



# Stormwater Management and Erosion Control Regulations

## 1.0 PURPOSE

Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

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

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Dalton's water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town. These regulations address the issues mentioned above and as referenced in the *Stormwater Management and Erosion Control Bylaw of the Town of Dalton*.

## 2.0 DEFINITIONS

The following definitions shall apply in the interpretation and implementation of these Regulations. These Regulations may be amended to adopt additional definitions.

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

**APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a land disturbance permit for proposed land disturbance activity.

**AUTHORITY:** The Town of Dalton Stormwater Management Commission or its authorized agent(s). The Dalton Stormwater Management Commission or its authorized agent(s) are responsible for coordinating the review, approval and permit process as defined in this Regulation. Other Boards and/or departments of the Town of Dalton, including (but not limited to) the Conservation Commission, Board of Health, and Highway Department, may participate in the review process as defined herein.

**CALIPER (diameter in inches):** American Association of Nurserymen standard for measurement of trunk size of nursery stock. Caliper of the trunk shall be measured at six (6) inches above the ground up to and including four (4) inch caliper trees, and twelve (12) inches above the ground for larger sizes.



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

**CLEARING:** Removal or causing to be removed, through either direct or indirect actions, trees, shrubs, or topsoil from a site, or any material change in the use or appearance of the land. Actions considered to be clearing include, but are not limited to: causing irreversible damage to roots or trunks; destroying the structural integrity of vegetation; or any filling, excavation, grading, or trenching in the root area of a tree which causes irreversible damage.

**DETERMINATION:** A written finding by the Stormwater Management Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the *Stormwater Management and Erosion Control Bylaw of the Town of Dalton*.

**DETERMINATION OF SIGNIFICANCE:** A written finding by the Stormwater Management Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interests identified in the *Stormwater Management and Erosion Control Bylaw of the Town of Dalton*.

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

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

**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.

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities.

**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.

**LAND-DISTURBING ACTIVITY:** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material. Landscaping activities which involve greater than or equal to 500 sq. ft. are considered a land disturbing activity. Routine landscaping activities which involve less than 500 sq. ft. are not considered a land-disturbing activity for the purposes of this bylaw.



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**LAND DISTURBANCE PERMIT:** A permit issued by the Stormwater Management Commission, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation.

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

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**NOTIFICATION OF NON-SIGNIFICANCE:** A written finding by the Stormwater Management Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the *Stormwater Management and Erosion Control Bylaw of the Town of Dalton*.

**ONE HUNDRED YEAR FLOODPLAIN:** An area delineated under the Federal Emergency Management Act (FEMA) indicating the extent of flooding as a result of a 100 year flood.

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

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

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

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**PRE-DEVELOPMENT:** The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Management Commission. Where phased development the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**POST-DEVELOPMENT:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.



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

**REDEVELOPMENT:** Any development, construction, alteration, rehabilitation, improvement expansion, demolition or phased projects that meets or exceeds 200 square feet of land disturbance on existing or proposed slopes less than or equal to 15 % or 43,560 square feet on existing or proposed slopes less than 15 % and where the existing land has been subject to previous development.

**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 e.g. twenty (20) percent.

**SOIL:** Any earth, sand, rock, gravel, clay or similar material.

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

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

**STORMWATER MANAGEMENT PLAN:** A plan showing existing and proposed features on a site. This is required as part of the application for a Land Disturbance Permit.

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

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

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream (both intermittent and continuous).

**WETLAND RESOURCE AREA:** Areas specified in either the Massachusetts Wetlands Protection Act G.L. c. 131, § 40.

**WETLANDS:** Areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including



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freshwater marshes around ponds and channels (rivers and streams), common names include marshes, swamps and bogs.

### 3.0 AUTHORITY

- A) The Regulations contained herein have been adopted by the Stormwater Management Commission in accordance with the *Town of Dalton's Stormwater Management and Erosion Control Bylaw*.
- B) Nothing in these Regulations is intended to replace or be in derogation of the requirements of the Town of Dalton's Zoning Bylaws and any Rules and Regulations adopted thereunder unless these regulations are more stringent.
- C) These Stormwater Regulations may be periodically amended by the Stormwater Management Commission in accordance with the procedures outlined in Section 5.0 (B) of the *Town of Dalton's Stormwater Management and Erosion Control Bylaw*.

