

# TOWN OF SOUTHBOROUGH



## CONSERVATION COMMISSION

CORDAVILLE HALL · 9 CORDAVILLE ROAD, LOWER LEVEL · SOUTHBOROUGH, MASSACHUSETTS 01772-1662  
(508) 281-8984

# **Stormwater and Erosion Control** **Rules & Regulations**

Adopted June 22, 2023

## **1.0 PURPOSE**

The purposes of these Stormwater and Erosion Control Regulations are to:

Protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, decreased groundwater recharge, and nonpoint source pollution associated with new development and redevelopment, as more specifically addressed in the Stormwater and Erosion Control Bylaw of the Town of Southborough.

Establish uniform regulations and procedures for conducting the business of the Conservation Commission under its jurisdiction as a Permit Granting Authority for the Southborough Stormwater and Erosion Control Bylaw.

## **2.0 AUTHORITY**

The Rules and Regulations (hereinafter “Regulations”) contained herein have been adopted by the Town of Southborough Conservation Commission (hereinafter “Commission”) in accordance with the Town of Southborough Stormwater and Erosion Control Bylaw (hereinafter “The Bylaw”) Chapter 154 of the Southborough Town Code, and the Massachusetts MS4 General Permit.

Nothing in these Regulations is intended to derogate from or replace the requirements of the Town of Southborough Wetlands Protection Bylaw or any Rules and Regulations adopted thereunder.

These Stormwater Regulations may be periodically amended by the Commission in accordance with the Town of Southborough Stormwater and Erosion Control Bylaw.

### **3.0 APPLICABILITY**

The Stormwater and Erosion Control Bylaw is applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to the Stormwater & Erosion Control Bylaw.

Any person applying for a Stormwater Management Permit (hereinafter “SMP”) under the Stormwater & Erosion Control Bylaw, whether or not governed by any other federal, state or local Regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these Regulations. An SMP shall be required from the Commission for the following:

- a) Any activity subject to Major Plan Review (§174-10); except when no land disturbance is commencing;
- b) Any activity that will result in land disturbance of one (1) acre, 43,560 sf or more;
- c) Any residential development or redevelopment proposed pursuant to the Subdivision Control Law, MGL c. 41, §§ 81K to 81GG, inclusive, or proposed under a special permit process pursuant to MGL c. 40A, § 9;
- d) Any activity that will increase the amount of impervious surfaces more than 50% of the area of a parcel or lot when the lot size is greater than 1 acre;
- e) Any activity that will disturb land with 15% or greater slope and where the land disturbance is greater than or equal to 15,000 square feet within the sloped area;
- f) Any residential development or redevelopment that is part of a common plan of development or sale which will ultimately disturb one (1) acre, 43,560 sf, or more of land. The Commission requires an application if the land, or parcels of land, were or are in common ownership and were subdivided or otherwise modified to avoid compliance;
- g) The maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways when the width of the road is expanded three feet or greater for one hundred (100) feet or more;
- h) Any land disturbance that will result in soil disturbance of one-half acre (1/2), 21,780 square feet up to, but not including, one (1) acre, 43,560 square feet, shall be required to follow the procedure outlined within the currently approved Stormwater Policy for Minor Projects enforced by the Conservation Agent and shall, at a minimum, require:

1. Notify the Conservation Commission, in writing, of the date and nature (including a sketch) of the proposed project at least 7 calendar days prior to the commencement of land disturbing activities;
2. Implement measures such as erosion control barriers, to prevent the offsite discharge of sediment at the direction of the Conservation Commission or their agent;
3. Construction materials shall be managed to not pollute stormwater;
4. Containers and materials shall be stored and disposed of properly;
5. Sediment and stormwater shall not be allowed to be directed or impact abutting properties or roadways, and;
6. The Conservation Commission reserves the right to request additional measures at the discretion of the Commission if sedimentation and erosion controls become problematic at a site.

#### **4.0 EXEMPTIONS**

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

- a) Normal maintenance of Town owned public land, ways and appurtenances;
- b) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
- c) Repair or replacement of septic systems when approved by the Board of Health for the protection of public health;
- d) Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 400 cubic yards of soil material, or alteration of drainage patterns;
- e) The construction of fencing that will not alter existing terrain or drainage patterns;
- f) Construction and associated grading of a way that has been approved by the Planning Board except those in conjunction with any residential development or redevelopment as described in Section 3(c);
- g) The maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways that do not meet the applicability in Section 3(g) that have been approved by the

appropriate authorities provided that written notice be filed with the Conservation Commission fourteen days (14) prior to commencement of activity;

- h) The removal of earth products undertaken in connection with an agricultural use if the removal is necessary for or directly related to planting, cultivating or harvesting or the raising or care of animals, or;
- i) Activity in accordance with the terms of an existing Order of Conditions or Determination of Applicability issued by the Commission pursuant to M.G. L. Ch. 131, Section 40, or the Southborough Wetlands Protection Bylaw, Chapter 170 of the Code of the Town of Southborough prior to the effective date of the original Bylaw, which resided within the Southborough Zoning Code Chapter 174, Section 13.5, adopted April 10, 2006.

## **5.0 DEFINITIONS**

The definitions contained herein apply to issuance of an SMP established by the Town of Southborough Stormwater and Erosion Control Bylaw and implemented through these Stormwater Regulations. Terms not defined in this section or in The Bylaw shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>AGRICULTURE</b>	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).
<b>ALTER</b>	Any activity that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area and will measurably change the ability of a ground surface area to absorb water. Such changes include: change from distributed runoff to confined, discrete 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. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”
<b>APPLICANT</b>	Any "person" as defined below requesting an SMP for proposed land disturbance activity.

