2/22/05 received

Municipality/Organization: **Town of Braintree**

EPA NPDES Permit Number:

MaDEP Transmittal Number: **W-041000**

Annual Report Number & Reporting Period: **No. 1: March 03-March 04**

NPDES PII Small MS4 General Permit Annual Report

Part I. General Information:

Contact Person: John McMahon Title: Director of Public Works

Telephone No.: 781-794-8250 Email: jmcmahon@townofbraintreegov.org.

Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature:

Printed Name: John McMahon

Title: Director of Public Works

Date: 2/9/05

TS

PART II. Self-Assessment

The Town of Braintree has completed the required self-assessment and has determined that our municipality is in compliance with all permit conditions, except for the following provisions:

- PP 1, Partner with local organization to participate in storm drain stenciling program. We will be initiating contacts to get the partnership operational.
- ID 1.5, Determine essential fish habitat. In house expertise is not available so we are contacting the Fish and Wildlife Commission.
- ID 1.6, Determine Historical Location Impacts. Probably scheduled too early in plan as detailed investigations have not commenced.
- ID 2. 2. Hold Public Meeting to explain bylaw and rules and regulations. We will be setting up the meetings for Winter 2004-2005
- CS 1.1 Create Stormwater Committee. We are using our DPW Advisory Committee but seeking supplemental members.
- CS 1.2 Complete in-house assessment. Delayed due to ordinance not being ready.
- GH 3 Generate list of all prior relevant employee training activities. Our DPW is brand new, so records are somewhat scattered. They will be organized.

PART III. Summary of Minimum Control Measures.

1. Public Education and Outreach

BMP ID#	Best Management Practice/*Responsible Dept. – Contact*	Measurable Goals		
		Year 1 (March 2003 to March 2004)	Annual Report Status	Year 2 (March 2004 to March 2005)
PE 1	**Partner w/ local organization/ *Peter Lapolla – Planning/ConCom***	Form partnership with 1 org (Fore River Watershed Assoc. or Pond Meadow Park)	Discussions have begun on partnering with Pond Meadow to assist in educating the public on issues involving stormwater quality	-
PE 2	**Develop public education brochures/press releases/ *John McMahon - DPW***	Two fliers (sump pump, grease) completed 2000, 2001	Done	Distribute fliers to abutters of pavement projects to address SSO issues.
		Distribute fliers to abutters of pavement projects to address SSO issues.	Fliers hand delivered to abutters of each paving project	Brochure distribution at July 4th Town Fair
		Flier to be distributed re: illicit connections sump pumps and drains to be distributed March 2003.	Done	
		A CD of the inflow to (support reduction of SSOs) videotape is located at the public Library placed in 2000.	Done	
PE 3	**Classroom instruction/*Peter Lapolla –Planning/ConCom***			workshop plan to Pond Meadow Park Summer Camp for storm water education
PE 4	**Develop web page/*Mike Steen - MIS***	-		Post SWMP and brochures on existing website
PE 5	**Cable Access TV Show/*John McMahon -DPW***	Two cable episodes of videotape (completed 2000 and 2001)	Done	-

2. Public Involvement and Participation

BMP ID#	Best Management Practice/*Responsible Dept. – Contact*	Measurable Goals		
		Year 1 (March 2003 to March 2004)	Annual Report Status	Year 2 (March 2004 to March 2005)
PP 1, PP 2	**Partner w/ local organization/ *Peter Lapolla –Planning/ConCom***	Form partnership with 1 org (watershed or Boy/Girl Scout)	Not yet.	Form partnership with 1 org (watershed or Boy/Girl Scout)
PP 3	**Poster Contest/ *John McMahon – DPW***	-		-
PP 4	**Organize public meetings and panels/ *John McMahon – DPW***	Discuss storm water management at 1 public meeting (Selectmen's mtg. Feb 24, 2003 on cable also)	Done	Discussion of storm water at one public meeting and broadcast on cable
PP 5	**Town Departments Involved/ *John McMahon - DPW***			Involve departments in flier distribution and regulation

3. Illicit Discharge Detection and Elimination

BMP ID#	Best Management Practice/*Responsible Dept. – Contact*	Measurable Goals		
		Year 1 (March 2003 to March 2004)	Annual Report Status	Year 2 (March 2004 to March 2005)
ID 1	**Generate a comprehensive Storm Drain Map for the Town/** ***John McMahon - DPW***	1. Inventory of Existing Plans (completed)	Done	
		2. Field located and inspected 247 outfalls (completed)	Done	
		3. Create a drainage system plan in AutoCAD format from existing plans (completed)	Done	GPS locate 20% drainage system & outfalls
		4. Purchase GPS unit to field locate drainage features more accurately	Equipment purchased and in service.	
		5. Determine Essential Fish Habitation	No expert contracted yet.	Determine Essential Fish Habitation
		6. Determine Historical Location Impacts	Still investigating	Determine Historical Location Impacts
ID 2	**Implement a Town By-Law/** ***Peter Lapolla –Planning/ConCom***	1. Conduct a review of current bylaws and rules and regulations (completed October 2001 report)	Done	Hold Public Meeting to explain bylaw and rules and regulations
		2. Hold Public Meeting to explain bylaw and rules and regulations	Not yet	Develop bylaw/ordinance with stated penalties governing illicit discharges
ID 3	**Perform an illicit discharge detection campaign/** ***John McMahon - DPW***	1. Develop Illicit Discharge Detection and Elimination Plan for Town (completed 2001)	Done	
		2. Dry weather flow observation efforts were conducted at 31 locations and sampling program (completed)	Done	
ID 4	**Correct Illicit Discharges/** ***John McMahon - DPW***	Identify issues at one drainage outfall on Common Street and one potential illicit discharge point at Commercial Street were identified in 2002.	Done	Develop plan to remove illicit discharges if confirmed to be required at Common Street and Commercial Street areas.
ID 5	**Educate Citizens/** ***John McMahon - DPW***	-		Develop and distribute fliers defining illicit discharges and summarizing the Town By-Law

4. Construction Site Stormwater Runoff Control

BMP ID#	Best Management Practice/*Responsible Dept. – Contact*	Measurable Goals		
		Year 1	Annual Report Status	Year 2
CS 1	**Implement by-law related to construction runoff control/ *Peter Lapolla –Planning/ConCom***	1. Create Storm Water Committee 2. Complete in-house assessment	Not yet established Not yet	Create Storm Water Committee Complete in-house assessment
CS 2	**Incorporate sanctions into By-Law to ensure compliance/ *Peter Lapolla –Planning/ConCom***	-		Sanctions developed and included in by-law
CS 3	**Site Plan Review/ *Peter Lapolla –Planning/ConCom***	-		All applicable plans reviewed for compliance with by-law
CS 4	**Site inspection and enforcement of control measures/ *Peter Lapolla –Planning/ConCom***	-		Standard site inspection Guidelines in place
CS 5	**Establish procedures to record and address public inquiries or concerns / *Peter Lapolla –Planning/ConCom***	Procedure in place for handling public comment	All comments referred to Director of Public Works for disposition.	-

5. Post-Construction Stormwater Management in New Development and Redevelopment

BMP ID#	Best Management Practice/*Responsible Dept. – Contact*	Measurable Goals		
		Year 1	Annual Report Status	Year 2
PC 1	**Evaluate, enhance and implement zoning requirements / *Peter Lapolla –Planning/ConCom***	Evaluate current zoning by-laws and determine weaknesses related to surface water preservation	Still evaluating.	Evaluate current zoning by-laws and determine weaknesses related to surface water preservation
PC 2	**Develop regulations requiring specific structural storm water controls/ *Peter Lapolla –Planning/ConCom***	-		Identify specific structural controls (BMPs) in Subdivision Rules and Regulations
PC 3	**Develop review and inspection procedures for private storm water systems *Peter Lapolla –Planning/ConCom***	-		-

6. Pollution Prevention and Good Houskeeping in Municipal Operations

BMP ID#	Best Management Practice/*Responsible Dept. – Contact*	Measurable Goals		
		Year 1	**Annual Report Status**	**Year 2**
GH 1	**Audit of Town Facilities/ *John McMahon – DPW***	Department meeting on pollution prevention	Discuss general condition of facilities, and yard operating practices as part of weekly meetings.	Assessment of DPW Yard
GH 2	**Operation and Maintenance Program/ *John McMahon - DPW***	-		Monitor depth of sediment in ??? % of Town Catch-basins
GH 3	**Employee Training Programs/ *John McMahon – DPW***	Generate list of all prior relevant employee training activities	Still searching training records. Will have to file training records more efficiently.	Organize employee trainung files
GH 4	**Recycling Program/ *John McMahon - DPW***	Review current recycling program	Recycling effort is good. Additional services will require additional budget or sponsorship	Monitor recycling program and enhance if necessary

PART IV. Summary of Information Collected and Analyzed

The Town commissioned an evaluation of existing local and state storm water control regulations and of the Town's authority to enforce stormwater regulations. Based upon those evaluations a draft "STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL ORDINANCE" has been prepared and will be brought to the Board of Selectmen and the general public for input and modifications.
The draft was prepared before the Town had a Department of Public Works, and before the Phase 2 stormwater regulations were finalized, so some of the material may be outdated already. The draft ordinance is as follows:

Storm Water Quality Management and Discharge Control Ordinance

ORDINANCE NO. _____

SECTION 1. TITLE.

This Ordinance shall be known as the "Storm Water Quality Management and Discharge Control Ordinance" of the Town of Braintree, Massachusetts, and may be so cited.

SECTION 2. PURPOSE AND INTENT.

The purpose and intent of this Ordinance is to ensure the health, safety, and general welfare of the citizens of the Town of Braintree, Massachusetts, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) 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 to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;

(2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system; and,

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.

SECTION 3. DEFINITIONS.

The terms used in this Ordinance shall have the following meanings:

Best Management Practices (BMPs): Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control site runoff, spillage or leaks of non-storm water; waste disposal; drainage from raw materials storage; erosion and sediment control practices; educational practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the Town determines appropriate for the control of pollutants.

Town. The Town of Braintree, Massachusetts.

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 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

EPA. The United States Environmental Protection Agency.

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.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this Ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain 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 drain system and any connections to the storm drain 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,

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Town.

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

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by 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 drain 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.

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, articles, 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 (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

Pollution. The human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

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

Storm Drain System. Publicly-owned facilities operated by the Town 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 which are within the Town and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.

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.

Waters of the United States. Surface watercourses and water bodies as defined at 40 CFR Section 122.2. including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION 4. APPLICABILITY.

This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the Town including any amendments or revisions thereto.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION.

The Engineering Department of the Town shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Engineering Department may be delegated in writing by the Engineering Director to persons or entities acting in the beneficial interest of or in the employ of the Town.

SECTION 6. 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 7. REGULATORY CONSISTENCY.

This Ordinance shall be construed to assure consistency with the requirements of the Clean Water Act and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

SECTION 8. ULTIMATE RESPONSIBILITY OF DISCHARGER.

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 into waters of the United States caused by said person. This Ordinance shall not create liability on the part of the Town, or any agent or employee thereof for any damages that result from any discharger's reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION 9. DISCHARGE PROHIBITIONS.

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain 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 illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Ordinance: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation or lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the storm drain system; uncontaminated water from foundation or footing drains (not including active groundwater dewatering systems); uncontaminated water from crawl space pumps; air conditioning condensation; springs; non-commercial washing of vehicles; natural riparian habitat or wetland flows; dechlorinated swimming pool discharges (typically containing less than one part per million concentration of chlorine); fire fighting activities; and any other water source not containing Pollutants.

(2) Discharges specified in writing by the Engineering Department as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a written notification to the Engineering 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 Federal Environmental 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 by the Town for any discharge to the storm drain system.

Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain 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.

SECTION 10. WASTE DISPOSAL PROHIBITIONS.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or waters of the United States, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may

cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

SECTION 11. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

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 Engineering Department prior to the allowing of discharges to the MS4.

SECTION 12. SUSPENSION OF MS4 ACCESS.

Suspension due to Illicit Discharges in Emergency Situations

The Engineering 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 authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

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 Engineering Department will notify a violator of the proposed termination of its MS4 access. The violator may petition the Engineering 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 authorized enforcement agency.

If, subsequent to eliminating a connection found to be in violation of this Ordinance, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request Town approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

SECTION 13. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

(Repeated)

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 Engineering Department prior to the allowing of discharges to the MS4.

SECTION 14. INSPECTION AND MONITORING OF DISCHARGES

(1) The Engineering Department 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 representatives of the authorized enforcement agency. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the Town is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(2) Facility operators shall allow the Engineering Department 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 Engineering Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Engineering Department has the right to require the discharger to install monitoring equipment and perform analyses as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. All reports associated with such monitoring and analyses shall be submitted to the Town as deemed necessary to determine compliance with this Ordinance.

(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 Engineering Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Engineering Department 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 authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

(7) If the Engineering Department has been refused access to any part of the premises from which stormwater 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 authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 15. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

{NOTE ITEMS IN BOLD BELOW THAT ARE OPTIONAL OR WILL NEED TO BE CREATED/DEVELOPED IF TEXT IS TO REMAIN IN THIS SECTION}

(a) Authorization to Adopt and Impose Best Management Practices. The Town will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States **{as a separate *BMP Guidance Series*}**. 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 drain system or watercourses through the use of these 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 municipal separate storm sewer system. 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 compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

The Engineering Director will report to the Board of Selectmen annually on the status of implementation of BMP's, the pollutants of concern to be addressed the next year, and any new BMPs to be developed. BMP's developed under this program will be included in the Town of Braintree's *BMP Guidance Series.*

(b) New Development and Redevelopment. The Town may adopt requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The Town shall incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Ordinance.

(c) Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to subsections (a) and (b), any person engaged in

activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the United States shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

Best Management Practices required by the Town can be obtained from the Engineering Department by requesting the BMP manual appropriate to a commercial or industrial activity from the *BMP Guidance Series*. BMP's are broken into three categories: "high priority" which are required to be implemented, "medium priority" which are desirable to implement, and "low priority."

SECTION 16. 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. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

SECTION 17. 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 drain system, or waters 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 Town's Engineering Department in person or by phone or facsimile no later than 3:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town's

Engineering Department within three 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 at least three years.

SECTION 18. ENFORCEMENT.

1. Notice of Violation.

Whenever the Engineering Department finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analyses, 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; and

(e) Payment of a fine to cover administrative and remediation 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 the Town or a contractor designated by the Engineering Director and the expense thereof shall be charged to the violator pursuant to Section 21 of this Ordinance.

SECTION 19. APPEAL OF NOTICE OF VIOLATION

Notwithstanding the provisions of Section 22 of this Ordinance, any person receiving a Notice of Violation under Section 18 of this Ordinance may appeal the determination of the Engineering Department to the Town Manager. The notice of appeal must be received within 5 days from the date of the Notice of Violation. Hearing on the appeal before the Town Manager or his/her designee shall take place within 15 days from the date of the Town's receipt of the notice of appeal. The decision of the Town Manager or designee shall be final.

SECTION 20. 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 under Section 19 of this Ordinance, within 10 days of the decision of the Town Manager upholding the decision of the Engineering Department, then the Town or a contractor designated by the Engineering Director shall enter upon the subject private property and is 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 Town or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 21. COST OF ABATEMENT OF THE VIOLATION

Within 30 days after abatement of the violation by the Town, the Engineering Department shall notify the property owner of the property of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the Town Clerk within 15 days. The Town Clerk shall set the matter for public hearing by the Town Council. The decision of the Town Council shall be set forth by resolution and shall be final.

If the amount due is not paid within 10 days of the decision of the Town Council or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the Town Tax Collector so that the tax collector may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

Any person violating any of the provisions of this Ordinance shall become liable to the City by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of _ percent per annum shall be assessed on the balance beginning on the _st day following discovery of the violation.

SECTION 22. URGENCY ABATEMENT

The Engineering Department is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety or well being of the public. If any such violation is not abated immediately as directed by the Engineering Department, the Town is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the Town shall be fully

reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent Town from seeking other and further relief authorized under this Ordinance.

SECTION 23. 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 Engineering Department 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 24. COMPENSATORY ACTION

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

SECTION 25. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties hereinbefore 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 by the Town at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Town.

SECTION 26. CRIMINAL PROSECUTION

Any person who violates any provision of this Ordinance or any provision of any requirement issued pursuant to this Ordinance, may also be in violation of the federal Clean Water Act and may be subject to the sanctions of that act including civil and criminal penalties. Any enforcement action authorized under this Ordinance shall also include written notice to the violator of such potential liability. The Town may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

SECTION 27. 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 authorized enforcement agency to seek cumulative remedies.

SECTION 28. ADOPTION OF ORDINANCE

This Ordinance shall be in full force and effect 30 days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

PASSED AND ADOPTED BY THE BOARD OF SELECTMEN OF THE TOWN OF BRAINTREE, MASSACHUSETTS, this ____ day of _____, 20__, by the following vote: