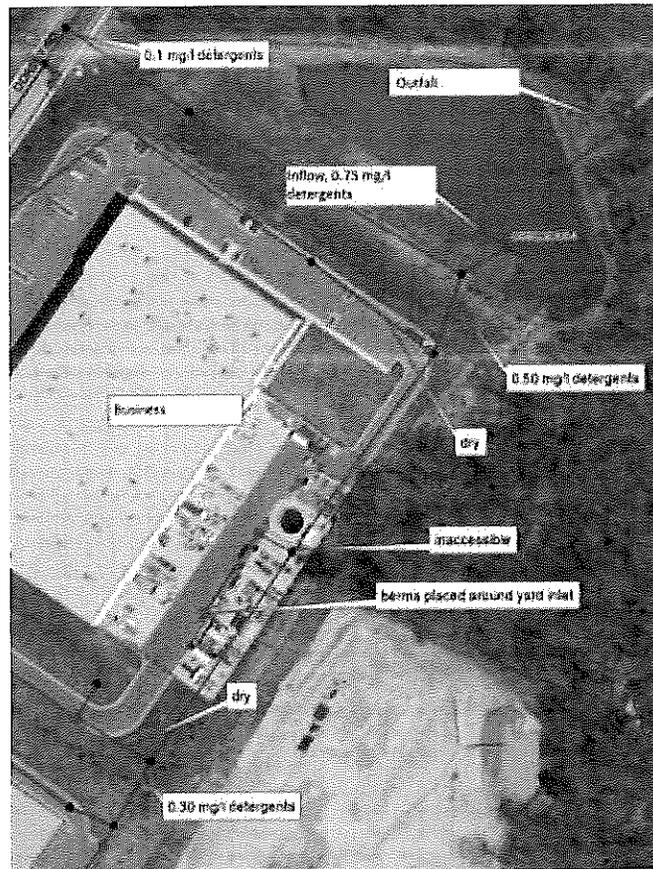
investigations are provided below to illustrate outfall identification, mapping, and discharge source tracking. These examples are taken from a Phase I MS4 annual report.

Example 1: Illicit Discharge Investigation for Discovered Wash Water



During a dry weather screening of Outfall 1, a flow was observed dripping into green sudsy water that had an oily odor. A chemical test indicated a high level of detergents. In the process of tracking the source, a high level of detergents was detected at Outfall 2, as well. The source was traced to a car wash that was believed to be discharging wash water into the MS4.

Example 2: Illicit Discharge Investigation for Detergents



A dry weather flow was discovered at the outfall of a stormwater BMP. A chemical test revealed the presence of chlorine and a high pH. A chemical test at the pond inflow indicated a high level of detergents. Upslope manholes were inspected to determine the path of the discharge. Starting at the point of discharge and inspecting contributing segments of stormwater conveyance pipes (sometimes called a trunk investigation), a single point of flow that exceeded the acceptable level of detergents was isolated. The investigation revealed that the source of the discharge was located within the segment connected to inlets protected by berms on a private commercial business property yard.

D. Illicit Discharge Elimination and Enforcement

After identifying the source of an illicit discharge, a municipal permittee is required to provide notice to the property owner and require that the responsible party takes appropriate action to eliminate the source of the illicit discharge. The permittee may exercise its legal authority to access the property and utilize enforcement. State and federal permittees are required to take appropriate action to eliminate the source of the illicit discharge. These IDDE investigation procedures and enforcement actions must be specified in the permittee's SOPs.

Figure B.2. Outfall Reconnaissance Inventory/Sample Collection Field Sheet
(from Center for Watershed Protection and Pitt, 2004)

OUTFALL RECONNAISSANCE INVENTORY/ SAMPLE COLLECTION FIELD SHEET

Section 1: Background Data

Subwatershed:		Outfall ID:	
Today's date:		Time (Military):	
Investigators:		Form completed by:	
Temperature (°F):	Rainfall (in):	Last 24 hours:	Last 48 hours:
Latitude:	Longitude:	GPS Unit:	GPS LMK #:
Camera:		Photo #s:	
Land Use in Drainage Area (Check all that apply):			
<input type="checkbox"/> Industrial	<input type="checkbox"/> Ultra-Urban Residential	<input type="checkbox"/> Suburban Residential	<input type="checkbox"/> Commercial
<input type="checkbox"/> Open Space	<input type="checkbox"/> Institutional	Other: _____	
		Known Industries: _____	
Notes (e.g., origin of outfall, if known):			

