

## SECTION XVIC. DRAINAGE REVIEW

### A. PURPOSE

This Section is adopted by the Town to provide a pre-construction, construction and post-construction review of the projects which have the potential for detrimental effect caused by storm water drainage discharge onto streets and ways, into the Town's storm water drainage system and into the Charles River, the Town's lakes, ponds and streams; to reduce discharge of pollutants to the maximum extent practicable; to protect water quality; to satisfy the water quality requirements of the Clean Water Act and Massachusetts Water Quality Standards; to maintain compliance with Wellesley's General Permit under the Phase II Regulations of National Pollutant Discharge Elimination System of U.S. EPA; and to be consistent with the Massachusetts Wetlands Protection Act; the Town of Wellesley Wetlands Protection Bylaw (Article 44 of the Town Bylaws); the Town of Wellesley Erosion and Sedimentation Control Regulations and the Municipal Stormwater Drainage System Rules and Regulations adopted by the Board of Public Works; by minimizing land clearing; by minimizing the amount of exposed soil and duration of exposure, by installing, protecting and maintaining vegetative buffers, silt fencing, and BMP's.

### B. DEFINITIONS

Best Management Practices (BMP's) – The most effective and practical measures to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site. These measures may be structural, such as particle separators or sand filters, and they may be non-structural, such as but not limited to, buffer areas around developments or proper methods for storage of chemicals.

Construction Mitigation Plan– A plan which details the design, location and type of erosion and sedimentation control measures to be employed on-site.

Grading and Drainage Plan – to be prepared in accordance with specifications to be developed and from time to time amended by the Town Engineer it shall include but not be limited to the following information: post-development peak runoff rates, rates of recharge of stormwater to groundwater and rates of removal of total suspended solids. It shall be stamped and signed by a Massachusetts Registered Professional Engineer.

On-Site Stormwater System - catch basins, leaching basins, manholes, pipes, retention and/or detention basins, swales, drainage ditches, headwalls, BMP's and other components.

Operation and Maintenance Plan – A plan which includes the details of the regular maintenance of the on-site stormwater system including but not necessarily limited to cleaning of dry wells for roof drains and any catch basins, sweeping of paved areas draining into the catch basins, visual inspection of drainage structures for damage or blockage, keeping the area around catch basins located in lawns or other landscaped

areas clear of excess leaves, twigs and other debris, and inspection and maintenance of BMP's.

Review Staff – Town Engineer (or designated representative of the Town Engineer) , Inspector of Buildings (or designated representative of the Inspector of Buildings), Wetlands Administrator (or designated representative of the Wetlands Administrator).

#### C. APPLICABILITY

The provisions of this section shall apply to all projects not otherwise subject to SECTION XVIA. PROJECT APPROVAL. involving grading or re-grading of land to planned elevations, and/or removal or disturbance of the existing vegetative cover, over an area of one acre or more.

#### D. PROCEDURE

Prior to the issuance of a building permit, a grading and drainage plan and other materials as may be required consistent with specifications to be developed by the Wellesley Department of Public Works shall be submitted to the Planning Director. A reasonable submission fee may be established and from time to time adjusted by the review staff. The Planning Director shall forthwith send copies of the submission to the review staff.

The review staff shall within 14 days make such comments or recommendations as deemed appropriate and shall send copies to the Planning Director and the applicant. The grading and drainage plan may be approved, approved subject to conditions or plan modifications. An operation and maintenance plan may be required in instances where the on-site stormwater system is deemed by the review staff to warrant same. A construction mitigation plan may be required if in the opinion of the review staff the topography of the land warrants erosion and sedimentation control measures.

Prior to a Certificate of Occupancy being issued or final building inspection being made as the case may be for the construction, reconstruction or addition an inspection shall be made by the Town Engineer or designated representative of the Town Engineer to determine whether there is compliance with the grading and drainage plan and notify the other members of the review staff of the inspection results. If there is compliance the other members of the review staff shall be so notified whereupon a Certificate of Occupancy may be issued, or final building inspection may be made. If found to be not in compliance, the Planning Director shall notify the applicant of the work remaining to be done.

#### E. APPEALS

An applicant may appeal the decision of the review staff. In the event of an appeal it shall be made to the Zoning Board of Appeals in accordance with SECTION XXIV. PERMIT GRANTING AUTHORITY.

Stormwater Management & Erosion Control Bylaw

1. Purpose and Objective

The United States Environmental Protection Agency has identified sedimentation and polluted stormwater runoff from land disturbance, land development and redevelopment activities as major sources of water pollution.

The purpose of this Bylaw is to prevent or diminish the impacts of sedimentation and polluted stormwater from land disturbance, land development and redevelopment activities by controlling runoff and preventing soil erosion and sedimentation from site construction and development. The bylaw is necessary to protect the Town of Andover water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

The objectives of this bylaw are to comply with State and Federal statutes and regulations relating to stormwater discharges, and to establish the Town of Andover's legal authority to ensure compliance with the provisions of this Bylaw through inspections, monitoring and enforcement by:

1. protecting water resources;
2. controlling the volume and rate of stormwater;
3. requiring practices to manage and treat stormwater runoff generated from new development and redevelopment;
4. protecting groundwater and surface water from degradation or depletion;
5. promoting infiltration and the recharge of groundwater;
6. preventing pollutants from entering the municipal and private storm drain system;
7. preventing flooding and erosion to abutting properties;
8. ensuring that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into site planning and design process and are implemented and maintained;
9. ensuring adequate long-term operation and maintenance of stormwater best management practices; and
10. requiring practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality.

2. Definitions

ABUTTER: The owner(s) of land adjacent to the land disturbance site.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (M.G.L. c. 131 § 40) and its implementing regulations (310 CMR 10.00).

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include, but are not limited to: change from distributed runoff to confined, concentrated discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**APPLICANT:** Shall be the owner of record of all of the land shown on any plan submitted for approval to the Planning Board in accordance with the Stormwater Management Bylaw and Regulations.

**AUTHORIZED ENFORCEMENT AGENCY:** The Town of Andover Planning Board, its employees or agents designated to enforce this Bylaw.

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

**CERTIFICATE OF COMPLETION:** A document issued by the Planning Board which confirms that all documents and final reports have been submitted and all work required by the terms of a Stormwater Management Permit has been satisfactorily completed in accordance with this Bylaw and its Regulations.

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

**CLEARING:** Any activity that removes the vegetative surface cover and/or organic layer. Clearing activities generally include grubbing activity as defined below.

**DESIGNATED AGENT:** Any person or entity designated by the Planning Board and approved by the Town Manager to assist in the administration, implementation and enforcement of the Stormwater Management and Erosion Control Bylaw and Regulations.

**DESIGN CRITERIA:** Engineering design criteria as contained in the Stormwater Regulations authorized under this Bylaw.

**DETENTION:** The temporary storage of storm runoff.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of use, usually involving construction.

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

**ENVIRONMENTAL SITE MONITOR:** A Professional Engineer or other trained professional selected by the Planning Board or its designee and retained by the Planning Board at the permit holder's expense to periodically inspect the work and report to the Planning Board.

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

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

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

**GRUBBING:** The act of clearing land surface by digging up roots and stumps.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that limits water infiltrating the underlying soil. Impervious surface includes without limitation: roads, paved parking lots, sidewalks, sports courts and rooftops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

**LAND-DISTURBING ACTIVITY or LAND DISTURBANCE:** Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

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

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56.

**MASSACHUSETTS WETLANDS PROTECTION ACT:** (M.G.L. c.131 s. 40) and its implementing regulations (310 CMR 10.00)

**MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-

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

**OPERATION AND MAINTENANCE PLAN:** A plan developed by a Massachusetts licensed professional engineer (PE) describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

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

**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

**OWNER:** Shall be the owner of record of all the land shown on any plan submitted. The owner shall submit the title reference or references from the Essex County Registry of Deeds indicating the owner of record.

**PAVEMENT:** The surface of an area which consists of bituminous concrete, cement concrete, or paving bricks made of masonry or stone.

**PAVING, OVERLAY:** The placement of pavement on top of an existing impervious surface. The underlying impervious surface is sometimes milled (partially ground down in thickness) before the overlay is placed.

**PAVING, RECLAMATION:** A procedure whereby existing pavement is broken and pounded into small fragments.

**PERMITTEE:** The person who holds a Stormwater Management Permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

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

**RECHARGE:** Addition of stormwater runoff to the groundwater by natural or artificial means.

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

**RESPONSIBLE PARTIES:** Owner(s), persons with financial responsibility, and persons with operational responsibility.

**RETENTION:** The holding of stormwater runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

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

**SEDIMENT:** Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SLOPE:** The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL:** Earth materials including duff, humic materials, sand, rock, silt, clay and gravel.