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>AUTHORIZED ENFORCEMENT AGENCY</b>	The Conservation Commission and its employees or agents or other employee of the Town of Southborough shall be in charge of enforcing the requirements of this bylaw.
<b>BEST MANAGEMENT PRACTICE (BMP)</b>	Structural and non structural techniques that are recognized to be the most effective and practical means to reduce erosion and sediment, prevent or reduce increases in storm water volumes and flows, reduce point source and nonpoint source pollution, and promote storm water quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of storm water runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.
<b>CERTIFIED LIST OF ABUTTERS</b>	A list of abutters, certified by the Assessors Office; (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the Applicant, including any in another municipality or across a body of water).
<b>CERTIFICATE OF COMPLIANCE (COC)</b>	A document issued by the Conservation Commission after all construction activities have been completed which states that all conditions of an issued SMP have been met and that a project has been completed in compliance with the conditions set forth in a SMP.
<b>CERTIFIED PROFESSIONAL IN EROSION &amp; SEDIMENT CONTROL (CPESC)</b>	A recognized specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society provides the public with evidence of professional qualifications.

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>COMMON PLAN OF DEVELOPMENT OR SALE</b>	A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one common plan. The "common plan" of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. This shall include plans that do not require approval under the Subdivision Control Law, hereafter referred to as "ANR lots"
<b>CONVEYANCE</b>	Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow
<b>DISTURBANCE OF LAND or LAND DISTURBANCE</b>	Any action that causes a change in the position, location, arrangement, or coverage of soil, sand, rock, gravel or similar earth material including the cutting or removal of vegetation even if root systems are kept intact
<b>DISTURBED AREA</b>	An area, man made or natural, where the existing condition has been or is proposed to be altered
<b>DRAINAGE EASEMENT</b>	A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes
<b>ENVIRONMENTAL SITE MONITOR</b>	A Professional Engineer, or other trained professional selected by the Commission and retained by the holder of an SMP to periodically inspect the work and report to the Commission
<b>EROSION</b>	A condition in which the earth's surface, including soil or rock fragment, is detached and moved away by the action of water, wind, ice, gravity or other natural means

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>EROSION CONTROL</b>	The prevention or reduction of the movement of soil particles or rock fragments
<b>EROSION CONTROL PLAN</b>	A document containing narrative, drawings, and details developed by a qualified Professional Civil or Environmental Engineer (PE), Professional Land Surveyor (PLS), Certified Landscape Architect, or Certified Professional in Erosion and Sediment Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during all phases of construction related land disturbance activities
<b>ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS</b>	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)
<b>FLOOD CONTROL</b>	The prevention or reduction of flooding and flood damage
<b>FLOODING</b>	A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water
<b>GRADING</b>	Changing the level or shape of the ground surface
<b>GROUNDWATER</b>	All water beneath any land surface including water in the soil and bedrock beneath water bodies
<b>IMPERVIOUS SURFACE</b>	Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation, parking lots, sidewalks, roof tops, driveways, patios, and paved, gravel, or compacted dirt surfaced roads and similar surfaces with a runoff coefficient (Rational Method) greater than 85

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>INFILTRATION</b>	The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site
<b>LOW IMPACT DEVELOPMENT (LID)</b>	Innovative stormwater management systems that are modeled after natural hydrologic features. LID is both a site planning process and an application of small-scale management practices that minimizes stormwater runoff, disperses runoff across multiple locations, and utilizes a more naturalized system approach to runoff management
<b>MASSACHUSETTS ENDANGERED SPECIES ACT (MGL c. 131A)</b>	With its implementing regulations (321 CMR 10.00), the act prohibits the taking of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern (321 CMR 10.04 (1))
<b>MASSACHUSETTS STORMWATER MANAGEMENT POLICY</b>	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 M.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
<b>MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM</b>	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 Southborough
<b>NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM – NPDES</b>	NPDES is defined as a program administered by the United States Environmental Protection Agency. The purpose of NPDES is control nonpoint source pollutant contamination of stormwater discharges from a variety of sources, including, but not limited to, Municipal Separate Storm Sewer Systems (MS4s) and construction sites which disturb 1-acre or more



<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>NEW DEVELOPMENT</b>	Any construction activities or land alteration resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) on an area that has not previously been developed
<b>NAVD 88</b>	North American Vertical Datum of 1988, a vertical control datum established for vertical control in the United States by the general adjustment of 1988
<b>NONPOINT SOURCE POLLUTION</b>	Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human made pollutants, finally depositing them into water resource areas
<b>OPERATION AND MAINTENANCE PLAN</b>	A plan that defines 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
<b>OWNER</b>	A person with a legal or equitable interest in a property
<b>PERSON</b>	Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Southborough, and any other legal entity, its legal representatives, agents, or assigns
<b>POINT SOURCE</b>	Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>POST DEVELOPMENT</b>	The conditions that reasonably may be expected or anticipated to exist after completion of the land 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, development activity on a specific site or tract of land
<b>PRE-DEVELOPMENT</b>	The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Commission. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the first plan submission shall establish the existing conditions at the time prior to pre-development conditions
<b>RECHARGE</b>	The replenishment of underground water reserves
<b>REDEVELOPMENT</b>	Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development
<b>RESOURCE AREA</b>	Any area protected under including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Southborough Wetlands Protection Bylaw
<b>REGULATIONS</b>	The Rules and Regulations for an SMP as presented herein
<b>RUNOFF</b>	Rainfall, snowmelt, or irrigation water flowing over the ground surface
<b>SEDIMENT</b>	Solid material, whether mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion
<b>SEDIMENTATION</b>	A process of depositing material that has been suspended and transported in water