### 4.0 ADMINISTRATION

The Stormwater Management Commission shall have the responsibility to administer, implement and enforce these Regulations. Projects and activities approved by the Stormwater Management Commission shall be deemed in compliance with the intent and provisions of these Stormwater Management and Erosion Control Regulations.

### 5.0 PROCEDURES

The issuance of a Land Disturbance Permit is required prior to any activity disturbing 43,560 square feet (1 acre) or more of land including disturbances less than 43,650 square feet if that disturbance is part of a larger common plan of development or sale that would disturb 43,650 square feet or more, or disturbing an area greater than or equal to 200 square feet on existing or proposed slopes greater than or equal to 15 %, or as listed in Section 4 of the Stormwater and Erosion Control Bylaw. The site owner or their Agent shall file with the Stormwater Management Commission for a Land Disturbance Permit. In either case, while application may be made by a representative, the permittee must be the owner of the site.

- A. Determination of Non-significance:** Any applicant may submit a request for a determination of non-significance. Such a request shall be accompanied by an explanation or documentation supporting a request for a determination of non-significance and demonstrating that the proposed work is not significant to any of the interests of the *Stormwater Management and Erosion Control Bylaw of the Town of Dalton* and that strict application of the bylaw does not further the purposes or objectives of the bylaw. The Stormwater Management Commission will prepare a written finding that the area on which proposed work is to be done, or which the proposed work will alter, is either significant or not significant to one or more of the interests identified in the *Stormwater Management and Erosion Control Bylaw of the Town of Dalton*. If a project is deemed significant by the Stormwater Management Commission the applicant must file for a full land disturbance permit.
- B. Segmentation:** In determining whether a Project requires a land disturbance permit, and during review, the Stormwater Management Commission shall consider the entirety of the Project, including any likely future expansion, and not separate phases or segments thereof. The Applicant may not phase or segment a Project to evade, defer or curtail review. The



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Applicant and the enforcement authority shall consider all circumstances as to whether various work or activities constitute one Project, including but not limited to: whether the work or activities, taken together, comprise a common plan or independent undertakings, regardless of whether there is more than one Applicant; any time interval between the work or activities; and whether the environmental impacts caused by the work or activities are separable or cumulative.

- C.** The following activities are exempt from the provisions of Section 5.0
- 1) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling conducted in such a way as not to cause a nuisance;
  - 2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
  - 3) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment or other pollutants to the MS4 or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;
  - 4) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act regulation 310 CMR 10.04; and
  - 5) Disturbance of Land or Redevelopment that are subject to jurisdiction under the Massachusetts Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Standards and the Town of Adams Stormwater Management Regulations as reflected in an Order of Conditions issued by the Conservation Commission.
- D. Determination of Completeness.** The Stormwater Management Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted within 5 business days. No review shall take place until the application has been found to be complete.
- E. Land Disturbance Applications:** An application for a Land Disturbance permit shall be made to the Stormwater Management Commission in a form and containing information as specified in the Regulations adopted by the Stormwater Management Commission and shall be accompanied by payment of the appropriate application and review fees. The fee shall be collected by the Stormwater Management Commission prior to any review. Applicants shall submit an additional complete application to the Commission which is currently reviewing other permits for the same project.
- 1) Land Disturbance Permit Application package shall include:
    - a) completed Application Form with original signatures of all owners;
    - b) a list of abutters, certified by the Assessors Office;
    - c) three (3) copies of the Erosion and Sediment Control Plan as specified in Section 5.0 (E) of these regulations;
    - d) three (3) copies of the Stormwater Management Plan as specified in Section 5.0 (F) of these regulations;



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- e) three (3) copies of the Operation and Maintenance Plan as specified in Section 5.0 (G) of these regulations,
  - f) payment of the application and review fees; and,
- 2) One (1) copy each of the Application Form, the Stormwater Management Plan, the Operation & Maintenance Plan and the list of abutters must be filed with the Town Clerk for all Land Disturbance Permits. The Land Disturbance Permit Application Package will also be submitted to any other Boards or Commissions reviewing the project.

**F. Erosion and Sediment Control Plan.** The Erosion and Sediment Control 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 erosion and sedimentation controls. The plan shall ensure that the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met in all seasons. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the information listed below.