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

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

**STORMWATER MANAGEMENT PERMIT:** A permit issued by the Planning Board pursuant to this By-Law.

**STORMWATER MANAGEMENT PLAN AND NARRATIVE:** A document containing narrative, drawings and details prepared by a Massachusetts licensed qualified professional engineer (PE) which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

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

**TSS:** Total Suspended Solids. Material, including but not limited to trash, debris, soils, sediment and sand suspended in stormwater runoff.

VERNAL POOLS: Temporary bodies of fresh water which provide critical habitats for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, or stream.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and Regulations promulgated thereunder and in the Town of Andover Wetland Protection By-law and Regulations.

WETLANDS: Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent communities in inland waters; that portion of any bank which touches any inland water.

3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

4. Applicability

A. No person may undertake a construction activity that results in a land disturbance of 43,560 square feet or more without a Stormwater Management Permit from the Planning Board.

(1) Land Disturbances

Land disturbances of 43,560 square feet or more, including multiple separate activities which in aggregate disturb 43,560 square feet or more whether on one parcel or adjacent parcels held in common ownership shall require a Stormwater Management Permit.

(2) Paving and Impervious Material

An increase of new pavement or other impervious material, reclamation of existing pavement, or a combination of both totaling 43,560 square feet or more shall require a Stormwater Management Permit.

(3) The Town of Andover is not exempt from the provisions of this Bylaw.

B. Exempt Activities

The following activities are exempt from the requirements of this Bylaw:

- (1) Normal maintenance and improvement of Town owned public ways, appurtenances to the public ways, and private and public utilities.
- (2) Normal maintenance and improvement of land in agricultural use.
- (3) Repair of septic systems when required by the Board of Health or the Massachusetts Department of Environmental Protection for the protection of public health.
- (4) Normal maintenance of currently existing landscaping, gardens or lawn areas associated with an existing use.
- (5) Overlaying of existing impervious surface.
- (6) Areas of land that have had a Stormwater Management review and approval either through the Conservation Commission or Planning Board using Design Criteria that at a minimum complies with the latest edition of the Massachusetts Stormwater Management Policy or with Design Criteria as described in Town of Andover's Subdivision Rules and Regulations or with the Town of Andover Stormwater Management and Erosion Control Regulations, whichever is more stringent in the protection of the Town's resources.

5. Administration

- A. The Planning Board as the permit granting authority shall administer, implement, and enforce this bylaw. Any powers granted to or duties imposed upon the Planning Board in this bylaw may be delegated to designated agents upon a majority vote of the Planning Board. Should the Planning Board designate an agent, such agent shall be approved by the Town Manager.
- B. The Planning Board may adopt and periodically amend rules and regulations to effectuate the purposes of this Bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.
  - (1) Adoption of and revisions to Regulations may only be made after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days before the hearing date.
- C. The Planning Board shall refer to the criteria and information, including specifications and standards, of the latest edition of the Massachusetts Stormwater Management Policy, or to the Design Criteria as described in the Town of Andover's Subdivision Rules and Regulations, or to the Town of Andover

Stormwater Management and Erosion Control Regulations, whichever is more stringent in the protection of the Town's environmental and infrastructure resources, for execution of the provisions of this Bylaw.

D. The Planning Board may waive strict compliance with any requirement of this Bylaw or the Regulations promulgated hereunder, where:

- (1) such action is allowed by federal, state or local statutes and/or regulations; and
- (2) is in the public interest; and
- (3) is not inconsistent with the purpose and intent of this Bylaw and its Regulations.

6. Permits & Procedures

Projects requiring a Stormwater Management Permit shall be subject to the Town of Andover Stormwater Management and Erosion Control Regulations promulgated under Section 5 of this bylaw in addition to the procedures as set forth below:

A. Application

- (1) An application package shall be filed with the Planning Board and other departments as specified in the Regulations.
- (2) The Planning Board shall review the application for completeness and compliance with this Bylaw and its Regulations.

B. Public Meetings

- (1) The Planning Board shall hold a public meeting on all applications for Stormwater Management Permits for the purpose of reviewing the application and accepting public input.
- (2) Notice of the public meeting shall be given by posting and by first class mailings to abutters and abutters to abutters within 300 feet of the property line of the project site at least seven (7) days prior to the meeting.
- (3) The Board shall make the application available for inspection by the public during business hours at the Planning Division.

C. Actions

The Planning Board may:

- (1) Approve the Application and issue a permit if it finds that the proposed plan meets the objectives and requirements of this Bylaw and its Regulations;
- (2) Approve the Application and issue a permit with conditions, modifications, or restrictions that the Board determines meet the objectives and requirements of this Bylaw and its Regulations;
- (3) Disapprove the application and deny a permit if the Planning Board finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume; and
- (4) Disapprove the application and deny a permit if it finds that the proposed plan fails to meet the objectives and requirements of this Bylaw or its Regulations.

D. Time for Action by the Board

- (1) Within forty-five (45) days of the filing of an application for a Stormwater Management Permit, the Planning Board or its designated agent shall:
  - i. evaluate the application to ensure that it is complete prior to distribution;
  - ii. distribute the complete application to boards and departments for technical review as specified in the Regulations; and
  - iii. arrange agenda time for a public meeting before the Planning Board.
- (2) Within 60 days of the filing of the application, an Interdepartmental Review shall be held.
  - i. Following the Interdepartmental review but prior to the Planning Board public meeting, the Town Engineer shall provide a written recommendation for action on the application. Such recommendation shall itemize all instances where the applicant has failed to meet the specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy, or of the Design Criteria as described in the Town of Andover's Subdivision Rules and Regulations, or of the Town of Andover Stormwater Management and Erosion Control Regulations.
- (3) Within ninety (90) days of the filing of an application for a Stormwater Management Permit, the Planning Board shall hold a public meeting.

- (4) Once begun, the public meeting may not continue for more than sixty (60) days unless such time is extended by written agreement between the applicant and the Board to a date certain announced at the meeting.
- (5) The Planning Board shall take final action within twenty-one (21) days of the close of the public meeting discussion.

E. Failure to Act

- (1) Upon certification by the Town Clerk that the allowed time has passed without the Planning Board's action, failure to take such action shall be deemed to be approval of said application and a Stormwater Management Permit shall be issued.

F. Appeals of Action by the Planning Board

- (1) A written decision of the Planning Board shall be final when it is executed by the Planning Board or its chair or acting chair and filed in the Town Clerk's office. Further relief of a decision by the Planning Board made under this Bylaw shall be in the Superior Court or Land Court in accordance with the applicable law. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.
- (2) No work shall commence until the applicable appeal period has passed with no appeal or if an appeal has been filed, the appeal has been finally resolved by adjudication or otherwise.

G. Permit Duration

- (1) All activity permitted by this Bylaw must be completed within one-year of permit issuance. Extensions of time can be granted by the Planning Board upon formal written request by the applicant. If one year passes without an extension being granted, the Board may revoke the permit.

H. Certificate of Completion

- (1) The Planning Board will issue a Certificate of Completion upon receipt and approval of final reports and documentation as specified in the Regulations.

I. Public Record

- (1) The following documents shall be recorded at the Essex Registry of Deeds at the applicant's expense and proof of recording provided to the Planning Division.

- i. The Stormwater Management Permit
- ii. The approved Operation and Maintenance Plan
- iii. The Certificate of Completion

7. Persons Aggrieved

Any person aggrieved by a decision or action of a designated agent appointed by the Planning Board under Section 5A, including but not limited to matters regarding completeness of application, inspections, and compliance with technical design criteria may, within thirty (30) days of such decision or action, request a public meeting with the Planning Board. In such cases, following the decision of the Planning Board, the provisions of Section 6.F.1 shall apply.

8. Consultants

At the applicant's expense, the Planning Board may retain independent consultants as needed to advise the Board on any and all aspects of a specific project. Independent consultants may include but are not limited to Registered Professional Engineers and Environmental Site Monitors.