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
<b>SITE</b>	The area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover
<b>SLOPE</b>	The vertical rise divided by the horizontal distance and expressed as a fraction or percentage
<b>STABLIZED</b>	The elimination of any erosion
<b>STORMWATER MANAGEMENT</b>	The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates
<b>STORMWATER MANAGEMENT HANDBOOK</b>	Stormwater Management Handbook, Volume One and Volume Two, prepared by the Mass. Department of Environmental Protection and the Mass. Office of Coastal Zone Management dated March 1997 as the same may be from time to time revised
<b>STORMWATER MANAGEMENT PERMIT (SMP)</b>	A permit issued for an application that meets a set of pre-determined standards outlined in the Regulations to be adopted by the Commission under The Bylaw. By meeting these pre-determined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw
<b>STOP WORK ORDER</b>	An order issued which requires that all construction activity on a site be stopped
<b>TSS</b>	Total Suspended Solids (TSS) are solids in water that can be trapped by a filter. TSS can include a wide variety of material, such as silt, decaying plant and animal matter, industrial wastes, and sewage
<b>WATER QUALITY VOLUME (WQv)</b>	The storage needed to capture a specified average annual stormwater runoff volume. Numerically (WQv) will vary as a function of drainage area or impervious area

## **6.0 ADMINISTRATION**

The Conservation Commission shall administer, implement and enforce these Regulations. Projects or activities approved by the Conservation Commission shall be deemed in compliance with the intent and provisions of these Stormwater Regulations.

### **6.1 Coordination with Other Permits**

In the case where the proposed development or alteration is subject to the Massachusetts Wetlands Protection Act and/or the Southborough Wetlands Bylaw, the Applicant shall submit the required application/s with the Application for an SMP hereunder. The Commission shall consider both applications at the same time. Any SMP issued by the Commission applies only to the requested approval. Other approvals or permits required by a Zoning or General Bylaw of the Town of Southborough, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by issuance of the SMP.

### **6.2 Waiver of Regulations**

Strict compliance with these Regulations may be waived if the Commission finds that the waiver is allowed by federal, state and local statutes and/or regulations, is in the public interest or is unnecessary because the project will not adversely impact the environmental resources and is consistent with the intent and purpose of The Bylaw and these Regulations.

Any request from an Applicant for a waiver of these Regulations must be submitted, in writing, to the Commission at the time of submission of the Application. Such requests must clearly identify the provisions of the Regulations from which relief is sought and be accompanied by a statement setting forth the reasons why, in the Applicant's opinion, the granting of such a waiver would be in the public interest or why the specific information required is irrelevant to the project and demonstrating that strict application of the Bylaw does not further the purposes or objectives of this Bylaw.

### **6.3 Provision of Security**

The Commission may require the permittee to post with the Town before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security to secure the satisfactory completion of all or any part of the work authorized under an SMP (known as the Stormwater Completion Surety).

- a) The form of the surety shall be approved by the town treasurer and be in an amount deemed sufficient by the Commission to ensure that the work will be completed in accordance with the SMP.
- b) If the project is phased, the Commission may release part of the bond as each phase is completed in compliance with the SMP, but the bond may not be fully released until the Commission has received the final inspection report as required by these Regulations and issued a Certificate of Compliance.

- c) The Conservation Commission may also require the permittee to secure the future maintenance of the stormwater system by a perpetual surety bond or by a deposit of money of an amount as determined by the Conservation Commission. This shall be named the Stormwater Maintenance Surety. In the event that the permittee does not follow maintenance procedures and programs as approved by the Conservation Commission, the Commission shall have the authority to expend any portion of said security to provide such maintenance.
- d) In the event the Commission determines that the stormwater management surety is no longer required, it will be returned.

#### **6.4 Amendments to the Regulations**

The Regulations may be amended by a majority vote of the Commission in a public meeting.

### **7.0 FILING PROCEDURES AND REQUIREMENTS**

Anyone may file an application for an SMP provided that the property owner of record has signed the application form thereby granting his/her consent to the filing of the application. An Applicant has the option of an informal meeting with the Commission prior to filing the Application to receive informal guidance to facilitate the processing of the application.

#### **7.1 Application Fees**

An application shall be accompanied by a non-refundable fee to cover the expenses incurred by the town in reviewing the application.

The fees for an SMP are as follows:

Basic Residential Application.....	\$50
Application for Residential subdivision or multifamily development.....	\$250
Commercial Application.....	\$500

#### **7.2 Engineering and Consultant Reviews and Fees**

The Commission is authorized to require an Applicant to pay a fee for the reasonable costs and expenses for specific expert engineering and other consultant services deemed necessary by the Commission to reach a final decision on the application.

- a) Consultant fees shall be determined at the time of filing of an application based on a specific scope of work as the Commission may determine.
  - 1. The services for which a consultant may be utilized include, but are not limited to, hydrologic and drainage analysis, stormwater quality analysis, site inspections, as-built plan review, and analysis of legal issues;

2. The Commission is authorized to require an Applicant to pay reasonable costs and expenses for certain activities which utilize the services of Town Staff or authorized consultant in connection with review or consideration of a pending SMP application;
3. Subject to applicable law, any unused portion of any Consultant Review fees collected shall be returned by the Commission to the Applicant within forty-five calendar days of a written request by the Applicant and upon issuance of a Certificate of Compliance;
4. The Engineering and Consultant Review fees collected under these Regulations shall be deposited in an escrow account.

b) Appeal From the Selection of the Consultants

1. The Applicant may appeal from the selection of an outside review consultant to the Select Board.
  - i. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.
  - ii. The Applicant must identify the specific grounds which the Applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements.
2. Appeal from Selection of the Consultant shall result in a stay of the time period for deliberation of the application until the appeal is resolved.

### **7.3 Submission of Materials & Determination of Completeness**

- a) Ten (10) complete copies of the application, ten (10) full size copies of all plan sheets and three (3) reduced size copies of all plan sheets and the required fees shall be submitted to the office of the Commission during normal business hours.
- b) The Commission and/or designated staff shall have two business days to review the completeness of the application. Once an application is deemed complete, the Commission staff will file a copy with the Town Clerk who will certify the date and time of filing. The Applicant may request and shall be entitled to a receipt for the materials submitted. If an application is deemed incomplete, the applicant shall have two business days to submit the requested information. Failure to submit a complete application may require the applicant to refile for the next subsequent meeting.

c) Information submitted after the initial filing of the application as described above will be accepted and the public hearing may be continued at the discretion of the Commission to allow time to review the new material.

1. The number of copies of the additional materials required shall be at the discretion of the Commission.
2. The public hearing may be continued, at the discretion of the Commission, to allow time for review of the new material. Questions concerning this process should be directed to the Commission staff.

#### **7.4 Review of Application**

The Commission will transmit a copy of an application to various other town departments, boards, committees, agencies, or independent consultants to ensure full and qualified review of the application. The Commission will make copies of reviews available to the applicant.

#### **7.5 Application Form**

Any Application for an SMP shall be made in writing and/or approved electronic format and include the most recently updated application form approved by the Commission.

- a) In the case where the Applicant is a person other than the record owner of the property, the Applicant must obtain the owner's signature on the application indicating that the owner has knowledge of and consents to the Application. If the Applicant is acting in the name of a trust, corporation or company, a letter documenting the recorded and authorizing vote shall be attached.
- b) An Application for an SMP that lacks information or is incomplete may be denied or delayed. The Applicant shall be responsible for factually supporting all points relied upon in the Application including references for methodologies used in design calculations.
- c) All plan sheets and engineering calculations shall bear the seal of a Registered Professional Engineer, Registered Land Surveyor, or Landscape Architect as appropriate to the data.
- d) Entry - Filing an application for an SMP grants the Commission, Conservation Agent, or designated consultant permission to enter the site to verify the information in the application and to inspect for compliance with the resulting SMP

## **7.6 Application Contents**

A complete Application for an SMP shall include the following items listed below and other items required by these Rules.

- a) A completed Application Form with original signatures of all owners;
- b) A certified list of abutters;
- c) Payment of the application and review fees;
- d) Inspection and Maintenance agreement(s);
- e) Surety bond, if required;
- f) List and copies of variances, special permits, and other permits previously issued by other Town boards or departments, State and Federal agencies, and a list of any variances or permits required to complete the proposed work.
  - 1. If any other permits are required from the Commission, the Applicant is hereby permitted and encouraged to make the applications for such additional permits concurrently with this SMP application.

### **g) Recorded Plans and Deeds**

- 1. A copy of the most recently recorded plan(s) and deed(s) for the lot(s) on which the work will take place bearing the book number(s), page number(s), and date(s) of recording(s) or registration(s).

### **h) Locus Plan**

- 1. A locus plan at a scale appropriate for the proposed project showing the area within a 1/2 mile radius of the site, Zoning Districts and property boundary lines, surface water bodies, wetlands, existing and future planned public wells, private wells, major roadways and other landmarks.

### **i) Site Composite Plan**

- 1. One or more plan sheets with a detailed legend for all symbols used, and a detailed site data table for all relevant dimensional information, showing the following:
  - i. Wellhead Protection Zone(s) in which the site and lot are located, if any;
  - ii. Total lot area and areas of Wetlands and Flood Plain District (Section 174-8.9. of the Bylaw) on the lot (in percent and square feet);



- iii. Existing/Proposed areas (in percent and square feet) of impervious cover, open space, undisturbed open space with such areas clearly delineated on plan. Limits of clearance and disturbance as it will be staked and marked in the field for construction purposes;
- iv. Natural Features, including surface water bodies, wetlands, land within the Flood Plain District, natural drainage courses, ledge outcropping, vegetation, soils;
- v. Existing and Proposed structures and impervious cover;
- vi. Pre and Post Development topography in two (2) foot contours, or as appropriate to the proposed development, with reference to the NAVD 88;
- vii. A sufficient number of test pits and test information shall be provided to demonstrate the reasonable accuracy of the groundwater elevation in areas where stormwater runoff is proposed to be infiltrated into the ground. The applicant shall demonstrate that at least 2-feet of separation is present from the bottom of the infiltration device to the maximum groundwater elevation;
- viii. Location of existing and proposed area on site with the shortest distance between the surface and the maximum groundwater elevation;
- ix. Reference of location of nearest public wells, and known private wells on abutting properties with distance and direction to them;
- x. Storm drainage and runoff water renovation plan, showing the location and elevations of the various features of the site storm drainage and renovation system;
- xi. Erosion, sedimentation and siltation control devices to be utilized during construction;
- xii. Existing/proposed water supply on site, if any and;
- xiii. Existing/proposed sewage disposal systems on site, if any

j) Construction Detail Sheet

- 1. Construction details for entire site drainage and surface runoff renovation system including: pipe sizes, catch basins, manholes; detention/retention ponds with lining, vegetation and overflow structure; leaching facilities, floor drains, diversion boxes, slide gates; sedimentation, siltation, and erosion control devices; details of tanks, containment structures, vapor recovery

systems as applicable and of any other pollution control/prevention devices.

k) Drainage Calculations, Treatment of Runoff

1. Storm drainage runoff calculations and description of proposed surface runoff renovation concept.
  - i. The calculations must be based on a recognized standard method (rational formula or Soil Conservation Service (SCS) method) and must contain a written summary explaining the rationale of the design approach.
  - ii. Full documentation is required including charts, tables, diagrams and the name/type of computer software application used.
  - iii. Treatment practices should follow the guidance in Volume 2 of the Massachusetts Stormwater Handbook.
  - iv. Stormwater management systems on new development sites “shall be designed to control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard 2.”

l) Earth Removal/Fill Calculations

1. Calculations for determining the volume of earth to be removed from or introduced to the site with full documentation of calculations including reference of method used. The source and description of the fill material to be used. A written summary is required.