1) Standards

If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges From Construction Activities (and as amended), then the applicant is required to submit a complete copy of the SWPPP (including the signed Notice of Intent and approval letter). If the SWPPP meets the requirements of the General Permit, it will be considered equivalent to the Erosion and Sediment Control Plan described in this section. The Erosion and Sediment Control Plan shall be designed to meet the Massachusetts Stormwater Management Policy in compliance with the MS4 Permit and shall meet the following standards:

- a) Minimize total area of disturbance.
- b) Sequence activities to minimize simultaneous areas of disturbance.
- c) Minimize peak rate of runoff in accordance with the Massachusetts Department of Environmental Protection Stormwater Standards.
- d) Minimize soil erosion and control sedimentation during construction.
- e) Divert uncontaminated water around disturbed areas.
- f) Maximize groundwater recharge.
- g) Install and maintain all Erosion and Sediment Control measures in accordance with the Massachusetts Erosion and Sedimentation Control Guidelines for Urban and Suburban Areas, manufacturer's specifications and good engineering practices.
- h) Prevent off-site transport of sediment.
- i) Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project).
- j) Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control.
- k) Protect natural resources and prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities.
- l) Institute interim and permanent stabilization measures, which shall be instituted on a



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disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site.

- m) Properly manage on-site construction and waste materials, including truck washing and cement concrete washout facilities.
- n) Prevent off-site vehicle tracking of sediments,
- o) Incorporate appropriate BMPs designed to comply with the Massachusetts Stormwater Handbook.

### 2) Contents

The Erosion and Sediment Control Plan shall contain the following information:

- a) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan.
- b) Title, date, north arrow, names of abutters, scale (1"=20' or 1"=40'), legend, and locus map (1"=800').
- c) Location and description of natural features including:
  - i. Watercourses and water bodies, wetland resource areas, riparian zones and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
  - ii. Existing vegetation of various kinds including tree lines, shrub layer, ground cover and herbaceous vegetation, and trees with a caliper twelve inches or larger, noting specimen trees and forest communities;
  - iii. Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Estimated Habitats of Rare Wildlife, Certified Vernal Pools and Potential Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.
- d) Lines of existing abutting streets showing drainage and driveway locations and curb cuts.
- e) Existing soils (type, hydrologic group, erodibility) and the volume and nature of imported soil materials.
- f) Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed.
- g) Steep slopes for pre-development and post-development conditions, delineated by 0%-15%, 15%-25%, and over 25%.
- h) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed.
- i) Drainage patterns, watersheds and subwatersheds, with calculations of proposed land disturbance within each subwatershed and areas of soil to be disturbed in each watershed throughout the duration of the proposed land disturbance activity.
- j) Location and details of erosion and sediment control measures with a narrative of the



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construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas.

- k) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable.
- l) Stormwater runoff calculations in accordance with the Massachusetts Department of Environmental Protection's Stormwater Management Policy.
- m) Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other temporary and final stabilization measures.
- n) A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- o) A description of provisions for phasing the project where 43,560 square feet of contiguous area or greater is to be altered or disturbed.
- p) Plans, reports, and calculations must be stamped and certified by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC).
- q) Such other information as is required by the Stormwater Management Commission.

**F. Stormwater Management Plan.** The Stormwater Management Plan shall contain sufficient information to describe the nature and purpose of the proposed development/redevelopment, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Stormwater Management Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Policy. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required below.

### 1) Standards

The Stormwater Management Plan shall be prepared in accordance with the Massachusetts Stormwater Management Policy. Stormwater Management Plans must include Low Impact Development (LID) and Green Infrastructure site planning and design strategies to be implemented to the maximum extent feasible in order to reduce the discharge of stormwater from developed sites as per the MS4 Permit. General performance standards for permit sites include:

- a) Low Impact Development and Green Infrastructure site design strategies shall be utilized to preserve existing natural features of the site, minimize the creation of impervious surfaces and manage stormwater in a decentralized fashion, to the maximum extent feasible.
- b) The selection, design and construction of all pre-treatment, treatment and infiltration BMPs shall be in accordance with Massachusetts Stormwater Handbook (or be more