9. Fees

The Planning Board shall establish fees, subject to approval of the Board of Selectmen, to cover expenses connected with application review, mailings and monitoring permit compliance. The fees shall be sufficient to cover direct and indirect costs to the town of processing and reviewing the application. Provided that a revolving fund for such purpose is established by the town in accordance with the provisions of M.G.L. Chapter 44, Section 53E ½, the Planning Board is also authorized to collect fees from the applicant in amounts sufficient to pay a Registered Professional Engineer and such other professional consultants as the Planning Board requires to advise the Planning Board on any and all aspects of the project. The fees for such professional engineers and consultants shall be paid to the Town for deposit into the revolving fund.

10. Security

Before the start of land disturbance activity, the Planning Board may require the permittee to post acceptable security, to insure that the work will be completed in accordance with the permit. The form of the security shall be approved by the Planning Board and shall be in an amount deemed sufficient by the Planning Board. If the project is phased, the Planning Board may release part of the security as each phase is completed in compliance with the permit but may not be fully released until the Planning Board has issued a Certificate of Completion.

11. Enforcement

- A. The Planning Board or its designated agent shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Entry: The Planning Board or its agents, shall have the authority, with prior approval from the property owner or pursuant to court process, to enter upon privately owned land for the purpose of performing their duties under this Bylaw.
- C. Orders: The Planning Board or its designated agent may issue a written order to enforce the provisions of this Bylaw or the Regulations thereunder, which may include:
  - (1) a requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or its Regulations;
  - (2) maintenance, installation or performance of additional erosion and sediment control measures;
  - (3) monitoring, analyses, and reporting;
  - (4) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
  - (5) compliance with the Operation and Maintenance Plan.
- D. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.
- E. Criminal Penalty: Any person who violates any provision of this Bylaw, regulation, order or permit issued there under, shall be punished by a fine in an amount of \$ 300.00. Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.
- F. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Planning Board may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, which has been adopted by the Town, in which case the Planning Board or designated agent shall be the enforcing person. The penalty for each violation shall be \$300.00 each day or part thereof that such violation occurs or continues shall constitute a separate offense.

12. Severability

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

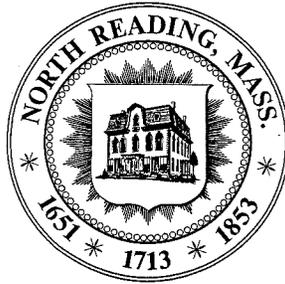
TOWN OF NORTH READING, MASSACHUSETTS  
STORMWATER MANAGEMENT RULES & REGULATIONS

**TOWN OF NORTH READING, MASSACHUSETTS**

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**STORM WATER MANAGEMENT  
RULES AND REGULATIONS**

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**MAY 2010**

TOWN OF NORTH READING, MASSACHUSETTS  
STORMWATER MANAGEMENT RULES & REGULATIONS



TOWN of NORTH READING

Massachusetts

Town Clerk's Office

Barbara Stats, MMC/CMMC  
Town Clerk

*This is to certify the following vote of the Board of Selectmen from the minutes of their meeting on June 21, 2010:*

**9. STORMWATER REGULATIONS**

DPW Director, Richard Carnevale, was present to explain revisions made to the Town of North Reading Storm Water Management Rules and Regulations for adoption by the BOS.

The Board was given the opportunity to ask questions and Mr. Carnevale answered them.

MR. CHAIRMAN, I MOVE TO ADOPT THE TOWN OF NORTH READING STORM WATER MANAGEMENT RULES AND REGULATIONS DATED MAY 2010 AS RECOMMENDED BY THE DPW DIRECTOR.

MOTION BY: MR. PRISCO  
SECONDED BY: MR. O'LEARY  
VOTED: UNANIMOUS (5-0)

A True Record.

ATTEST:

  
Barbara Stats, Town Clerk

Dated: August 13, 2010

*[Town Seal]*

235 North Street, North Reading, MA 01864  
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TOWN OF NORTH READING, MASSACHUSETTS  
STORMWATER MANAGEMENT RULES & REGULATIONS

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TOWN OF NORTH READING, MASSACHUSETTS  
STORMWATER MANAGEMENT RULES & REGULATIONS

**1. PURPOSE**

The purpose of these Stormwater Management Rules and Regulations (the “Regulations”) is to aid in the consistent and effective implementation of Chapter 156 of the Town General Bylaws, Article II, §§156-14 through 156-23, “Construction and Post Construction Storm Water Management of New Developments and Redevelopments” (the “Bylaw”-See Appendix F). These Regulations establish requirements and procedures for the submission and consideration of an application for a Stormwater Management Permit and related documents, application and review fees, inspection requirements, definitions, and design standards to control the adverse effects of increased stormwater runoff, decreased groundwater recharge, and non-point source pollution associated with new development and redevelopment. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

- impairment of water quality and decreased flow in lakes, ponds, streams, rivers, coastal waters, wetlands and groundwater;
- contamination of drinking water supplies;
- erosion of stream channels;
- alteration or destruction of aquatic and wildlife habitat;
- flooding; and
- overloading or clogging of municipal catch basins and storm drainage systems.

**2. AUTHORITY & APPLICABILITY**

A. **Authority.**

- (1) The Regulations are promulgated by the Town of North Reading Building Inspector, under the authority of the Bylaw, §156-18B.
- (2) The Regulations are intended to clarify but not expand, extend, modify or replace any provision of the Bylaw.

B. **Applicability**

The Regulations apply to any construction activity that requires a Stormwater Management Permit, pursuant to §156-17A of the Bylaw, and is not exempted by §156-17B.

C. **Definitions.**

In addition to the definitions set forth in §156-15 of the Bylaw, the definitions in Appendix A to the Regulations shall apply in the interpretation and enforcement of the Regulations.

**3. ADMINISTRATION**

A. **Enforcement Officer.** The Building Inspector, who is designated by §156-15 of the Bylaw as the Enforcement Officer for the Bylaw, shall administer, implement, and enforce the Regulations. As authorized by §156-18A, any powers granted to or duties imposed upon the Building Inspector may be delegated in writing by the Building Inspector to other Town departments, employees, or agents.

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B. **Waivers.** The Building Inspector may waive strict compliance with any requirement of the Bylaw or the Regulations for the reasons given, and in accordance with the procedures set forth, in §156-21 of the Bylaw.

C. **Severability.** If any provision of the Regulations shall be held invalid for any reason, all other provisions shall continue in full force and effect.

#### 4. STORM WATER MANAGEMENT PERMIT

##### A. **General.**

(1) **Timing of Application.** A Storm Water Management Permit (“Permit”) must be obtained prior to the commencement of any activity for which a Permit is required. It is recommended that the Permit application be submitted at least ninety (90) days before any such activity, to allow sufficient time for the application to be reviewed by the Building Inspector and relevant Town Departments.

(2) **Owner Responsibility.** While application may be made by a representative, the permittee must be the Owner of the site. If the applicant has less than a fee interest in all parcels on which work will occur, the applicant shall provide written consent from the fee owner of each affected parcel, or evidence of an interest in the parcels sufficient to establish the applicant’s right to conduct the work. It is the site Owner or his/her agent’s responsibility to determine if other Town, State, and Federal permits or applications are required and to secure them.

(3) **Public Hearings.** The Permit application may be considered by the Building Inspector through an administrative process, without conducting a public hearing. However, a public hearing may be required at the discretion of the Building Inspector, based on the complexity of the proposed activity, the extent of land disturbance, and/or the likelihood of significant public interest in the Permit application. If a public hearing is required, it shall be scheduled to be held at least thirty (30) but not more than forty-five (45) days after the date on which the Permit application is received by the Building Inspector.

(4) **Burden Of Proof.** It is the applicant's responsibility to be aware of and meet the requirements of the Bylaw and the Regulations. The applicant has the burden of proving that the project or activity will comply with the Bylaw and the Regulations.

B. **Pre-Application Meeting.** Applicants are strongly encouraged to schedule a pre-application meeting with the Building Inspector at the earliest feasible time for the following purposes:

- (1) Discuss the proposed development plans and requirements for a Permit and the anticipated fees.
- (2) Advise the designer and/or applicant of the Town’s design standards (See Appendix B), goals with respect to stormwater management at the site, and to the extent practical, of any known concerns or issues regarding stormwater management at the subject site.
- (3) Advise the designer and/or applicant of application submittal requirements or of additional information needed in the application at the time of filing.
- (4) Encourage the use of Low Impact Development (LID) techniques in site design. A pre-application meeting can be useful in the process of LID design by creating a working dialogue and understanding regarding the goals of the stormwater design. Unlike conventional development and stormwater

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controls, an LID approach to design begins with an assessment of environmental and hydrologic conditions at the site and how to best address these conditions. Preliminary planning for the site is as critical as the ultimate stormwater controls chosen. A pre-application meeting may be helpful to avoid unnecessary stormwater management activity and may possibly help to eliminate the need for filing an application altogether. The assistance of Town staff during any pre-application meeting is intended to be advisory in nature and in no way changes the applicant's sole responsibility for the successful design of stormwater management systems for the site. Applicants are reminded that the objectives of the LID approach are to:

- (a) Develop a site plan that reflects natural hydrology,
- (b) Minimize impervious surfaces,
- (c) Treat stormwater in numerous small, decentralized structures,
- (d) Use natural topography for drainage ways and storage areas,
- (e) Preserve portions of the site in undisturbed, natural conditions, and
- (f) Lengthen travel paths to increase time of concentration and attenuate peak rates.