m) Land Use description

1. Detailed and specific description of existing and proposed land use(s) understandable by a lay person.

n) Emergency Response Plan

1. If deemed necessary by the Commission, a complete Emergency Response Plan with profile of events that could adversely affect the groundwater or surface water. Location of emergency response equipment stored on site and list of equipment shall be included. A plan to educate employees on the general concept of stormwater management and groundwater protection, and to train employees for the specific events expected to be incurred during an emergency situation on the site shall be included.

o) Stormwater and Erosion Control Management Plan

1. Shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these regulations and must be submitted with the stamp and signature of a Professional Civil or Environmental Engineer (PE) licensed in the Commonwealth of Massachusetts.
2. Applicants are encouraged, but not required, to consider and implement Low Impact Development (LID) design BMPs and Nature Based Solutions to meet Stormwater requirements. Stormwater management systems that are properly designed utilizing LID techniques and appropriate BMPs can better simulate the natural existing hydrologic condition and reduce adverse impacts.
3. The Stormwater and Erosion Control Management Plan shall ensure that the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met in all seasons. Refer to the latest version of the *Massachusetts Erosion & Sediment Control Guidelines for Urban & Suburban Areas*, for detailed guidance. The Stormwater Management and Erosion Control Plan shall fully describe the project in drawings, narrative, and calculations.
4. It shall include:
  - i. Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;
  - ii. A locus map, north arrow, map scale;
  - iii. The existing zoning, and land use at the site;
  - iv. The proposed land use;
  - v. The location(s) of existing and proposed property lines and easements;
  - vi. The location of existing and proposed utilities, roads, Scenic Roads, structures and other impervious areas;
  - vii. The site's existing and proposed topography, including existing and proposed slopes with contours at 2 foot intervals;
  - viii. The existing site hydrology;

- ix. A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
- x. A delineation of 100-year flood plains, if applicable;
- xi. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
- xii. A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows;
- xiii. A description and drawings of all components of the proposed stormwater management and erosion control systems including:
  - A. Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
  - B. Detailed drawings, structural details, materials to be used, construction specifications, and design calculations of all temporary and permanent stormwater, erosion and sediment control structures and devices;
  - C. Narrative that includes a discussion of each measure, its purpose, its construction sequence and installation timing as they relate to soil disturbance;
  - D. A plan showing areas of vegetation alteration, soil disturbance and areas of cut and fill;
  - E. The project's phases as they relate to vegetation alteration, soil disturbance, cut and fill, including protected designated stockpile locations with a tabulated sequence of construction and construction schedule, including earthworks;
  - F. Proposed schedule for the inspection and maintenance of erosion control measures for the project throughout the construction period;
  - G. Name and 24hr/7day contact information of the person responsible for the site's development;
  - H. The structural details for all components of the proposed drainage systems;

- I. Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations;
  - J. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
  - K. Any other information requested by the Conservation Commission.
- p) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Regulation. Such calculations shall include:
- 1. Calculations shall utilize NOAA Atlas-14 precipitation frequency estimates or most recently adopted estimates approved by the Commission;
  - 2. Description of the design storm frequency, intensity and duration;
  - 3. Time of concentration;
  - 4. Soil Runoff Curve Number (RCN) based on land use and soil hydrologic group;
  - 5. Peak runoff rates and total runoff volumes for each watershed area;
  - 6. Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed;
  - 7. Infiltration rates, where applicable;
  - 8. Culvert capacities;
  - 9. Flow velocities;
  - 10. Data on the increase in rate and volume of runoff for the specified design storms;
  - 11. Documentation of sources for all computation methods and field test results;
  - 12. Post-Development downstream analysis if deemed necessary by the Conservation Commission;
  - 13. Soils Information from test pits performed at the location of proposed stormwater management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and

percolation rates. Soils information will be based on site test pits logged by a Massachusetts Registered Soil Evaluator, or a Massachusetts Registered Professional Engineer, and;

14. Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice.

- i. Applicants are encouraged to utilize straight, native species;
- ii. Applicants are encouraged to minimize the amount of clearing and/or grubbing to protect the hydrologic system of local watersheds, wildlife habitat, erosion, and sediment transport, and deposition.

q) Operation and Maintenance Plan

1. An Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects.
2. The O&M Plan shall be designed to ensure compliance with the SMP, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met throughout the life of the system.
3. The Operation and Maintenance Plan shall remain on file with the Commission and shall be an ongoing requirement. Operation and Maintenance shall be in accordance with Massachusetts Stormwater Management Handbook Standard 9.
4. The O&M Plan shall include:
  - i. The name(s) of the owner(s) for all components of the system;
  - ii. Name and 24hr/7day contact information of the person responsible for the site's O&M Plan;
  - iii. A map showing the location of the systems and facilities including catch basins, manholes/access lids, main, and stormwater devices;
  - iv. Maintenance agreements that specify:
    - A. The names and addresses of the person(s) responsible for operation and maintenance;
    - B. The person(s) responsible for financing maintenance and emergency repairs;
    - C. An Inspection and Maintenance Schedule for all stormwater and

erosion control management facilities including routine and non-routine maintenance tasks to be performed;

D. A list of easements with the purpose and location of each;

E. The signature(s) of the owner(s), and

F. An Inspection and Maintenance Schedule log sheet shall be created at commencement of construction. The log sheets shall be maintained and filled out whenever inspection or maintenance is performed, and the log sheets shall be made available for inspection upon request;

5. Stormwater Management Easement(s) - Stormwater management easements shall be provided by the property owner(s) as 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 maintenance;

iv. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner;

v. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Commission;

vi. Easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a Certificate of Compliance by the Commission;

6. A Spill Prevention Control and Countermeasures (SPCC) Plan shall be created for all sites that store hazardous materials during construction and/or post-development;

7. Changes to Operation and Maintenance Plans

i. The owner(s) of the stormwater management system must notify the Commission of changes in ownership or assignment of financial responsibility, and;

- ii. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Regulation by mutual agreement of the 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.

## **8.0 Post-Development Stormwater Management Criteria**

At a minimum all projects shall comply with the performance standards of the most recent version of Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy, as well as the following.

### **8.1 General Criteria**

The following general performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this Regulation.

- a) No Untreated Discharges - All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater runoff directly to a wetland, local water body, municipal drainage system, or abutting property, without adequate treatment. In accordance with Standard 1 of the Massachusetts Stormwater Management Handbook.
- b) Channel Protection - Protection of channels from bank and bed erosion and degradation shall be provided by controlling the peak discharge rate from the 2-yr storm event to the pre-development rate as required by the MA DEP Stormwater Management Policy.
- c) Overbank Flooding Protection - Downstream overbank flood and property protection shall be provided by attenuating the post-development peak discharge rate to the pre- development rate for the 10-year, 24-hour return frequency storm event as required by the MA DEP Stormwater Management Policy.
- d) Extreme Flooding Protection - Extreme flooding and public safety protection shall be provided by evaluating the 100-year, 24-hour return frequency storm event to demonstrate no increased flooding impacts off-site, as required by the MA DEP Stormwater Management Policy.
- e) Recharge - Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post-development site shall mimic the annual recharge from pre- development site conditions in accordance with Standard 3 of the Massachusetts Stormwater Management Handbook.
- f) Structural Practices for Water Quality - Presumed Compliance with Massachusetts Water Quality Standards. All structural stormwater management facilities shall be



selected and designed using the appropriate criteria from the most recent version of the Massachusetts Stormwater Management Handbook.

1. Applicants are encouraged to meet water quality standards through the utilization of Low Impact Development (LID) site planning to the maximum extent practicable such as bio-retention cells and vegetated filter strips. For structural stormwater controls not included in the Massachusetts Stormwater Management Manual, or for which pollutant removal rates have not been previously documented by prior applicants, the applicant must document the effectiveness and pollutant removal of the structural control by providing scientific studies, literature reviews, or other citations, in order to receive approval from the Commission before including such techniques in the design of a stormwater management system.
  2. Structural best management practices (BMPs) must be designed to remove 80% of the average annual post-development total suspended solids (TSS) and 40% for total phosphorus (TP), and 30% for total nitrogen (TN).
- g) Stormwater management systems on **New Development** sites must be designed to: “retain the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the site AND/OR remove 90% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious surface area on the site AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site.”
- h) Stormwater management systems on **Redevelopment** sites must be designed to: “retain the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site AND/OR remove 80% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious surface area on the site AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site.”
- i) It is presumed that a BMP complies with this performance goal if it is:
1. Sized to capture the prescribed water quality volume;
  2. Designed according to the specific performance criteria outlined in the Massachusetts Stormwater Management Manual;
  3. Constructed properly, and;
  4. Maintained regularly.
- j) Sensitive Areas - Stormwater discharges to critical areas with sensitive resources (i.e., swimming areas, aquifer recharge areas, water supply reservoirs) may be

subject to additional criteria or may need to utilize or restrict certain stormwater management practices at the discretion of the Conservation Commission. The Conservation Commission may designate sensitive areas and specific criteria for these areas after conducting a public hearing in accordance with the provisions of The Bylaw. Include Zone II and Wellhead Protection Areas of public water supplies as Sensitive Areas in accordance with Massachusetts Stormwater Management Handbook Standard 6.

- k) Hotspots - Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas, as defined in the most recent version of the MA DEP Stormwater Management Manual or superseding manual require the use of specific stormwater management BMPs as specified in the most recent version of the MA DEP Stormwater Management Manual or superseding manual. The use of infiltration practices without pretreatment is prohibited.

## **9.0 PUBLIC HEARING & DECISION**

The Commission shall set the date, time, and place of the public hearing, which shall be held within 60 days of the application filing date.

### **9.1 Notice of Public Hearing**

A notice of the public hearing indicating the date, time, place, and purpose of the public hearing shall be sent by certified mail by the Applicant to the Certified List of Abutters at least seven (7) days prior to the date of the public hearing at the expense of the Applicant.

- a) A notice of the public hearing shall also be published at the expense of the Applicant in a newspaper **of general circulation in Southborough** at least seven (7) days prior to the date of the public hearing. The contents of this published notice shall be the same as above
- b) Failure to properly notify the Certified List of Abutters and to publish a notice of the public hearing could render the public hearing invalid and could cause delays in the processing of the Application.

### **9.2 Withdrawal of Application**

Any application for an SMP submitted hereunder may be withdrawn without prejudice by notice in writing to the Commission prior to the notice of a public hearing being posted or mailed pursuant to these Rules. Withdrawal of any application thereafter requires Commission approval.

### **9.3 Time Period for Deliberation**

The Commission will act on each application for an SMP within ninety (90) days after the date of filing of the application with the Commission and the Town Clerk, unless such application has been withdrawn from consideration as set forth above.

- a) Continuation & Extension - The period within which final action shall be taken may be extended for a defined period by written agreement between the Commission and the Applicant. In the event that the Commission determines that the application is inadequate for the Commission to make a finding, the Commission may, at its discretion, continue the public hearing to a later date to permit the Applicant to submit a revised application.
- b) At its discretion, the Commission may require that an additional fee be paid by the Applicant prior to the close of the public hearing if such a continuation results from a deficiency in the original application. Such a continuation may not automatically extend the 90-day period within which final action shall be taken by the Commission unless the extension is agreed upon by both the Commission and the Applicant.
- c) The concurring vote of a majority of the members of the Commission present (a quorum) shall be necessary to decide in favor of granting an SMP.

### **9.4 Actions of the Conservation Commission**

The Commission's action, rendered in writing, shall consist of either:

- a) Approval of the Stormwater and Erosion Control SMP Application based upon determination that the proposed plan meets the Standards set forth in these Rules and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this Bylaw;
- b) Approval of the SMP Application subject to any conditions, modifications or restrictions required by the Commission which will ensure that the project meets the Standards set forth in these Rules and adequately protects water resources, set forth in this Bylaw;
- c) Disapproval of the SMP Application based upon a determination that the proposed plan, as submitted, does not meet the Standards set forth in these Regulations and/or does not adequately protect water resources, as set forth in this Bylaw.
- d) The Commission may disapprove an application "without prejudice" where an Applicant fails to provide requested additional information that in the Commission's opinion is needed to adequately describe the proposed project.
- e) Failure of the Commission to take final action upon an Application within 90 calendar days of the filing of a complete application with the Commission and the

Town Clerk shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Commission action, the Commission must issue an SMP.

- f) Plan Changes - The permittee must notify the Conservation Commission in writing of any drainage change or alteration in the system authorized in an SMP before any change or alteration is made. If the Conservation Commission determines that the change or alteration is significant, based on the Stormwater Management Standards in these Regulations and accepted construction practices, the Conservation Commission may require that an amended application be filed.
- g) Approvals shall be recorded at the Worcester Registry of Deeds, with proof of recording forwarded to the Commission.

## **9.5 Appeals of Actions of the Conservation Commission**

A decision of the Commission shall be final. Relief of a decision by the Commission made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249. § 4. Such an appeal shall result in revocation of the written approval, until such time as the appeal process has been resolved. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

## **9.6 Project Completion**

At completion of the project, the permittee or owner of the property shall, at a minimum, submit:

- a) Request for Certificate of Compliance;
- b) Written statement by a professional certifying substantial compliance with the plans and describing what deviation(s), if any, exists from the approved plans;
- c) 'Red-Lined' As-Built plans, stamped and signed by a professional surveyor or engineer that depicts all structural stormwater controls and treatment best management practices;
- d) Final Stormwater Inspection Report in compliance with the approved Operation & Maintenance Plan;
- e) If a NPDES construction site filing was required, at the completion of the project a copy of the Notice of Termination of NPDES coverage shall be submitted to the Commission.

## **9.7 Time Limit for SMP**

Any SMP granted by the Commission shall lapse within three years from the date of filing

of the Commission's Decision with the Office of the Town Clerk

a) Extension of SMP

1. The applicant may be granted up to three (3) years for an extension by applying to the Commission, in writing, at least 30 days prior to the date when the SMP is due to lapse. The Commission may evaluate the existing stormwater management plan to determine whether the plan still satisfies local program requirements and to verify that all design factors are still valid. If the Commission finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the commencement of land-disturbing activities. After one extension, the Applicant shall be required to update the design and project components to be compliant with subsequent Bylaw or Regulation updates since the issuance of the original Decision.
2. Failure to submit such a request as prescribed above shall be due cause for the Commission to deny the requested time extension. If the actions permitted are not exercised or the approval not extended, they shall lapse, and a new application and public hearing shall be required.
3. Extensions shall be recorded at the Worcester Registry of Deeds, with proof of recording forwarded to the Commission.

## **9.8 Limitation of the Decision**

The granting of a SMP constitutes approval only under the pertinent sections of the Bylaw. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction such as the Board of Health, and Planning Board shall not be assumed or implied. The Commission may condition any SMP hereunder on satisfactory demonstration of compliance with the requirements of other governmental bodies having jurisdiction prior to the start of any work on the site, the issuance of a Building Permit, or any other appropriate step in the development process. The Applicant is hereby encouraged to seek approvals and certificates of compliance from such other governmental bodies prior to or concurrently with the application to the Commission.

## **9.9 Amending an SMP**

A previously granted SMP may be amended by written request to the Commission or on the Commission's own motion. The Commission shall determine whether any request for further alterations to a site constitutes an amendment or if such request should be considered a new application requiring a public hearing. The Commission may amend a SMP without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the Bylaw. Consultation with the Building Department is recommended prior to the filing of any request to amend a SMP. The Commission may require a fee for amendments.

## **10.0 CONSTRUCTION INSPECTIONS**

### **10.0 Notice of Construction Commencement**

The Applicant must notify the Commission in advance before the commencement of construction. In addition, the Applicant must notify the Commission in advance of construction of critical components of the stormwater management system. A pre-construction conference may be held on site prior to the start of construction. At a minimum, required attendees at the pre-construction conference shall be the Commission and/or the Commission's agent, the owner and/or owner's agent, and the general contractor for the project. Additional attendees shall be determined on a per project basis. The pre-construction conference shall be used to discuss construction scheduling, compliance with any and all permit conditions, emergency contact information, inspection procedures, and any other pertinent topics.

### **10.1 Required Inspections**

- a) At the discretion of the Commission, periodic inspections of the stormwater management system construction shall be conducted by the Commission, the Commission's agent, the Town Engineer, and/or a professional engineer or their designee who has been approved by the Commission. The inspector shall document all inspections and prepare written reports that contain the following information:
  - 1. The date and location of the inspection;
  - 2. Whether construction is in compliance with the approved stormwater management plan;
  - 3. Variations from the approved construction specifications, and;
  - 4. Any other variations or violations of the conditions of the approved stormwater management plan
- b) The Commission or its designee shall inspect the project site at the following stages, at a minimum:
  - 1. Initial Site Inspection: prior to approval of any plan;
  - 2. Erosion Control Inspection: to ensure erosion control practices are in accord with the filed plan, and;
  - 3. Stormwater Management System Inspection: An inspection will be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.

c) Final Inspection

1. After the stormwater management system has been constructed and before the surety has been released, all Applicants are required to submit actual As-Built” plans for any stormwater management facilities or practices after final construction is completed and must be certified by a Professional Engineer.
2. The Commission or its designee 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 they shall so report to the Commission which will issue a Certificate of Compliance. As-Built plans shall be full size plans which reflect the As Built conditions, including all final grades, developed by a Professional Engineer. All changes to project design should be recorded in red ink on plans to define changes made. All work deleted, corrections in elevations, and changes in materials, should be shown on the As-Built drawings.

## **10.2 Inadequacy of System**

- a) 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 Applicant before the Certificate of Compliance is released. If the Applicant fails to act, the Commission may use the surety bond to complete the work.
- b) If the Commission determines that there is a failure to comply with the plan, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. A Stop Work Order shall be issued until any violations are corrected and all work previously completed has received approval by the Commission.

## **11.0 PERPETUAL INSPECTION AND MAINTENANCE**

### **11.1 Maintenance Responsibility**

- a) Stormwater management facilities and practices included in a stormwater management plan with an inspection and maintenance agreement in accordance with these Rules must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan, and this Regulation.
- b) The owner of the property on which work has been done pursuant to this Regulation for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and

sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

- c) Maintenance Inspections - All stormwater management facilities must undergo inspections by the system owner or operator to document maintenance and repair needs and ensure compliance with the requirements of this bylaw and accomplishment of its purposes as specified in the Operation and Maintenance Plan and Maintenance Agreement described in these Rules.
- d) At a minimum, inspections shall occur quarterly during the first year of operation, and once a year thereafter. In addition, a maintenance agreement as specified by these Rules between the owner and the Commission shall be executed for privately-owned stormwater management systems that specify the Responsible Party for conducting long term inspections.
- e) Inspection reports shall be submitted to and maintained by the Commission for all stormwater management systems. Inspection reports for stormwater management systems shall include:
  - 1. The date of inspection;
  - 2. Name of inspector;
  - 3. The condition of:
    - i. Pretreatment devices;
    - ii. Vegetation or filter media;
    - iii. Fences or other safety devices;
    - iv. Spillways, valves, or other control structures;
    - v. Embankments, slopes, and safety benches;
    - vi. Reservoir or treatment areas;
    - vii. Inlet and outlet channels and structures;
    - viii. Underground drainage;
    - ix. Sediment and debris accumulation in storage and forebay areas (including catch basins);
    - x. Any nonstructural practices;
    - xi. Any other item that could affect the proper function of the stormwater management system;



- xii. Description of the need for maintenance.

### **11.3 Right-of-Entry for Inspection**

The terms of the inspection and maintenance agreement as specified in these Rules shall provide for the Commission or its designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land 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 necessary, subject to the constitutions and laws of the United States and the Commonwealth.

### **11.4 Records of Maintenance and Repair Activities**

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Commission, upon request. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs and shall retain the records for at least 10 years. These records shall be made available to the Commission during inspection of the facility and at other reasonable times upon request.

### **11.5 Failure to Maintain**

- a) If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Commission, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The Town of Southborough may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property.
- b) Said assessment shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Southborough. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due to the extent permissible by the referenced statute.
- c) After notification is provided to the person responsible for carrying out the maintenance plan of any deficiencies discovered from an inspection of a stormwater management system, the person responsible for carrying out the maintenance plan shall have 30 days or other time frame mutually agreed to between the Commission and the person responsible for carrying out the maintenance plan to correct the deficiencies. The Commission shall then conduct a subsequent inspection to ensure completion of repairs.

## **12.0 CERTIFICATE OF COMPLIANCE**

Upon completion, the applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications and shall provide regular inspections sufficient to adequately document compliance.

The Conservation Commission will issue a Certificate of Compliance upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the SMP has been satisfactorily completed in conformance with this Regulation. This document shall be recorded at the Worcester Registry of Deeds, with proof of recording forwarded to the Commission.

## **13.0 ENFORCEMENT**

The Commission or an authorized agent of the Commission shall enforce this Bylaw, Rules, orders, violation notices, and enforcement orders, and may pursue all civil, criminal, and non-criminal remedies for such violations.

### **13.1 Notices and Orders**

- a) The Commission or an authorized agent of the Commission may issue a written notice of violation or enforcement order to enforce the provisions of this Bylaw or the Rules thereunder, which may include requirements to:
  - 1. Issuance of a Stop Work Order for construction or land disturbing activity until there is compliance with the Bylaw and the SMP;
  - 2. Repair, maintain; or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
  - 3. Perform monitoring, analyses, and reporting;
  - 4. Fix adverse impact resulting directly or indirectly from malfunction of the stormwater management system
- b) If the enforcing person determines that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Southborough may, at its option, undertake such work, and the property owner shall reimburse the Town of Southborough for expenses incurred.
- c) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Southborough including administrative costs. The violator or property owner may file a written protest

objecting to the amount or basis of costs with the Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

### **13.2 Penalties for Violations**

- a) Any person who violated any provision of this Bylaw, Regulations promulgated thereunder or Permits issued hereunder, shall be punished by a fine of not more than \$300.00 per violation, per day. Each day, or portion thereof, during which a violation continues, shall constitute a separate offense and each provision of this Section, any regulation promulgated hereunder or permits granted hereunder as violated, shall constitute a separate offense.
  - 1. The maximum fine shall automatically be applied for any project or site in which land disturbing activities have been conducted without a valid SMP.
- b) The Town of Southborough shall require the repayment of services provided to the responsible party that the responsible party was obligated to perform as set forth in the Operation and Maintenance Plan or Compliance Action Plan. If repayment is not made within thirty (30) days, the Town may impose a tax lien on the property of the responsible party or parties.
- c) As an alternative to criminal prosecution or civil action, the Town may utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D in which case the Conservation Administrator, Conservation Agent, Conservation Commissioner, or other authorized agent of the town shall be the enforcing person.

### **14.0 SEVERABILITY**

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