Section 2: Outfall Description

LOCATION	MATERIAL	SHAPE	DIMENSIONS (IN.)	SUBMERGED	
<input type="checkbox"/> Closed Pipe	<input type="checkbox"/> RCP <input type="checkbox"/> CMP <input type="checkbox"/> PVC <input type="checkbox"/> HDPE <input type="checkbox"/> Steel <input type="checkbox"/> Other: _____	<input type="checkbox"/> Circular <input type="checkbox"/> Elliptical <input type="checkbox"/> Box <input type="checkbox"/> Other: _____	<input type="checkbox"/> Single <input type="checkbox"/> Double <input type="checkbox"/> Triple <input type="checkbox"/> Other: _____	Diameter/Dimensions: _____ Depth: _____ Top Width: _____ Bottom Width: _____	In Water <input type="checkbox"/> No <input type="checkbox"/> Partially <input type="checkbox"/> Fully With Sediment <input type="checkbox"/> No <input type="checkbox"/> Partially <input type="checkbox"/> Fully
<input type="checkbox"/> Open drainage	<input type="checkbox"/> Concrete <input type="checkbox"/> Earthen <input type="checkbox"/> Lip-rap <input type="checkbox"/> Other: _____	<input type="checkbox"/> Trapezoid <input type="checkbox"/> Parabolic <input type="checkbox"/> Other: _____			
<input type="checkbox"/> In-Stream	(applicable when collecting samples)				
Flow Present?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If No, skip to Section 5			
Flow Description (if present)	<input type="checkbox"/> Trickle <input type="checkbox"/> Moderate <input type="checkbox"/> Substantial				

Section 3: Quantitative Characterization

FIELD DATA FOR FLOWING OUTFALLS			
PARAMETER	RESULT	UNIT	EQUIPMENT
<input type="checkbox"/> Flow #1	Volume		Liter
	Time to fill		Sec
<input type="checkbox"/> Flow #2	Flow depth		In
	Flow width	_____	ft, in
	Measured length	_____	ft, in
	Time of travel		S
Temperature		°F	Thermometer
pH		pH Units	Test strip/Probe
Ammonia		mg/L	Test strip

Figure B.2. Outfall Reconnaissance Inventory/Sample Collection Field Sheet
(from Center for Watershed Protection and Pitt, 2004)

Outfall Reconnaissance Inventory Field Sheet

Section 4: Physical Indicators for Flowing Outfalls Only
 Are Any Physical Indicators Present in the flow? Yes No (If No, Skip to Section 5)

INDICATOR	CHECK IF Present	DESCRIPTION	RELATIVE SEVERITY INDEX (1-3)
Odor	<input type="checkbox"/>	<input type="checkbox"/> Sewage <input type="checkbox"/> Sulfide <input type="checkbox"/> Rancid/sour <input type="checkbox"/> Petrol/gas <input type="checkbox"/> Other	<input type="checkbox"/> 1 - Faint <input type="checkbox"/> 2 - Easily detected <input type="checkbox"/> 3 - Noticeable from a distance
Color	<input type="checkbox"/>	<input type="checkbox"/> Clear <input type="checkbox"/> Green <input type="checkbox"/> Brown <input type="checkbox"/> Orange <input type="checkbox"/> Gray <input type="checkbox"/> Red <input type="checkbox"/> Yellow <input type="checkbox"/> Other	<input type="checkbox"/> 1 - Faint colors in sample bottle <input type="checkbox"/> 2 - Clearly visible in sample bottle <input type="checkbox"/> 3 - Clearly visible in outfall flow
Turbidity	<input type="checkbox"/>	See severity	<input type="checkbox"/> 1 - Slight cloudiness <input type="checkbox"/> 2 - Cloudy <input type="checkbox"/> 3 - Opaque
Fleas/flies -Does Not Include Trash!	<input type="checkbox"/>	<input type="checkbox"/> Sewage (Toilet Paper, etc.) <input type="checkbox"/> Petrol/gas (oil slicks) <input type="checkbox"/> Sludge <input type="checkbox"/> Other	<input type="checkbox"/> 1 - Few; slight origin not obvious <input type="checkbox"/> 2 - Some; indistinct of origin (e.g., possible sludge or oil slicks) <input type="checkbox"/> 3 - Some; distinct of origin (e.g., obvious oil slicks, sludge, or floating sanitary materials)

Section 5: Physical Indicators for Both Flowing and Non-Flowing Outfalls
 Are physical indicators that are not related to flow present? Yes No (If No, Skip to Section 6)

INDICATOR	CHECK IF Present	DESCRIPTION	COMMENTS
Outfall Damage	<input type="checkbox"/>	<input type="checkbox"/> Spalling, Cracking or Chipping <input type="checkbox"/> Corrosion <input type="checkbox"/> Peeling Paint	
Deposits/Sludges	<input type="checkbox"/>	<input type="checkbox"/> Oily <input type="checkbox"/> Flow Line <input type="checkbox"/> Paint <input type="checkbox"/> Other	
Abnormal Vegetation	<input type="checkbox"/>	<input type="checkbox"/> Excessive <input type="checkbox"/> Inhibited	
Poor pool quality	<input type="checkbox"/>	<input type="checkbox"/> Colors <input type="checkbox"/> Sludge <input type="checkbox"/> Excessive Algae <input type="checkbox"/> Other	<input type="checkbox"/> Oil Slick <input type="checkbox"/> Other
Pipe-benliffe growth	<input type="checkbox"/>	<input type="checkbox"/> Brown <input type="checkbox"/> Orange <input type="checkbox"/> Green <input type="checkbox"/> Other	

Section 6: Overall Outfall Characterization

Unlikely Potential (presence of two or more indicators) Suspect (one or more indicators with a severity of 3) Obvious

Section 7: Data Collection

1. Sample for the lab? Yes No

2. If yes, collected from: Flow Pool

3. Intermittent flow trap set? Yes No IF Yes, type: OBM Caulk dam

Section 8: Any Non-Illlicit Discharge Concerns (e.g., trash or needed infrastructure repairs)?

Town of Boonsboro
ILLICIT DISCHARGE DETECTION AND ELIMINATION
ORDINANCE



Mayor & Council of the Town of Boonsboro

Date of Introduction:

Date of Passage:

Effective Date:

DRAFT

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ARTICLE I

General Provisions

SECTION 1. PURPOSE AND INTENT

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of The Town of Boonsboro, Maryland, through the regulation of Non-Storm Water Discharges to the Storm Drainage System to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of Pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of Pollutants by any user to the Municipal Separate Storm Sewer System (MS4) by Storm Water Discharges;
- (2) To prohibit Illicit Connections and Discharges to the Municipal Separate Storm Sewer System (MS4); and
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

SECTION 2. DEFINITIONS

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

BEST MANAGEMENT PRACTICE (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Storm Water, receiving waters, or Storm Water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious

characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT DISCHARGE: Any direct or indirect Non-Storm Water Discharge to the Storm Drainage System, except as exempted in Section 8 of this ordinance.

ILLICIT CONNECTIONS: An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the Storm Drainage System including but not limited to any conveyances which allow any Non-Storm Water Discharge including sewage, process wastewater, and wash water to enter the Storm Drainage System and any connections to the Storm Drainage System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency or,
- B. Any drain or conveyance connected from a commercial or industrial land use to the Storm Drainage System which has not been documented in plans, maps, or equivalent records and approved by an Authorized Enforcement Agency.

INDUSTRIAL ACTIVITY: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): Means municipally-owned facilities where Storm Water is collected and/or conveyed, including, but not limited to, any sidewalks, roads with drainage systems, municipal streets, retention and detention basins, curbs, gutters, inlets, ditches, piped storm drains, pumping facilities, natural and human-made or altered drainage channels, reservoirs, and other drainage structures designed or used for collecting or conveying Storm Water, and that is not used for collecting or conveying sewage.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by the United States Environmental Protection Agency (EPA) (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the Discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE: Any Discharge to the Storm Drainage System that is not composed entirely of Storm Water.

PERSON: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

PLANNING & ZONING DEPARTMENT: Employees or designees of the Town of Boonsboro's Planning & Zoning Department designated to enforce this ordinance.

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, Sediments and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES: Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

SEDIMENT: Settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.

STORM DRAINAGE SYSTEM: Publicly-owned facilities by which Storm Water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORM WATER: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a Person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce Pollutant Discharges to Storm Water, Storm Water conveyance systems, and/or receiving waters to the maximum extent practicable.

TOWN: THE TOWN OF BOONSBORO, MARYLAND

WASTEWATER: Any water or other liquid, other than uncontaminated Storm Water, discharged from a facility.

WATER, WASTEWATER, & PUBLIC WORKS DEPARTMENTS: Employees or designees of the Town of Boonsboro's Water, Wastewater, & Public Works Departments designated to enforce this ordinance.

WATERCOURSE: Any waters of the United States and any conveyance that would drain to waters of the United States.

SECTION 3. APPLICABILITY

This ordinance shall apply to all flows entering the Storm Drainage System generated on any developed and undeveloped lands unless explicitly exempted by the Town.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION

The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed may be delegated in writing by the Town Manager or his or her duly authorized agent, to persons or entities acting in the beneficial interest of or in the employ of the Departments.

SECTION 5. SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph 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.

SECTION 6. COMPATIBILITY WITH OTHER REGULATIONS

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulations, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

SECTION 7. LIMITS ON LIABILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants.

ARTICLE II

Illicit Discharges

SECTION 8. DISCHARGE PROHIBITIONS

A. Prohibition of Illicit Discharges:

No Person shall discharge or cause to be discharged into the municipal Storm Drainage System or Watercourses any materials, including but not limited to Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than Storm Water.

The commencement, conduct, or continuance of any Illicit Discharge to the Storm Drainage System is prohibited.

The following Discharges are exempt from Discharge prohibitions established by this ordinance:

- (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), and any other water source not containing Pollutants.
- (2) Discharges or flow from firefighting and other discharges specified in writing by the Planning & Zoning Department as being necessary to protect public health and safety.
- (3) Dye testing subject to a verbal notification to the Planning & Zoning Department prior to the time of the test.
- (4) The prohibition shall not apply to any Non-Storm Water Discharge permitted under an NPDES permit, waiver, or waste Discharge order issued to the discharger and administered under the authority of the United States Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any Discharge to the Storm Drainage System.

B. Prohibition of Illicit Connections:

- (1) The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage System is prohibited.
- (2) This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A Person is considered to be in violation of this ordinance if the Person connects a line conveying sewage to the MS4 or allows such a connection to continue.
- (4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite Wastewater management system or the sanitary sewer system upon approval of the Planning & Zoning Department.
- (5) Any drain or conveyance that has not been documented in plans, maps or the equivalent, and which may be connected to the Storm Drainage System, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Planning & Zoning Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the Storm Drainage System, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Planning & Zoning Department.

SECTION 9. WATERCOURSE PROTECTION

Every Person owning property through which a Watercourse passes, or such Person's lessee, shall keep and maintain that part of the Watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

ARTICLE III

Compliance Requirements

SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

A. Submission of Notice of Intent to the Planning & Zoning Department.

- (1) Any person subject to an industrial or construction activity NPDES Storm Water Discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Planning & Zoning Department prior to the allowing of discharges to the MS4.
- (2) The operator of a facility, including construction sites, required to have an NPDES permit to Discharge Storm Water associated with Industrial Activity shall submit a copy of the Notice of Intent (NOI) to the Planning & Zoning Department at the same time the operator submits the original NOI to the Maryland Department of the Environment or the Environmental Protection Agency as applicable.
- (3) The copy of the NOI may be delivered to the Planning & Zoning Department either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Town of Boonsboro Planning & Zoning Department
21 N Main Street
Boonsboro, MD 21713

SECTION 11. MONITORING OF DISCHARGES

A. Applicability

This section applies to all facilities that have Storm Water Discharges associated with Industrial Activity, including Construction Activity.

B. Right of Entry to Facilities having a NPDES Permit for Industrial Activity or Construction Activity.

- (1) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security

measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments.

- (2) Facility operators shall allow the Planning & Zoning Department and the Water, Wastewater, & Public Works Departments ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge Storm Water, and the performance of any additional duties as defined by state and federal law.
- (3) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments conduct monitoring and/or sampling of the facility's Storm Water Discharge.
- (4) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall always be maintained in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Storm Water flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Planning & Zoning Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments access to a permitted facility is a violation of a Storm Water Discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to Discharge Storm Water associated with Industrial Activity commits an offense if the person denies the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments reasonable access to the

permitted facility for the purposes of conducting any activity authorized or required by this ordinance.

C. Right of Entry to Facilities without a NPDES Permit for Industrial Activity or Construction Activity.

- (1) The Planning & Zoning Department or the Water, Wastewater, & Public Works Departments shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments.
- (2) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall have the right to set up such devices as are necessary in the opinion of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments conduct monitoring and/or sampling of the facility's Storm Water Discharge.
- (3) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall always be maintained in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Storm Water flow and quality shall be calibrated to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Planning & Zoning Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

D. Search Warrants.

If either the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments have been refused access to any part of the premises from which Storm Water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine

inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Planning & Zoning Department may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental Discharge of prohibited materials or other wastes into the municipal Storm drainage System or Watercourses through the use of structural and non-structural BMPs. Further, any Person responsible for a property or premise, which is, or may be, the source of an Illicit Discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further Discharge of Pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the Discharge of Storm Water associated with Industrial Activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 13. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any Person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges or Pollutants discharging into Storm Water, the Storm Drainage System, or water of the United States, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Planning & Zoning Department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Planning & Zoning Department, 21 N Main Street, Boonsboro, Maryland, 21713 within three (3) business days of the phone notice. If the Discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a least three (3) years. Failure to provide notification of a release, as indicated above, is a violation of this ordinance.

This section does not apply to Sanitary Sewer Overflows as defined by COMAR 26.08.10.

ARTICLE IV

Violations; Enforcement

SECTION 14. VIOLATIONS, ENFORCEMENT, AND PENALTIES

A. Violations.

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this ordinance. Any Person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments are authorized to enter upon the subject private property, without given prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Planning & Zoning Department is authorized to seek costs of the abatement as outlined in Section 17.

B. Warning Notice.

When the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments find that any Person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Planning & Zoning Department may serve upon that Person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

C. Notice of Violation.

Whenever the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments find that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Planning & Zoning Department may order compliance by written notice of violation to the responsible person. The notice of violation shall contain:

- (1) The name and address of the alleged violator;

- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred.
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the Boonsboro Planning Commission and the Mayor & Council of Boonsboro by filing a written notice of appeal within ten (10) business days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Such notice may require without limitation:
 - (a) The performance of monitoring, analysis, and reporting;
 - (b) The elimination of Illicit Connections or Discharges;
 - (c) That violating Discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of a fine to cover administrative and remediate costs; and
 - (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

D. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Planning & Zoning Department may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

E. Suspension of MS4 Access

(1) Emergency Cease and Desist Orders

When the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments find that any Person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the Person's past violations are likely to recur, and that the Person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Planning & Zoning Department may issue an order to the violator directing it to immediately cease and desist all such violations and directing the violator to:

- (a) Immediately comply with all ordinance requirements; and
- (b) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the Discharge. Any person notified of an emergency order directed to it under this subsection, shall immediately comply and stop or eliminate its endangering Discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Planning & Zoning Department may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Planning & Zoning Department may allow the person to recommence its Discharge when it has demonstrated to the satisfaction of the Planning & Zoning Department that the period of endangerment has passed, unless further termination

proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful Discharge and the measures taken to prevent any future occurrence to the Planning & Zoning Department within thirty (30) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) **Suspension due to Illicit Discharges in Emergency Situations**

The Planning & Zoning Department may, without prior notice, suspend MS4 Discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Planning & Zoning Department may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United State, or to minimize danger to persons.

(3) **Suspension due to the Detection of Illicit Discharge**

Any Person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an Illicit Discharge. The Planning & Zoning Department will notify a violator of the proposed termination of its MS4 access. The violator may petition the Planning & Zoning Department for a reconsideration and hearing. A Person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Planning & Zoning Department.

F. Municipal Infraction

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) business days, or such greater period as the Authorized Enforcement Agency shall deem appropriate, the violation shall constitute a municipal infraction and the violator shall be fined as provided in Md. Code, Ann., Local Gov't, §6-102 for each day the violation remains unremedied after receipt of the notice of violation.

G. Criminal Prosecution

Any person who is found guilty of violating this ordinance shall be guilty of a misdemeanor and shall be subject to a criminal fine not exceeding One Thousand Dollars (\$1,000.00) per violation per day and/or imprisonment for a period not to exceed six (6) months. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

SECTION 15. APPEAL OF NOTICE OF VIOLATION

Any person aggrieved by the action of any official charged with the enforcement of this ordinance, as the result of issuance of a written notice of violation, or an alleged failure to properly enforce the ordinance in regard to a specific application, shall have the right to appeal the action to the Boonsboro Planning Commission and the Mayor & Council of Boonsboro. The appeal must be filed in writing within five (5) business days from the date of the notice of violation or determination to the applicant and shall clearly state the grounds on which the appeal is based.

SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal within thirty (30) days of the decision of the Boonsboro Planning Commission and the Mayor & Council of Boonsboro upholding the decision of the Planning & Zoning Department, then representatives of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 17. COST OF ABATEMENT OF THE VIOLATION

Within sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) business days. If the amount due is not paid within a timely manner, as determined by the decision of the Planning & Zoning Department, or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this ordinance shall become liable to the Town by reason of such violation. The liability shall become due and payable thirty (30) days from the billing date and will incur interest at the rate of one and one-half percent (1 ½%) per month until paid.

All unpaid costs shall constitute a lien against the property. For the purpose of collection, the Town may include unpaid costs on the annual tax bill of the property. The unpaid costs shall be collected in the same manner as ordinary taxes are collected, subject to the same interest and penalty for nonpayment as provided by law for nonpayment of Town taxes.

SECTION 18. INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

SECTION 19. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 20. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, State, or local law and it is within the discretion of the Town to seek cumulative remedies. The Town may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.