**C. Application.**

A Permit application package shall include the following submittals:

- (1) Proposed Notice to Abutters and List of Abutters (see Section 4-D);
- (2) Storm Water Management Plan;
- (3) Erosion and Sediment Control Plan;
- (4) Operation and Maintenance Plan;
- (5) Records of stormwater easements;
- (6) Plans showing the building envelope within each house lot and proposed grading, drainage, and stormwater disposal for each lot; and
- (7) Application Fee.\*

Five (5) hardcopies and one (1) digital copy (CAD & PDF) of the Storm Water Permit application package must be filed with the Building Inspector for his/ her review as well as review by other Town Departments, Boards or Commissions.

\* The application will not be accepted without the Application Fee. The Application Fee for the Permit shall be in addition to any fee requirements for other applications for permits for the same project before any other Town Board or Commission which may review the project.

**D. Notice to Abutters and Public Hearings.**

- (1) Upon receipt of the Permit application, the Building Inspector shall review the application and inform the applicant, within seven days, whether a public hearing will be required, and if so, the date, time, and place of the public hearing.
- (2) The applicant shall provide notification of the Permit application to all abutters (as identified in Section 4-D(4)) within seven days after the Building Inspector determines whether a public hearing is required. The applicant shall provide notification at the mailing addresses shown on the most recent

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applicable tax list from the municipal assessor. Notification shall be at the applicant's expense. The notification shall state that the application is being made pursuant to the Bylaw, shall briefly describe the proposed project, and state where copies of the application may be examined or obtained. If a public hearing is to be held, the notification shall also state the date, time, and place of the public hearing, and shall be mailed at least seven days prior to the public hearing. Failure to give timely notice of the public hearing shall be grounds to continue the hearing.

(3) The applicant shall notify abutters by either certified mail, return receipt requested, or by certificates of mailing. The applicant must present either the certified mail receipts or certificates of mailing for all abutters to the Building Inspector before a decision on the application can be made. If a public hearing is to be held, the certified mail receipts or certificates of mailing shall be presented to the Building Inspector before or at the beginning of the public hearing. The presentation of the receipts for all abutters identified on the tax list shall constitute compliance with abutter notification requirements.

(4) *Abutters* include owners of property directly adjacent to the property where the activity is proposed and owners of property within one hundred (100) feet of the subject property, including property separated from the subject property by a public or private street or a body of water. Abutters shall also include, for any project involving a water body, any property owner whose property abuts that water body and is within three hundred (300) feet of the subject property, measured from the low-water line both across the water body and along the same shoreline of the water body as is the subject property. If an *abutting property is in common ownership*, same-family ownership, or in ownership by different entities with common principals, with the subject property, then abutters shall also include the owner of the nearest property to the subject property that is not owned by the applicant, a same-family owner or the same principal owner.

(5) If a public hearing is to be held, the Building Inspector shall publish a notice of the public hearing in the North Reading Transcript, or another newspaper of general circulation, at least seven days before the hearing. The cost shall be borne by the applicant. The Building Inspector shall cause a notice of the public hearing to be posted in Town Hall at least seven days before the hearing.

(6) Hearings may be continued by the Building Inspector, with the consent of the applicant, to a specified date and time, which shall be announced at the hearing that is to be continued. If a continuance is granted due to amendments to the project proposal, revised submittals shall be supplied to the Building Inspector seven (7) days prior to the next scheduled hearing.

**E. Stormwater Management Plan:** The Stormwater Management Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater, in order for the Building Inspector to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. Specific requirements for the content of the Stormwater Management Plan are listed in Appendix C.

**F. Erosion and Sediment Control Plan:** The Erosion and Sediment Control Plan shall contain sufficient information to describe the proposed erosion and sedimentation controls and Stormwater Pollution Prevention Plan that are needed during land disturbance and construction, including source

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control and pollution prevention measures, best management practices (“BMPs”) to address erosion and sedimentation, stabilization measures, and procedures for operating and maintaining the BMPs, especially in response to wet weather events and frost. The plan shall include a schedule for sequencing construction and stormwater management activities that minimizes land disturbance by ensuring that vegetation is preserved to the maximum extent practicable, and that disturbed portions of the site are stabilized as quickly as possible. Specific requirements for the content of the Erosion and Sediment Control Plan are listed in Appendix D.

**G. Operation and Maintenance Plan:** An Operation and Maintenance Plan (“O & M Plan”) for the permanent stormwater management system is required at the time of application for all projects requiring a Permit. The O & M Plan shall be designed to ensure compliance with the Bylaw and to ensure that the Massachusetts Surface Water Quality Standards, as contained in 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Building Inspector shall make the final decision of what maintenance option is appropriate in a given situation. The Building Inspector shall consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The O & M Plan, as approved by the Building Inspector, shall be recorded at the Middlesex County Registry of Deeds by the permittee prior to the commencement of any work, and shall constitute a continuing requirement. A copy shall remain on file with the Building Inspector. Stormwater management easements shall be provided by the property owner(s) and shall be sufficient in location and extent to carry out the required maintenance. Specific requirements for the content of the O & M Plan are listed in Appendix E.

**H. Entry:** To the extent permitted by state law, filing an application for a Permit grants the Building Inspector permission to enter the subject site to verify the information contained in the application, and to inspect, survey, or sample to determine compliance with the Permit.

## **5. FEES**

The following fees shall be charged for an application for a Permit:

### **A. Application Fee**

- (1) An Application Fee of \$500 is payable at the time of application. It is nonrefundable.
- (2) The purpose of the Application Fee is to offset the Town’s costs for the processing of the application by the Building Inspector and other Town officials and boards.
- (3) The Application Fee is in addition to any other local or state fees that may be charged under any other law or bylaw.

### **B. Review Fee**

- (1) A Review Fee may be charged to cover outside professional consultant review services for the project, if the Building Inspector, after consultation with the Town Engineer, determines that such services are necessary due to the scope and complexity of the project. The consultant services may include, but are not limited to, review by engineers, hydrologists, attorneys, or other professionals for hydrologic and drainage analysis, stormwater quality analysis, site inspections, as-built plan review, and analysis of legal issues.

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(2) The applicant will be provided an estimate of the Review Fee as determined by the Building Inspector and the Town Engineer. This estimated fee must be paid to the Town prior to the start of the review process, unless the Building Inspector approves other arrangements for the applicant to pay consultants directly when services are provided.

**C. Inspection Fees.**

(1) An Inspection Fee of \$ 50 shall be paid by the applicant for each site inspection conducted by Town personnel during the project, as provided in Section 8 of these Regulations. The cost of any inspection conducted by a professional consultant shall be paid for as provided in Section 5-B.

**6. PROCEDURES**

A. **Determination of Completeness.** The Building Inspector shall make a determination as to the completeness of the application and adequacy of the materials submitted within seven (7) days of receipt, and shall inform the applicant of any deficiencies. No review shall take place until the application has been found to be complete.

B. **Review Period.** When possible, the Building Inspector shall complete the review of the application and issue a decision within 90 days after the application is deemed to be complete. However, the Building Inspector may extend this period when necessary, due to the complexity of the project, the continuance of hearings, or the need to request supplemental or updated project information from the applicant.

C. **Other Boards.** The Building Inspector shall notify the Department of Public Works, Community Planning Commission, Conservation Commission, and Board of Health of receipt of the application, and shall keep four copies of the application package on file for the applicable Town boards to review.

D. **Information Requests.** During review of the application, the Building Inspector may request such additional information from the applicant as may be necessary to determine whether the proposed activity meets the requirements of the Bylaw and the Regulations. A failure to submit sufficient information shall be grounds for the Building Inspector to disapprove the Permit application.