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- stringent than those standards) and shall be consistent with all elements of the Massachusetts Stormwater Standards including but not limited to those regarding new stormwater conveyances, peak runoff rates, recharge, land uses with higher potential pollutant loads, discharges to Zone II or interim wellhead protection areas, sediment and erosion control, and illicit discharges.
- c) For redevelopment projects, the first 0.8 inch of runoff from the site's total impervious surfaces shall be retained on-site through a combination of infiltration, reuse and/or evaporation, to the maximum extent practicable. For new development, the first 1.0 inch of runoff from the site's total impervious area shall be retained on-site through a combination of infiltration, reuse and/or evaporation, to the maximum extent practicable.
  - d) Where it is not technically feasible to retain the first 0.8 inch of runoff from all impervious areas from redevelopment sites, or the first 1.0 inch of runoff from all impervious areas from new development sites, the applicant will describe in writing why it is technically infeasible to do so due to physical site constraints, and indicate the volume of runoff to be retained. If different volumes are retained for different areas of the site, each area shall be described individually. That portion of the required volume which is not retained on-site shall be treated using stormwater BMPs that are optimized for the removal of TSS, total phosphorus, bacteria and pollutants of concern identified in any applicable TMDL or impaired waters designation.
  - e) BMPs for redevelopment sites must remove 80% or more of the average annual load of TSS and 50% or more of the average annual load of Total Phosphorus. BMPs for new development must remove 80% or more of the annual average load of total suspended solids and 50% or more of the average annual load of total phosphorus for all post-construction impervious areas on-site.
- 2) Stormwater Management Plan Requirements.  
The Stormwater Management Plan shall contain the following information:
- a) A locus map, at a scale of 1"=800'.
  - b) The existing zoning, and land use at the site.
  - c) The proposed land use.
  - d) The location(s) of existing and proposed easements.
  - e) The location of existing and proposed utilities.
  - f) The site's existing and proposed topography with contours at 2 foot intervals.
  - g) The existing site hydrology.
  - h) A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.
  - i) A delineation of 100-year flood plains, if applicable.
  - j) An estimate made by a Licensed Soil Evaluator of seasonal high groundwater elevation in each area to be used for stormwater retention, detention, or infiltration.
  - k) The existing and proposed vegetation and ground surfaces with runoff coefficient for each.



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- l) A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths.
- m) A description and drawings of all components of the proposed drainage system including:
  - i. locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
  - ii. all measures for the detention, retention or infiltration of water,
  - iii. all measures for the protection of water quality including estimated pollutant load reduction for all proposed stormwater BMPs and stormwater management facilities where applicable,
  - iv. the structural details for all components of the proposed drainage systems. Stormwater BMPs, and stormwater management facilities,
  - v. notes on drawings specifying materials to be used, construction specifications, and typicals, and
  - vi. expected hydrology with supporting calculations.
- n) The proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.
- o) The timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
- p) A maintenance schedule for the period of construction.
- q) Any other information requested by the Stormwater Management Commission.

**G. Operation and Maintenance Plans.** An Operation and Maintenance Plan (O&M Plan) for the permanent stormwater management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with these Regulations and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Stormwater Management Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Commission will 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. Once approved by the Stormwater Management Commission the Operation and Maintenance Plan shall be recorded at the Berkshire County Registry of Deeds by the permittee, shall remain on file with the Commission and shall be an ongoing requirement. The Operation and Maintenance Plan shall conform to the requirements listed below. 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.

- 1) Operation and Maintenance Plan Requirements  
An Operation and Maintenance Plan shall include:
  - a) The name(s) of the owner(s) for all components of the system



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- b) A map showing the location of the systems and facilities including all structural and nonstructural stormwater best management practices (BMPs), catch basins, manholes/access lids, pipes, and other stormwater devices.
  - c) Maintenance agreements that specify:
    - i. The names and addresses of the person(s) responsible for operation and maintenance.
    - ii. The person(s) responsible for financing maintenance and emergency repairs.
    - iii. An Inspection and Maintenance Schedule for all drainage structures, including swales and ponds. Where applicable, this schedule shall refer to the Maintenance Criteria provided in the Massachusetts Stormwater Handbook or the EPA National Menu of Stormwater Best Management Practices or equivalent.
    - iv. Instructions for routine and long-term operation and maintenance shall have sufficient detail for responsible parties to perform necessary maintenance activities and prevent actions that may adversely affect the performance of each structural and/or nonstructural stormwater BMP.
    - v. A list of easements with the purpose and location of each.
    - vi. The signature(s) of the owner(s).
- 2) Stormwater Management Easement(s).
- a) Stormwater management easements shall be provided by the property owner(s) as areas are necessary for:
    - i. access for facility inspections and maintenance,
    - ii. preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and
    - iii. direct maintenance access by heavy equipment to structures requiring regular cleanout maintenance.
  - b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
  - c) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Stormwater Management Commission.
  - d) Easements shall be recorded with the Berkshire County Registry of Deeds prior to issuance of a Certificate of Completion by the Stormwater Management Commission.
- 3) Changes to Operation and Maintenance Plans
- a) The owner(s) of the stormwater management system must notify the Stormwater Management Commission or its Agent of changes in ownership or assignment of financial responsibility.
  - b) The maintenance schedule in the Maintenance Agreement may be amended to



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achieve the purposes of this Stormwater Management and Erosion Control Bylaw and Regulations by mutual agreement of the Stormwater Management Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility. Once the amended Plan is signed the Stormwater Management Commission shall file it at the Registry of Deeds at the expense of the current owner(s).

- H. Information Requests:** The Stormwater Management Commission may request such additional information as is necessary to enable the Commission to determine whether the proposed land disturbance activity will protect water resources and meet the objectives of the Stormwater Management and Erosion Control Bylaw and Regulations.
- I. Project Changes.** The permittee, or their Agent, must notify the Stormwater Management Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the Commission determines that the change or alteration is significant, the Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities, including significant changes in schedule, the Commission may require the installation of interim erosion and sedimentation control measures before considering the change or alteration.
- J. Review Fee Schedule**  
A review fee of one hundred twenty five dollars (\$125.00) shall be submitted with the application for a Land Disturbance Permit. The applicant is responsible for fees associated with the required legal notice.

### 6.0 WAIVERS

- A.** The Stormwater Authority may waive strict compliance with these Regulations if such action is allowed by federal, state and local statutes and/or regulations; is in the public interest; and is consistent with the purposes of the *Stormwater Management and Erosion Control Bylaw*.
- B.** Any applicant may submit a written request for a waiver, accompanied by supporting information explaining how the waiver will comply with the purposes of the *Stormwater Management and Erosion Control Bylaw*.
- C.** All waiver requests shall be considered within 45 days, and the Stormwater Management Commission will provide a written decision. If additional information is required, the Stormwater Management Commission may extend the review period. If the applicant objects to an extension, or fails to provide requested information, the waiver request may be denied without prejudice by the Stormwater Management Commission.

### 7.0 INSPECTION AND SITE SUPERVISION

All inspections will be conducted by an Agent of the Stormwater Management Commission.

- A. Preconstruction Meeting.** Prior to clearing, excavation, construction, or any land disturbing activity requiring a permit, the applicant, the applicant's technical



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representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with the Stormwater Management Commission or a designated Agent to review the permitted plans and proposed implementation.

**B. Inspection.** The Stormwater Management Commission or a designated Agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the permit plans and conditions of approval signed by the Stormwater Management Commission shall be maintained at the site during the progress of the work. A copy of the NPDES Construction General Permit and Stormwater Pollution Prevention Plan (if applicable) shall be kept on site as well. In order to obtain inspections, the permittee shall notify the Agent of the Commission at least three (3) working days before each of the following events:

- 1) Erosion and sediment control measures are in place and stabilized;
- 2) Rough Grading has been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
- 5) Close of the Construction Season; and
- 6) Final Landscaping (permanent stabilization) and project final completion.

**C. Final Inspection.** After the stormwater management system has been constructed the applicant must submit a record plan detailing the actual stormwater management system as installed. The applicant must submit an explanation detailing any differences between the plans approved with the permit and the as-built plans. This explanation must be stamped by a Professional Engineer. The Stormwater Management Commission or a designated Agent shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the Commission which will issue a Certificate of Completion.

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 Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. Examples of inadequacy shall be limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

**D. 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 anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control Plan, and the need for maintenance or additional control measures. The permittee or his/her Agent shall submit monthly reports to the Stormwater Management Commission or a designated Agent in a format approved by the Commission. The Commission may require, as a condition of



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approval, that an Environmental Site Monitor, approved by the Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Commission or its designated Agent.

- E. Access Permission.** To the extent permitted by state law, and as authorized by the owner at the time of the application or other party in control of the property, the Stormwater Management Commission, its Agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Regulation and may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonably necessary to determine compliance with the permit.

### 8.0 FINAL REPORTS

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.) or surveyor, certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

### 9.0 CERTIFICATE OF COMPLETION

The Stormwater Management Commission will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Bylaw. The Certificate of Completion shall be recorded at the Registry of Deeds by the Owner(s).