

MUNICIPAL SEPARATE STORM SEWER SYSTEM

SECTION 1. PURPOSE

A. Purposes. The purposes of this Bylaw are to:

1. Establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure;
2. Safeguard the public health, safety, environment and general welfare;
3. Protect aquatic resources, wildlife habitat, and drinking water supplies;
4. Protect the quality and health of water resources;
5. Reduce flooding, overloading or clogging of municipal catch basins and storm drainage systems;
6. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
7. Promote infiltration and the recharge of groundwater to conserve groundwater supplies; and
8. Foster climate change resiliency.

B. Objectives. This Bylaw seeks to meet that purpose through the following objectives:

1. Establish the Town as the legal authority to ensure compliance with the provisions of this Bylaw;
2. Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post-construction monitoring;
3. Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserve and/or restore the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater;
4. Establish requirements to ensure adequate water quality protection through proper treatment and handling of stormwater during and after construction; and
5. Ensure compliance with requirements of the United States Environmental Protection Agency (EPA), National Pollutant Discharge Elimination System (NPDES), General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable state and federal mandates.

SECTION 2. DEFINITIONS

For the purposes of this by-law, the following shall mean:

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

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

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. 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.

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 soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Board of Selectmen (hereafter “the Board” or “Board”), its employees or agents designated to enforce this by-law.

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

THE BOARD: Town of Clinton Board of Selectmen or its authorized agent(s).

CERTIFICATE OF COMPLETION: Document issued by the Town of Clinton Board of Selectmen or its authorized agent(s) upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

CLEARING: Any activity that removes the vegetative surface cover.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended.

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.

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

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

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

ENFORCEMENT ORDER: A written order issued by the Town of Clinton Board of Selectmen or its authorized agent(s) to enforce the provisions of this Bylaw.

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 (P.E.) 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 disturbance 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.

GROUNDWATER: Water beneath the surface of the ground.

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

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

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

LOW IMPACT DEVELOPMENT (LID): An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing, and mitigating impacts with natural, non-structural, and structural measures.

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.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: 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 Clinton.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NEW DEVELOPMENT: Any construction activities or land alteration 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) on an area that has not previously been developed to include impervious cover.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

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 ensure that it continues to function as designed.

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

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

OWNER: 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.

POINT SOURCE: 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.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- (a) paints, varnishes, and solvents;
- (b) oil and other automotive fluids;
- (c) non-hazardous liquid and solid wastes and yard wastes;
- (d) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (e) pesticides, herbicides, and fertilizers;
- (f) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (g) dissolved and particulate metals;
- (h) animal wastes;
- (i) rock, sand; salt, soils;
- (j) concrete truck washout;
- (k) sanitary wastes;
- (l) construction wastes and residues; and
- (m) noxious or offensive matter of any kind.

PRE-CONSTRUCTION: All activity in preparation for construction.

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

PROFESSIONAL ENGINEER (P.E.): A registered Professional Engineer in good standing.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT: Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbance 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. .

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

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

SEDIMENTATION: The process or act of deposition of sediment.

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

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

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

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

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT: The written approval granted by the Town of Clinton Board of Selectmen or its authorized agent(s) to undertake a construction activity pursuant to a Stormwater Management Permit Application. A valid Stormwater Management Permit must be obtained, and such permit must be recorded at the Worcester Registry of Deeds, prior to the start of any work.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit.

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

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

TOTAL SUSPENDED SOLIDS (TSS): Sediment being carried in stormwater.

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.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

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

WETLANDS: Tidal and non-tidal 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 freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

SECTION 3. ADMINISTRATION

- A. **Administration.** The Board of Selectmen, hereafter referred to as the “Board”, shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its employees or agents.
- B. **Rules and Regulations.** The Board may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this bylaw, by majority vote of the Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. Failure by the Board of Selectmen to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

SECTION 4. AUTHORITY

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

SECTION 5. APPLICABILITY AND EXEMPTIONS

- A. Except as authorized by the Board of Selectmen in a Stormwater Management Permit or as otherwise provided in this bylaw, no person may undertake a construction activity, including clearing, grading, or excavation that results in a Disturbance of Land to an area equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land.
- B. **Exemptions.**
 - 1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
 - 2. Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;
 - 3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - 4. Normal maintenance and improvements of the Town’s publicly owned roadways and associated drainage infrastructure;
 - 5. Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board; and
 - 6. Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Handbook, the Town’s Wetlands Protection Bylaw and with the stormwater management performance standards of this bylaw as reflected in an Order of Conditions issued by the Conservation Commission [RB1].

SECTION 6. PERMIT PROCEDURES AND REQUIREMENTS

- A. **Application.** A completed application for a Stormwater Management Permit shall be filed with the Board. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more. The Stormwater Management Permit Application package shall include:

1. A completed Application Form with original signatures of all owners;
 2. A list of abutters, certified by the Assessors Office;
 3. Three (3) copies of the Stormwater Management Plan as specified in Section 7 of this bylaw;
 4. Three (3) copies of the Erosion and Sediment Control Plan as specified in Section 8 of this bylaw;
 5. Three (3) copies of the Operation and Maintenance Plan as specified in Section 9 of this bylaw;
 6. Payment of the application and review fees; and
 7. One (1) copy each of the application Form and the list of abutters filed with the Town Clerk.
- B. Entry.** Filing an application for a permit grants the Board or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- C. Other Boards.** The Board shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Planning Board, the Conservation Commission, and/or Department of Public Works as appropriate.
- D. Public Hearing.** The Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Board. Notice of the public hearing shall be given by publication and posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The Board shall make the application available for inspection by the public during business hours at the Town Clerk's Office.
- E. Information requests.** The applicant shall submit all additional information requested by the Board to issue a decision on the application.
- F. Action by the Board.** The Board may:
1. Approve the Stormwater Management Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law;
 2. Approve the Stormwater Management Application and issue a permit with conditions, modifications or restrictions that the Board determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law; and
 3. Disapprove the Stormwater Management Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law.
- G. Failure of the Board to take final action** upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the Board's action, the Stormwater Management Permit shall be issued by the Board.
- H. Fee Structure.** Each application must be accompanied by the appropriate application fee as established by the Board. Applicants shall pay review fees as determined by the Board sufficient to cover any expenses connected with the public hearing and review of the Stormwater Management Permit Application before the review process commences. The Board is authorized to retain a Registered P.E. or other professional consultant to advise the Board on any or all aspects of the Application.
- I. Project Changes.** The permittee, or their agent, must notify the Board in writing of any change or alteration of a land-disturbing activity authorized in a Stormwater Management Permit before any change or alteration occurs. If the Board determines that the change or alteration is significant, the Board may require that an amended Stormwater Management Permit application be filed and a public hearing held. If any change or alteration from the Stormwater Management Permit occurs during any

land disturbing activities, the Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

- J. Stormwater Pollution Prevention Plans (SWPPPs).** Permittees may be required to prepare a SWPPP to satisfy United States Environmental Protection Agency requirements under the NPDES Construction General Permit (CGP). Permittees are responsible for verifying requirements and preparing a SWPPP in full compliance with CGP regulations, as well as filing any additional materials with EPA, such as a Notice of Intent (NOI). A copy of the NOI and SWPPP shall also be provided to the Board.

SECTION 7. STORMWATER MANAGEMENT PLAN

- A. Stormwater Management Plan.** The application for a stormwater management permit shall consist of submittal of a Stormwater Management Plan to the Board. This Stormwater Management Plan shall contain sufficient information for the Board 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 Stormwater Management Performance Standards as set forth in Part B of this section and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. It shall include:

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
2. Project Narrative containing relevant information related to stormwater requirements;
3. A locus map;
4. Description of existing and proposed conditions;
5. The existing zoning, and land use at the site;
6. The proposed land use;
7. The location(s) of existing and proposed easements;
8. The location of existing and proposed utilities;
9. The site's existing & proposed topography with contours at 2-foot intervals with additional spot grades as needed to depict detailed drainage patterns;
10. The existing and proposed hydrology, watershed boundaries, drainage area, and stormwater flow paths;
11. A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
12. A delineation of 100-year flood plains, if applicable;
13. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
14. Evaluation of opportunities for using Low Impact Development (LID) and green infrastructure techniques and BMPs;
15. Plans, drawings and descriptions of proposed drainage system and all components including:
 - (a) Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
 - (b) All measures for the detention, retention or infiltration of water,
 - (c) All measures for the protection of water quality,
 - (d) The structural details for all components of the proposed drainage systems and stormwater management facilities,
 - (e) Notes on drawings specifying materials to be used, construction specifications, and typicals,
 - (f) Analysis of existing and proposed hydrology with supporting calculations,
 - (g) Calculations supporting the estimate of stormwater treatment performance; and
 - (h) Calculations supporting the design of infiltration practices, including design infiltration rates, estimated dewatering times, and mounding analyses, where applicable.

16. Stormwater runoff shall be calculated using latest Northeast Regional Climate Center (NRCC) extreme precipitation amounts for recurrence intervals (storm events) 2-, 10-, 25-, 50- and 100-year frequencies;
17. Documents must be stamped and certified by a qualified registered P.E.; and,
18. Any other information requested by the Board.

B. Stormwater Management Performance Standards. Projects shall meet the following performance standards:

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth of Massachusetts;
2. Low Impact Development (LID) site planning and design strategies must be implemented unless infeasible in order to reduce the discharge of stormwater from development sites;
3. Stormwater management system design shall be consistent with, or more stringent than, the requirements of the 2008 Massachusetts Stormwater Handbook (as amended);
4. Stormwater management systems on new development shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site.
 - (a) Average annual pollutant removal requirements in Section 7.B.4. are achieved through one of the following methods:
 - i. Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance; or
 - ii. Retaining the volume of runoff equivalent to, or greater than, 1.0 inch multiplied by the total post-construction impervious surface area on the new development site; or
 - iii. Meeting a combination of retention and treatment that achieves the above standards; or
 - iv. Utilizing offsite mitigation that meets the above standards within the same USGS HUC12 as the new development site.
5. Stormwater management systems on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site.
 - (a) Average annual pollutant removal requirements in Section 7.B.5. are achieved through one of the following methods:
 - i. Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance; or
 - ii. Retaining the volume of runoff equivalent to, or greater than, 0.8 inches multiplied by the total post-construction impervious surface area on the redevelopment site; or
 - iii. Meeting a combination of retention and treatment that achieves the above standards; or
 - iv. Utilizing offsite mitigation that meets the above standards within the same USGS HUC12 as the redevelopment site.

6. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from part Section 7.C.5. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of Section 7.C.5.

SECTION 8.

EROSION AND SEDIMENT CONTROL PLAN

- A. Erosion and Sediment Control Plan.** The Stormwater Management Permit Application shall include submittal of an Erosion and Sediment Control Plan to the Board of Selectmen. This Erosion and Sediment Control Plan shall contain sufficient information for the Board of Selectmen about the nature and purpose of the proposed development, pertinent conditions of the site and adjacent areas, proposed erosion and sedimentation controls, and proposed control for other wastes on construction sites such as demolition debris, litter, and sanitary wastes to ensure they are not discharged to the MS4, drainage system, or waters of the United States or Commonwealth of Massachusetts.
- B. The design requirements** of the Erosion and Sediment Control Plan are:
 1. Minimize total area of disturbance;
 2. Sequence activities to minimize simultaneous areas of disturbance;
 3. Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
 4. Divert uncontaminated water around disturbed areas;
 5. Maximize infiltration and groundwater recharge;
 6. Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
 7. Prevent off-site transport of sediment;
 8. 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);
 9. 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;
 10. 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;
 11. Institute interim and permanent stabilization measures, which shall be instituted on a 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;
 12. Properly manage on-site construction and waste materials;
 13. Stabilize construction site entrances and exits and prevent off-site vehicle tracking of sediments; and
 14. Ensure that any stormwater BMP (for post-construction stormwater management) installed during construction will be protected from compaction, siltation, and erosion or will be restored or replaced such that the BMP will be capable of functioning as designed in accordance with these stormwater regulations.
- C. Erosion and Sedimentation Control Plan Content.** The Plan shall contain the following information:
 1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
 2. Title, date, north arrow, names of abutters, scale, legend, and locus map;
 3. Location and description of natural features including:

- (a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a P.E. for areas not assessed on these maps;
 - (b) Existing vegetation including tree lines, canopy layer, shrub layer and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities;
 - (c) 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 within five hundred (500) feet of any construction activity.
4. Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
 5. Existing soils, volume and nature of imported soil materials
 6. Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;
 7. 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;
 8. Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);
 9. Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
 10. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
 11. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;
 12. Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
 13. 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;
 14. A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;
 15. Plans must be stamped and certified by a qualified and registered P.E. or a Certified Professional in Erosion and Sediment Control and
 16. Such other information as is required by the Board.

SECTION 9. OPERATION AND MAINTENANCE PLANS

A. A stand-alone **Operation and Maintenance Plan** (O&M Plan) is required at the time of application for all projects. The O&M plan shall be designed to ensure compliance with the Permit and this Bylaw. The Board shall make the final decision of what maintenance option is appropriate in a given situation. The Board 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. The O&M Plan shall remain on file with the Board and shall be an ongoing requirement. The **O&M Plan** shall include:

1. The name(s) of the owner(s) for all components of the system;
2. 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) A Maintenance Schedule that includes routine inspection along with routine and non-routine maintenance tasks for each BMP;
 - (d) A list of easements with the purpose and location of each;

- (e) The signature(s) of the owner(s);
- (f) Estimated operation and maintenance budget;
- (g) The responsible party shall:
 - i. Maintain a log of all operation and maintenance activities for the last three years including inspections, repair, replacement, and disposal (the log shall indicate the type of material and the disposal location);
 - ii. Make this log available to the Board of Selectmen and the Commonwealth of Massachusetts upon request;
 - iii. Allow DEP and the Board of Selectmen to inspect each BMP to determine whether the responsible party is implementing the Operation and Maintenance Plan; and

- B. Stormwater Management Easement.** Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - 1. Access for facility inspections and maintenance;
 - 2. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and
 - 3. Direct maintenance access by heavy equipment to structures requiring regular cleanout.
 - 4. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
 - 5. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Board.
 - 6. Easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a Certificate of Completion by the Board.
- C. Changes to O&M Plans.** Changes to Operation and Maintenance Plans
 - 1. The owner(s) of the stormwater management system must notify the Board of changes in ownership or assignment of financial responsibility; and
 - 2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the Board 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.
- D. Stormwater infrastructure** shall be privately owned, inspected and maintained per the O&P Plan procedures approved for the project.
- E. Annual Report.** The applicant shall provide the Board with an annual report prepared and stamped by a P.E. documenting and certifying performance of required maintenance and providing an assessment of overall system performance. The report shall be submitted to the Board on a yearly basis by final day in June for the Town to use in preparation of its annual report to the US EPA as part of the NPDES MS4 Permit requirements.
- F. Funding.** The O&M Plan shall include procedures for using dedicated funds, establishing an escrow account, and/or developing a maintenance contract, if determined appropriate to ensure adequate long-term maintenance. Stormwater Management operation and maintenance duties shall be recorded with the deed for each lot in a subdivision. The applicant may elect to set up a homeowner's association (HOA) or other means to ensure all BMPs are inspected and maintained as required.

SECTION 10. INSPECTION AND SITE SUPERVISION

- A. Pre-construction Meeting.** Prior to starting clearing, excavation, construction, or land disturbing activity the applicant, the applicant's technical representative, the general contractor or any other

person with authority to make changes to the project, shall meet with the Board, to review the permitted plans and their implementation.

B. Permittee Erosion and Sediment Control Inspections. The permittee shall conduct and document inspections of all erosion and sediment control measures no less than weekly or as specified in the Stormwater Management Permit, and prior to and following anticipated storm events. The purpose of such inspections is to determine the overall effectiveness of the erosion and sediment control plan, and the need for maintenance or additional control measures. The permittee shall submit monthly erosion and sediment control reports to the Board of Selectmen in a format approved by the Board of Selectmen.

C. Board Inspections.

The Board or its 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 Stormwater Management permit as approved. The Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Board at least two (2) working days before each of the following events:

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

D. Final Inspection. After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The Board 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 Board which will issue a Certificate of Completion.

E. Inspector Qualifications. Inspections shall be performed by an independent third-party registered P.E. or CPESC. Alternatively, inspections shall be performed by a qualified employee of the Town of Clinton.

F. Access Permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary to determine compliance with the permit.

SECTION 11. FINAL REPORTS

A. Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a P.E., surveyor, or CPESC 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. As-built drawings shall be submitted no later than one year after completion of construction projects. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post-construction stormwater management). The

report shall certify that all permitted construction, plans, and approved changes and modifications, were completed in accordance with the conditions of the approved Stormwater Management Permit. Any discrepancies should be noted in the report.

- B.** 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. If the permittee fails to act the Town of Clinton may complete the work. 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.

SECTION 12. CERTIFICATE OF COMPLETION

The Board will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw. The Board may, in addition to certifying satisfactory completion of the project, require ongoing maintenance procedures as outlined in the O&M Plan and/or work deemed necessary by the Board.

SECTION 13. ENFORCEMENT

The Board or an authorized agent of the Board shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Civil Relief.** If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders.** The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder which may include requirements to:
 1. Cease and desist from construction or land disturbing activity until there is compliance with this Bylaw;
 2. Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the O&M Plan;
 3. Maintain, install, or perform additional erosion and sediment control measures;
 4. Perform monitoring, analyses, and reporting;
 5. Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;
 6. Cease and desist from unlawful discharges, practices, or operations; and/or,
 7. Remediate contamination in connection therewith.
- C.** If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Clinton may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- D.** Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Clinton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board 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 Board 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.

- E. Criminal Penalty.** Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00^[RB2]. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in MGL Chapter 40, §21D, in which case the Board of Selectmen or an authorized agent of the Board of Selectmen shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. Entry to Perform Duties Under this By-Law.** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.
- G. Appeals.** The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction in accordance with MGL Chapter 249 §4.
- H. Remedies Not Exclusive.** The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 14. SEVERABILITY

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

SECTION 15. SURETY

The Board of Selectmen may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Board of Selectmen to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board of Selectmen may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit but the bond may not be fully released until the Board of Selectmen has received the final inspection report as required by the Stormwater Management Rules and Regulations and issued a Certificate of Completion.

STORMWATER MANAGEMENT PERMIT APPLICATION

To the Board of Selectmen:

The undersigned wishes to submit a Stormwater Management Permit Application as defined in the By-Laws of the Town of Clinton and requests a review and determination by The Board of the Stormwater Management Plan.

The Stormwater Management Plan involves property where owner’s title to the land is derived under deed from _____, dated _____, and recorded in the [Insert] County Registry of Deeds, Book _____, Page _____, or Land Court Certificate of Title No. _____, Registered in District, Book _____, Page _____.

Give a brief summary of the nature of the project.

The property (building) is described as being located at _____; it is currently used as _____, and the changes proposed to be made are _____

The project is located on the parcel shown on Assessors Map _____, Parcel _____.

Applicant’s Signature _____ Owners’ Signature(s) _____

Applicant’s Name (print) _____ Owners’ Names(s) _____

Applicant’s Address _____ Owners’ Address _____

Date Received by Town Clerk: _____

Signature _____

Please note: 1) An applicant for a Stormwater Management Plan Review must file with the Board a completed Stormwater Management Permit Application Form, a list of abutters, three (3) copies of the Stormwater Management Plan Package, three (3) copies of the Operation and Maintenance Plan, and the Application and Review Fees as noted in the Stormwater Management Plan Review Fee Schedule. 2) The applicant shall also file a copy of the Stormwater Management Plan, Operation & Maintenance Plan, and the Application Form with the Town Clerk. The date of receipt by the Town Clerk shall be the official filing date. 3) This application grants the Board and its agents permission to enter the property for inspection and verification of information submitted in the application.

STORMWATER MANAGEMENT PLAN REVIEW FEE SCHEDULE

The following fee schedules are minimum fees. The Board may require higher fees if deemed necessary for proper review of an application or to ensure compliance.

<u>Lot Area</u>	<u>Professional Review Fee</u>	<u>Application Fee</u>
Less Than 3 Acres	\$ _____	\$ _____
3 to 10 Acres	\$ _____	\$ _____
Greater than 10 Acres	\$ _____ times the acreage	\$ _____
Resubmittal/Amendment		
Filing Fee	\$ _____	
Review Fee	\$ _____	

GENERAL

1. Any application not accompanied by the appropriate fee shall be deemed incomplete. Payment must be made to The Board in cash, money order, bank or certified check payable to the Town of Clinton.
2. An Applicant’s failure to pay any additional review or inspection fee within five business days of receipt of the notice that further fees are required shall be grounds for disapproval.
3. The Board will publish the public notice and send abutter notifications. Abutter notification shall be by certified mail-return receipt requested. The applicant shall pay all costs associated with the publication and notification requirements. These costs shall not be imposed on the applicant if the applicant completes the public notice and abutter notification requirements, and provides The Board with copies of the public notices and the return receipt cards.

Professional review fees include engineering review, legal review, and clerical fees associated with the public hearing and permit processing. A fee estimate may be provided by The Board’s consulting engineer.