E. **Actions.** Upon completion of the project review, the Building Inspector shall issue a written decision, which shall consist of either:

(1) **Approval.** Approval of the Permit application, based upon a determination that the proposed Storm Water Management Plan, Erosion and Sediment Control Plan, and O & M Plan meet the requirements and standards in Sections 4 - C, D, and E and comply with any other requirements set forth in the Bylaw and the Regulations.

(2) **Approval with Conditions.** Approval of the Permit application, subject to any conditions, modifications, or restrictions required by the Building Inspector which will ensure that the project meets the requirements and standards in Sections 4 - C, D, and E and complies with any other requirements set forth in the Bylaw and the Regulations.

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(3) **Disapproval.** Disapproval of the Permit application, based upon a determination that the proposed Storm Water Management Plan, Erosion and Sediment Control Plan, and O & M Plan, as submitted, do not meet the requirements and standards in Sections 4 - C, D, and E or do not comply with any other requirements set forth in the Bylaw and the Regulations.

F. **Project Changes.** The permittee, or its agent, must notify the Building Inspector in writing of any change or alteration in the stormwater management systems authorized in a Permit before the change or alteration occurs. If the Building Inspector determines that the change or alteration is significant, based on the Bylaw or the stormwater management and design standards listed in the Regulations, the Building Inspector may require that an amended application be filed. If any change or alteration of the requirements of the Permit occurs during regulated activities, including significant changes in schedule, the Building Inspector may require the installation of interim erosion and sedimentation control measures before considering whether to allow such change or alteration.

G. **Project Completion.** At completion of the project the permittee shall submit a Final Report, with plans and other documentation, as detailed in Section 9 of the Regulations.

H. **Permit Expiration.** A Permit shall expire three (3) years from the date of issuance. Any permit may be renewed at the Building Inspector's discretion for an additional one-year period, provided that a request for renewal is submitted in writing to the Building Inspector at least thirty (30) days prior to expiration.

I. **Engineer of Record.** The Applicant shall notify the Building Inspector, in writing, of any change in the Engineer of Record.

## 7. PERFORMANCE GUARANTEES

Projects subject to the Bylaw that have received subdivision approval from the Planning Board shall provide security to the Planning Board for the completion of stormwater control measures by one of the means, and in accordance with the procedures, specified in MGL c. 41, §81U. For other projects subject to the Bylaw, the Building Inspector may, at his discretion, require that a performance bond be posted prior to the start of land disturbance activity. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Building Inspector to ensure that the work will be completed in accordance with the Permit. If the project is phased, the Building Inspector may release part of the bond as each phase is completed in compliance with the Permit, but the bond may not be fully released until the Building Inspector has received the Final Report as required by Section 9 of the Regulations and has issued a Certificate of Completion (see Section 10).

## 8. INSPECTION AND SITE SUPERVISION

A. **Pre-construction Meeting.** Prior to starting clearing, excavation, construction, or land disturbance, the Applicant, the Applicant's Technical Representative, the general contractor and any other person with authority to make changes to the project, shall meet with the Building Inspector, to review the permitted plans and their implementation. At least two (2) copies of the Storm Water Management Permit and associated plans shall be kept on the project site during the progress of the work. A copy of

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the NPDES Construction General Permit and Stormwater Pollution Prevention Plan (if applicable) shall be kept at the site as well.

B. **Inspections**. The Building Inspector or a designated agent, which may be either Town personnel or a professional consultant, shall make inspections as listed below, and shall either approve that portion of the work completed or shall notify the permittee of any noncompliance with Permit requirements. In order to obtain inspections, the permittee shall notify the Building Inspector at least two business days prior to the requested inspection. Inspections shall occur at the following stages:

- (a) Erosion and sediment control measures are in place and stabilized;
- (b) Site Clearing has been substantially completed;
- (c) Rough Grading has been substantially completed;
- (d) Final Grading has been substantially completed;
- (e) Close of the Construction Season; and
- (f) Final Landscaping (permanent stabilization) and project final completion.

An additional inspection shall be required prior to backfilling of any underground drainage or storm water conveyance structures.

C. **Permittee Inspections**. The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the Permit, and prior to and following storm events with an anticipated rainfall of greater than or equal to 1 inch per 24 hours. The purpose of such inspections will be to determine the overall effectiveness of the required plans and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Building Inspector or designated agent in a format approved by the Building Inspector.

E. **Final Inspection**.

(1) After the storm water management system has been constructed, the permittee or Technical Representative shall request a final inspection site meeting with the Building Inspector. The Building Inspector (or a designated agent) shall visit the site with the Technical Representative to confirm the site's "as-built" features.

(2) This inspection shall also evaluate the effectiveness of the system in an actual storm. The inspection shall determine whether the stormwater BMPs are operating as designed. In conducting the inspection, the inspector shall look for any physical evidence that the stormwater BMPs are not functioning as designed, such as sand plumes at outfalls, excessive sands in catch basins, oil sheens, stressed vegetation, accumulated litter, and/or failure of the BMP to drain after 72 hours. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Storm Water Management Plan, the deficiencies shall be addressed and corrected by the permittee before any performance guarantee is released and a Certificate of Completion is issued.

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**9. FINAL REPORT**

Upon completion of the stormwater management system, and following the Final Inspection, the permittee shall submit a Final Report from a registered Professional Engineer certifying that all stormwater control devices have been completed in accordance with the conditions of the approved Permit, subject to any approved changes and modifications. Any discrepancies must be noted in the cover letter. As part of the Final Report, the permittee shall also include the following:

A. **Certified as-built construction plans.** The as-built / record plans shall be drawn to scale and identify the location of any systems for conveying stormwater on the site. The as-built / record plans shall identify the location of any systems for conveying wastewater on the site and show that there are no connections between the stormwater and wastewater management systems.

B. **An Illicit Discharge Compliance Statement.** An Illicit Discharge Compliance Statement shall be submitted to verify that no illicit discharges exist on the site. For redevelopment projects, the Illicit Discharge Compliance Statement shall also document all actions taken to identify and remove illicit discharges, including, without limitation, visual screening, dye or smoke testing, and the removal of any sources of illicit discharges to the stormwater management system.

C. **An Operation and Maintenance (O & M) Compliance Statement.** The O & M Compliance Statement shall identify the party responsible for implementation of the O & M Plan and state:

- (1) the site has been inspected for erosion and appropriate steps have been taken to permanently stabilize any eroded areas;
- (2) all aspects of the stormwater BMPs have been inspected for damage, wear and malfunction, and appropriate steps have been taken to repair or replace the system or portions of the system so that the stormwater at the site may be managed in accordance with the Bylaw, the Regulations, and the Design Standards incorporated by reference,
- (3) future responsible parties have been notified of their continuing legal responsibility to operate and maintain the structure; and
- (4) the O& M Plan for the stormwater BMPs is being implemented.

D. **US EPA General Permit Notice of Termination.** A copy of the Construction General Permit Notice of Termination (NOT) (required by the EPA within 30 days after land disturbance has ceased and the site is stabilized; with seventy percent (70%) permanent vegetation coverage or 70% permanent erosion and sediment controls installed) shall be submitted with the Final Report. The Town will check EPA's website for verification that the NOT was submitted.

E. **Stormwater System Effectiveness Statement** . The permittee's Technical Representative shall evaluate the effectiveness of the stormwater best management practices (BMPs) during an actual storm and document the findings. The Final Report shall also include certification from the Applicant's Technical Representative as to the effectiveness of the installed system during storm events.

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**10. CERTIFICATE OF COMPLETION**

Upon receipt and approval of the Final Report and accompanying documents, and upon determining that all work under the Permit has been satisfactorily completed in conformance with the Bylaw and the Regulations, the Building Inspector will issue a letter to the applicant, certifying completion of the work.

**11. CONTINUING REQUIREMENTS**

A. Adherence to the provisions of the approved O & M Plan is a continuing requirement of the Permit. Failure to adhere to these provisions will constitute a violation of the Bylaw and the Regulations, and be subject to enforcement action.

B. A request to modify the requirements of the O & M Plan shall be submitted to the Building Inspector, who may approve the requested modification if it is determined to be an insignificant change. If the Building Inspector determines that the requested modification is significant, he may require that the permittee submit a request to amend the Permit, which shall be subject to the formal review procedures set forth in these Regulations.

C The person(s) responsible for the operation and maintenance of a stormwater management facility shall make and keep a record of all operation and maintenance activities showing compliance with the O & M Plan, and shall retain such record for at least three (3) years. Such record shall be provided to the Building Inspector, upon request, and made available to the Town during inspection of the facility and at other reasonable times.

**12. ENFORCEMENT**

The Building Inspector or an authorized agent of the Building Inspector shall enforce the Regulations, the Bylaw, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. The provisions for enforcement are detailed in Chapter 156, Storm Water Management Bylaw of the Town's General Bylaws, § 156-22.

**TOWN OF CONCORD**

**CONCORD PUBLIC WORKS**

**STORM WATER REGULATIONS**

March 15, 2011

These regulations were adopted by the Public Works Commission at a public hearing held on Tuesday, March 15, 2011.

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These Regulations govern storm water management in the Town of Concord, including connections to and discharges into the Town's storm drain system. They are enacted by the Public Works Commission of the Town of Concord under the authority of M.G.L. c. 83, § 10, and the Town of Concord's Private Digging of Roads bylaw. They take effect on the date of publication of notice of their enactment.

## **ARTICLE I. PURPOSE**

The purpose of these Regulations is to provide for the health, safety and general welfare of the citizens of the Town of Concord and the protection of surface water, groundwater, and wetlands through the regulation of storm water management and discharges to the storm drain system. The objectives of these Regulations are:

1. To protect surface water and ground water from degradation and promote ground water recharge.
2. To prohibit illicit connections and discharges to the storm drain system.
3. To establish a procedure for permitting allowable connections to the storm drain system.
4. To require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbance activities.
5. To require practices to control the flow of storm water from new and redeveloped sites in order to prevent flooding and erosion.
6. To ensure adequate long-term operation and maintenance of structural storm water best management practices so that they work as designed.
7. Comply with state and federal statutes and regulations relating to storm water discharges.
8. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with these Regulations.

## **ARTICLE II. DEFINITIONS**

For the purposes of these Regulations, the following shall mean:

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

**Concord Public Works:** The Public Works Department of the Town of Concord, Massachusetts.

**Connection:** A temporary or permanent, surface or subsurface, installation and/or physical link to the Town's storm sewer system of a drainage conduit or conduits and the entire related upstream drainage system, including but not limited to any pumps, conduits, pipes, swales, leaching and/or water quality structures, back-flow devices, clean-outs, special backfill, and geotextiles.

**Disturbance of Land:** Any activity that causes any of the following:

- (a) a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material, not related to agricultural activities;
- (b) a change of cover type; or

(c) a change in the ability of the land to infiltrate storm water.

Drainage Conduit: Any enclosed conveyance, including but not limited to flexible or rigid pipes, serving to convey storm water, ground water, or other discharges directly into the Town storm sewer system.

Hazardous Material: 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 Connection: Any connection that allows an illicit discharge to enter the storm drain system, including but not limited to 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.

Illicit Discharge: Any direct or indirect non-storm water discharge to the Town's storm sewer system (including dumping), except as exempted in Article III of these Regulations.

Permanent Connection: A connection that will be in place for more than three months.

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

Right of Way: A public way in the Town of Concord. Private use of the right-of-way is governed by the Private Digging of Roads Bylaw and regulations and policies thereunder.

Storm Sewer System (also, "Storm Drain System"): Town of Concord-owned facilities by which storm water is collected and/or conveyed, and which are not used for collecting or conveying sewage. The storm sewer system includes but is not limited to municipal roads, catch basins, manholes, gutters, curbs, sidewalks, inlets, piped storm drains, outfalls, 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 or drainage resulting entirely from any form of natural precipitation.

Temporary Connection: A connection that will be in place for less than three months (or longer if permitted by the Town Engineer).

Town: The Town of Concord, Massachusetts, including its employees and designees.

Unapproved Connection: Any connection that is not authorized by a permit issued by the Town under these Regulations.

## **ARTICLE III. PROHIBITED DISCHARGES TO THE STORM SEWER SYSTEM**

### **Section 1. Prohibition of Illicit Discharges**

No person shall commence, conduct or continue any illicit discharge to the storm drain system, or cause or allow others under its control to do so.

The following non-storm water discharges are not considered illicit discharges:

1. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, uncontaminated water from sump pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges and street wash water. Note that these discharges may require a Right-of-Way Permit from the Town; see Article IV.
2. Discharges or flow from firefighting, and other discharges specified in writing by the Town as being necessary to protect public health and safety.
3. Discharges associated with dye testing; however, this activity requires a verbal notification to the Town before the test.

### **Section 2. Prohibition of Illicit Connections**

No person shall construct, use, maintain or continue in existence any illicit connection to the storm drain system, or cause or allow others under its control to do so.

## **ARTICLE IV. PERMITS FOR PERMISSIBLE CONNECTIONS TO THE STORM SEWER SYSTEM**

### **Section 1. Policy Statement**

It is the policy of the Town to prohibit connections to the Town's storm drainage infrastructure. However, it is recognized that there may arise a public interest or a hardship situation where such a connection may be warranted. These regulations set forth the conditions under which a connection may be allowed. They are not intended to promote connections to the Town storm drainage system. Rather, they are intended to provide relief to those property owners who are threatened with property damage by excess on-site storm water or high groundwater levels. It is incumbent upon the applicant to demonstrate that the need to connect is dire, and that no reasonable alternate means of disposal exists.

This Article is applicable to all connections to the Town storm drain system, except connections of those drainage systems scheduled to be accepted and maintained by the Town.

## **Section 2. Right-of-Way Permit Requirement and Application Process**

No person shall construct, use, maintain or continue in existence any connection to the storm drain system, or cause or allow others under its control to do so, without obtaining a Right-of-Way Permit.

The issuance of a Right-of-Way Permit by Concord Public Works shall constitute official approval of a drainage connection application. The applicant shall submit a Right-of-Way Permit Application to Concord Public Works, with any documentation required by these Regulations. All costs associated with the application process, construction, maintenance and inspection of the connection shall be the sole responsibility of the applicant. It should be noted that other approvals outside of those issued by Concord Public Works (environmental, health, etc.) may be required before construction can commence. Permission from the Massachusetts Department of Environmental Protection under the Underground Injection Control Program for the installation of portions of the connection may be required. It is the responsibility of the applicant to ensure that all necessary permits are obtained prior to the commencement of work.

## **Section 3. Criteria**

### **3.1. Connection Criteria**

A proposed connection project must meet the following eligibility criteria:

1. The applicant must demonstrate a need for the connection.
2. The applicant must demonstrate that no reasonable alternate means of disposal exists.
3. The need for the connection must not result from the design of any construction or property alteration, if that construction or alteration was commenced after January 1, 1999.
4. The applicant must demonstrate that there exists suitable capacity in the drainage system to which the proposed connection will be made.
5. In no event shall the connection be part of or outfall for a regional or neighborhood drainage system.
6. The drainage structure to which the connection will be made must be part of a closed drainage system that has positive outfall as determined by the Town Engineer or his/her designee.
7. The drainage structure to which the connection will be made must be located within the frontage of, and on the same side of the public way as, the applicant's parcel.
8. All materials and construction must be in accordance with the Town's specifications and those contained in or referenced by these Regulations.
9. The applicant must obtain a Right-of-Way Permit for the work.
10. For permanent connections, the applicant must, prior to approval, execute the attached covenant and record said document with the Registry of Deeds as part of or supplement to the deed for the parcel. The recorded covenant must be submitted prior to the issuance of the Right-of-Way Permit.

11. No portion of the connection shall be located within a public drinking water supply Zone I.
12. If any portion of the proposed connection is located within a public drinking water supply Zone II, the applicant shall submit a copy of the application to the Water & Sewer Superintendent for his review. In such cases, the written approval of the Superintendent is required prior to the issuance of the Right-of-Way Permit.
13. The proposed connection must be used solely for the disposal of storm water, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, uncontaminated water from sump pumps, foundation drains, or footing drains, flows from riparian habitats or wetlands, or dechlorinated swimming pool discharges. It may not be used for the discharge of other materials, including but not limited to greywater, blackwater, solvents, paints or petroleum products.
14. That portion of the connection located within the Town right-of-way must be limited to the shutoff and a single drainage conduit crossing the right-of-way at a 90° angle to minimize the length of conduit within the right-of-way. At no time shall the conduit run parallel with the roadway centerline. The remainder of the connection components must be located within the applicant's parcel.
15. All permanent connections must include a backflow preventer and shutoff, and, if required by the Town Engineer, an oil/water separator and/or leaching structure. All components of the connection shall be approved by the Town Engineer or his/her designee. The leaching structure must be at an elevation at least two feet higher than that of high groundwater as defined by 310 CMR 15.000, unless otherwise approved by the Town Engineer.
16. The conduit must be placed so that neither it nor its discharge impedes or obstructs vehicular, pedestrian, bicycle or other mode of travel normally provided for within the Town right-of-way.
17. Storm water and/or ground water conveyed by the conduit shall be directed to present no safety hazard to vehicular, pedestrian, bicycle or other mode of travel normally provided for within the Town right-of-way. Safety hazards include, but are not limited to, ponding, frozen areas, etc.
18. Storm water and/or ground water conveyed by the conduit shall be directed to minimize erosion or the potential for erosion.
19. If required by the Town Engineer, confirmation testing from a certified laboratory of pollutant levels in the discharge from the connection must be provided.

### 3.2. Evaluation of Criteria

All decisions concerning eligibility under the criteria shall be made by the Town Engineer or his/her designee.

## **Section 4.** Connection Plans

### 4.1. Plans to be Submitted With Applications for Permanent Connections

The applicant shall submit with the Right-of-Way Permit Application plans clearly showing the extent and nature of the proposed work. Plans shall be prepared in conformance with the Concord Public Works Design and Construction Standards. Plans shall also include the pump manufacturer's name, model number and capacity, if the discharge will be pumped.

#### 4.2. Plans to be Submitted with Applications for Temporary Connections

The applicant shall submit with the Right-of-Way Permit Application a sketch clearly showing the extent, nature and location of the proposed work. The sketch shall also indicate the pump manufacturer's name, model number and capacity, if the discharge will be pumped.

At the discretion of the Town Engineer or his/her designee, the applicant may be required to provide additional information.

### **Section 5. Fee Schedule**

All costs associated with the design, permitting, construction and maintenance of the connection shall be the sole responsibility of the applicant. In addition to any fees associated with the issuance of a Right-of Way Permit, the applicant for a permanent connection shall pay a one-time, non-refundable Drainage Improvement Fee (DIF) of one thousand dollars (\$1000.00) and a Maintenance and Inspection Fee (MIF) of one hundred dollars (\$100.00) annually. The MIF is meant to cover the inspection of the connection, the cleaning of the catch basin and downstream portions of the drainage system, and any water quality testing of the discharge from the connection. Except for the initial fee, the MIF is due no later than January 15 of each calendar year. Both the initial MIF and the DIF are due upon the issuance of the Right-of-Way Permit. Failure to pay the MIF by the due date is a violation of these Regulations, subject to enforcement pursuant to Article VII of these Regulations.

### **Section 6. Treatment of Existing Situations**

#### 6.1. Grandfathered Connections

To the extent that an existing connection has been authorized in writing by Concord Public Works prior to the adoption of these Regulations, that connection is a validly authorized connection and is considered to be a grandfathered connection, as long as it is used only for the conveyance of storm water, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, uncontaminated water from sump pumps, foundation drains, or footing drains, flows from riparian habitats or wetlands, or dechlorinated swimming pool discharges. However, any modifications made to those grandfathered connections, whether within the Town right-of-way or within the subject parcel, shall be subject to these Regulations. In addition, nothing in these Regulations shall be interpreted to prohibit the Town from revoking said permission, thereby rendering the connection an unapproved connection, if, in the opinion of the Town Engineer or his/her designee, the grandfathered connection jeopardizes public health, safety or natural resources.

## 6.2. Connections Approved Under These Regulations

Any connection approved after the adoption of these Regulations shall remain subject to the terms and conditions of these Regulations. If, in the opinion of the Town Engineer or his/her designee, the connection fails to meet the terms and conditions of these Regulations, the Town Engineer or his/her designee may revoke the Right-of-Way Permit for the connection. Modifications made to any portion of the connection shall be subject to these Regulations.

## **ARTICLE V. 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 at that facility or operation that are resulting or may result in illicit discharges to the storm sewer system, that 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 material, that person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous material, that person shall notify Concord Public Works 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 Director of Public Works within three (3) business days of the phone notice.

## **ARTICLE VI. STORM WATER MANAGEMENT AND EROSION CONTROL**

### **Section 1. Applicability**

Article VI shall apply to the following activities:

- Any project requiring approval by a Town Board or Commission and determined by that Board or Commission, pursuant to its regulations and/or bylaws, to require stormwater review.
- Any activity that results in disturbance of one or more acres of land, or which is part of a common plan for development that will disturb one or more acres of land.

### **Section 2. Requirements**

All activities regulated by Article VI shall comply with the Concord Public Works Design and Construction Standards and Details (“Standards”) regarding drainage and erosion and sedimentation control. No activity regulated by Article VI shall commence construction or land disturbance without approval by the approving authority designated by Section 3 or 4, as applicable.

**Section 3.** Procedure for Article VI Activities **Requiring** Approval by a Town Board or Commission

3.1 Storm Water Management Plan and/or Erosion and Sedimentation Control Plan

The Storm Water Management Plan and/or Erosion and Sedimentation Control Plan required by the Standards shall be submitted to that Board or Commission in accordance with its requirements. To ensure timely review by CPW, it is the responsibility of the applicant to verify that all plan content and submittal requirements are met. Incomplete submittals will delay the review process. CPW requires a minimum of a two week turnaround for technical review. Larger projects may require additional review time.

3.2 Public Comment

Public comment on the Storm Water Management Plan and/or Erosion and Sedimentation Control Plan required by the Standards will be accepted as part of the review process by that Board or Commission.

3.3 Concord Public Works Review

The Director of Public Works, Town Engineer or their designee will provide the appropriate Town Board or Commission written correspondence indicating acceptability of the plans, deficiencies within the plan/design and/or required additional information, with a copy to the applicant.

3.4 Approval

The Town Board or Commission from which approval of the project is required will serve as the approving authority for the purpose of Article VI, Section 3. Approval of the project by that Board or Commission will serve as approval for the purpose of Article VI.

3.5 Long-Term Operation and Maintenance Plan

If the Standards require a Long-Term Operation and Maintenance Plan (“LTO&M Plan”) for storm water structures or controls, the LTO&M Plan that is approved by the Board or Commission shall be incorporated by reference into the chain of title of the property or properties on which the structures or controls are located, by recording of a notice at the Middlesex South District Registry of Deeds or the Land Court. Prior to the commencement of construction or land disturbance for the approved project, certification of recording shall be sent to the Board or Commission that approved the project and to Concord Public Works. A copy of the LTO&M Plan referenced in the recorded notice shall be sent to Concord Public Works with the certification. Any changes to the LTO&M Plan after recording of the notice must be approved by Concord Public Works.

**Section 4.** Procedure for Article VI Activities **Not Requiring** Approval by a Town Board or Commission

4.1 Storm Water Management Plan and/or Erosion and Sedimentation Control Plan

The Storm Water Management Plan and/or Erosion and Sedimentation Control Plan required by the Standards shall be submitted as part of the application for a building permit; if no building permit is required for the activity, the plans required by the Standards shall be submitted to the Public Works Director, Town Engineer, or their designee. To ensure timely review by CPW, it is the responsibility of the applicant to verify that all plan content and submittal requirements are met. Incomplete submittals will delay the review process. CPW requires a minimum of a two week turnaround for technical review. Larger projects may require additional review time.

4.2 Public Comment

The plans required by the Standards shall be made available by CPW during business hours for public review and comment for a period of ten days. Notice of the availability of such plans shall be posted on the CPW website and at the Town Clerk's office.

4.3 Review and Approval

Concord Public Works shall serve as the approving authority for the purpose of Article VI, Section 4. The Director of Public Works, Town Engineer or their designee will provide the applicant written correspondence indicating approval, conditional approval, or disapproval of the plans. Conditional approvals and disapprovals will identify deficiencies within the plan/design and/or required additional information.

4.4 Long-Term Operation and Maintenance Plan

If the Standards require a Long-Term Operation and Maintenance Plan ("LTO&M Plan") for storm water structures or controls, the LTO&M Plan that is approved by Concord Public Works shall be incorporated by reference into the chain of title of the property or properties on which the structures or controls are located, by recording of a notice at the Middlesex South District Registry of Deeds or the Land Court. Prior to the commencement of construction or land disturbance for the approved project, certification of recording shall be sent to Concord Public Works with a copy of the LTO&M Plan referenced in the recorded notice. Any changes to the LTO&M Plan after recording of the notice must be approved by Concord Public Works.

**ARTICLE VII. VIOLATIONS, ENFORCEMENT AND PENALTIES**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of these Regulations. Any person or landowner who violates, or allows others to violate, these Regulations may be subject to enforcement actions outlined below.

## **Section 1. Notice of Violation**

Whenever the Town finds that a person has violated a portion or failed to meet a requirement of these Regulations, it may order compliance by written notice to the responsible person via certified mail. The notice of the violation shall include the name and address of the alleged violator, the address or area, structure or land upon which the violation is occurring or has occurred, a statement specifying the nature of the violation, a description of the actions needed to resolve the property and come into compliance, and a statement specifying that, if the violator fails to come into compliance acceptable to the Town, the Town shall do the work necessary to resolve the violation at the expense of the violator.

Said notice may require, without limitation:

- elimination of illicit connections or discharges to the storm sewer system;
- elimination of unapproved connections to the storm sewer system
- performance of monitoring, analyses and reporting; and
- remediation of contamination caused by the illicit connection or discharge.

## **Section 2. Unapproved Connections**

If an unapproved connection is discovered, it is the responsibility of the owner of the property from which the connection originates to remove the connection and eliminate the discharge to the Town storm sewer system (including any discharge to the Town Right of Way). Except in the event of a threat to public health, safety or natural resources, that removal shall be performed within thirty (30) days of receipt of the notice of violation and at the sole expense of the property owner. A Right-of-Way Permit shall be obtained for the work. If the connection is not removed within thirty (30) days of receipt of the notice of violation, the Town may remove the connection.

For situations involving a threat to public health, safety or natural resources, the Town may remove the connection immediately. Written notice of the removal shall be provided to the property owner within twenty-four (24) hours of the removal. Any expenses incurred by the Town in conjunction with a removal shall be back-charged to the owner of the property from which the connection originates.

## **Section 3. Recovery of Costs**

Within thirty (30) days after completion of all measures necessary to abate the violation or to perform remediation, the Town will notify the violator and the property owner of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Public Works Commission within thirty (30) days of receipt of the notification of the costs incurred.

## **Section 4. Civil Relief**

If a person violates the provisions of these Regulations or a permit, notice or order issued thereunder, the Town may seek injunctive relief in a court of competent jurisdiction restraining

the person from activities which would create further violations or compelling the person to abate or remedy the violation.

Any person who violates any provision of these Regulations or a permit, notice or order issued thereunder may be punished by a fine of not more than \$5,000 for each day or part thereof that such violation occurs or continues.

#### **Section 5. Ticketing**

As an alternative to civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, § 21D and the Town of Concord Bylaw Providing for Non-Criminal Disposition of Violations of Town Bylaws, in which case the Director of Public Works or other authorized agent of the Town shall be the enforcing person. The penalty for the first violation shall be \$50. The penalty for each subsequent violation shall be \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### **Section 6. Entry to Perform Duties Under these Regulations**

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Town and its agents, officers and employees may enter privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Town deems reasonably necessary.

#### **Section 7. Appeals**

Any person aggrieved by an enforcement order, or by a decision of the Town Engineer under these Regulations, may appeal the order or decision to the Public Works Director. Appeals shall be made by submitting to the Public Works Director, within 30 days of the decision or order being appealed, a letter explaining why the order or decision was not justified. Relevant documentation, including the order or decision being appealed and any application, plans, etc., shall be attached to the letter.

Any person aggrieved by a decision of the Public Works Director under these regulations or on an appeal made under the previous paragraph may appeal the decision to the Public Works Commission. Appeals shall be made by submitting to the Public Works Commission, within 30 days of the decision, a letter explaining why the decision was not justified. Relevant documentation shall be attached to the letter.

The decisions or orders of the Public Works Commission shall be final. Any further appeal shall be to a court of competent jurisdiction.

#### **Section 8. Remedies Not Exclusive**

The remedies listed in these Regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

## **ARTICLE VIII. COMPATIBILITY WITH OTHER TOWN LAWS AND REGULATIONS**

The requirements of these Regulations are in addition to the requirements of any other policy, rule, regulation or other provision of law. Where any provision of these Regulations imposes restrictions different from those imposed by any other policy, 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.

## **ARTICLE IX. SEVERABILITY**

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

## DRAINAGE CONNECTION COVENANT

\_\_\_\_\_, having an address of \_\_\_\_\_, Concord, Massachusetts, has submitted an application dated \_\_\_\_\_, to the Town of Concord, Concord Public Works, for a Right-of-Way Permit to authorize the connection of a private drainage conduit to the Town of Concord public storm drain system, as shown on a Plan entitled \_\_\_\_\_, dated \_\_\_\_\_, prepared by \_\_\_\_\_.

The proposed drainage conduit will be located within the Right-of-Way of \_\_\_\_\_. As a material inducement to the Concord Public Works to issue such a Right-of-Way Permit, and in consideration of \$100.00 and other good valuable consideration receipt of which is hereby acknowledged, the undersigned covenants and agrees to the following conditions to the issuance of such a Permit.

1. The terms and conditions of this Covenant include not only those contained within the language of this Covenant, but also include by reference the terms and conditions of the Right-of-Way Permit issued authorizing the connection as well as the terms and conditions set forth by the Town of Concord's Storm Water Regulations.
2. The undersigned understands and agrees that the Town of Concord retains all rights, title and interest in and to the right-of-way area referenced above. To the extent that the activities of the Town of Concord disturb any of the proposed drainage connection constructed by the undersigned in accordance with the Right-of-Way Permit, the Town of Concord shall be obligated solely to replace and restore in kind the disturbed portion of the drainage connection to the condition in which it existed prior to the disturbance, and shall have no obligation to replace and restore other connection material in the right-of-way outside of that portion disturbed by actions of the Town. In the event that the structure to which the proposed connection is made in accordance with the Right-of-Way Permit is abandoned or relocated, the Town shall not be obligated to extend or modify the existing conduit to provide connection to another structure or the relocated structure. The undersigned releases the Town of Concord (including all officials, contractors, agents and employees), from and against any claims for losses, costs, damage to personal property, death or personal injuries incurred by or asserted against the Town of Concord as a result of the exercise by the Town of Concord of any of its rights within the right-of-way area, except to the extent that the Town of Concord does not perform its obligations under this paragraph or otherwise acts in a grossly negligent manner.
3. The undersigned agrees that the terms of this Covenant shall be conditions precedent to the effectiveness of the Right-of-Way Permit, and in the event the undersigned fails to comply with these terms and conditions at any time, the Right-of-Way Permit shall be deemed void and of no force and effect, and the drainage connection constructed in accordance with such Permit shall no longer be a validly authorized connection and shall be removed by the undersigned within thirty (30) days of receipt of written request to do so.
4. The undersigned agrees to allow representatives of the Town of Concord to enter onto his/her property for the purpose of inspecting the complete drainage connection and ensuring compliance with the terms and conditions of this covenant before, during and after the connection is installed.
5. The undersigned agrees that the permitted connection/system will be used solely for the disposal of uncontaminated storm water and/or groundwater, and at no time will the permitted connection be used for the disposal of any other material.
6. The Town of Concord bears no responsibility for maintenance of any portion of the connection. Any required maintenance of the connection shall be the sole responsibility of the undersigned. A Right-of-Way Permit shall be required for any maintenance activity to be performed within the Town right-of-way.
7. The undersigned agrees that any modifications made to the connection shall be subject to this covenant and no such modification shall be made without the express written consent of the Town Engineer or his/her appointed designee.

8. The Town of Concord reserves the right to require the permanent removal of the connection if it is deemed by the Public Works Commission to be in the best interest of the Town. The undersigned agrees that he will, within thirty (30) days of receipt of written request to do so, remove that portion of the connection located within the Town right-of-way and permanently seal off any materials used in conjunction with the connection. The removal shall also include the restoration of that portion of the Town right-of-way disturbed by the removal to the condition of that area prior to the disturbance. The cost for this removal shall be the sole responsibility of the undersigned.
9. The Town of Concord reserves the right to temporarily or permanently disconnect the previously approved connection from the Town right-of-way without supplying the undersigned with advance notice if, in the opinion of the Town Engineer or his/her appointed designee, the connection poses an immediate threat to public safety, public health, or natural resource.
10. This Covenant executed under seal as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, shall be binding upon the undersigned and its successors and assigns.

\_\_\_\_\_  
Applicant

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. \_\_\_\_\_, 20\_\_

Then personally appeared the above-named \_\_\_\_\_ and acknowledged the foregoing to be his free act and deed, before me

\_\_\_\_\_  
Notary Public

My Commission Expires: