

**Municipality/Organization:** Lexington - #1426

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**EPA NPDES Permit Number:** BRP-WM-08A

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**MaDEP Transmittal Number:** W- 224041

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**Annual Report Number  
& Reporting Period:** No. 5: March 07-March 08

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## NPDES Phase II Small MS4 General Permit Annual Report

### Part I. General Information

Contact Person: William P. Hadley

Title: DPW Director

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#### Certification:

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

Signature: William P. Hadley

Printed Name: William P. Hadley

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Title: Director of Public Works

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Date: 4/29/08

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## **Part II. Self-Assessment**

The Town of Lexington is in compliance with its NPDES Phase II Stormwater General Permit.

At Town Meeting on March 31, 2008, the Town passed a stormwater management bylaw. The bylaw is designed to comply with the EPA requirements for permitting of project disturbing greater than one acre of land. In addition, the bylaw addresses larger single-family residential projects involving demolition of existing structures and replacement.

A copy of the bylaw is Attachment 1. Implementation requires regulations approved by the Town Selectmen. Draft regulations are Attachment 2. These will be finalized and presented to the Selectmen by October 2008.

**Part III. Summary of Minimum Control Measures**

**1. Public Education and Outreach**

BMP ID #	BMP Description	Responsible Dept./Person Name	Measurable Goal(s)	Progress on Goal(s) – Permit Year 5 (Reliance on non-municipal partners indicated, if any)	Planned Activities – Permit Year 6 if continued
1C	Household hazardous waste collection days	DPW	Schedule, publicize and execute collections of household hazardous waste	Completed 8 drop collection days.	Repeat.
Revised					
1D	Educational Pamphlets	DPW	Handout leaflets and answer questions at DPW table at Town Street Sales	Completed	Repeat.
Revised		D. Meehan			
1 A	Classroom Education	Engineering	Design and present elementary-school level session explaining stormwater system	No classroom presentations done in 2007-2008. Poster of town stream watersheds was circulated and displayed at public meetings. (Enclosure 1)	Expand to include other presenters. Place copies of the watershed map in schools and provide details to science teachers.
Revised 2006		M. Flamang			
1E	Article in local newspaper	Engineering and Conservation	Write and publish article of general interest on stormwater	Completed. (Enclosure 2).	Follow-up with more detailed articles on stormwater system.
Revised 2006		M. Flamang and K. Mullins			

**1a. Additions**


## 2. Public Involvement and Participation

BMP ID #	BMP Description	Responsible Dept./Person Name	Measurable Goal(s)	Progress on Goal(s) – Permit Year 5 (Reliance on non-municipal partners indicated, if any)	Planned Activities – Permit Year 6 if continued
2B	Water quality monitoring Old Res	Health Dept.	Sanitary survey of drain outlets in to Old Res Recreation Area	Sampling, analysis and reporting is complete.	Continue sampling and reporting as necessary to assure safe recreational uses.
Revised		Recreation Department Karen Simmons			
2B	Water Quality Monitoring Town wide	Engineering	Meet with watershed caretakers to support sampling programs	Attended EPA information session on next phase stormwater permits. Attended Mystic River Summit at EPA. Met other river users and discussed sampling programs.	Revise and implement stream sampling program.
Revised		M. Flamang			
2B	Water Quality Monitoring Town-wide	Engineering	Design and carry out stream sampling town-wide to aid in identification of pollution hot spots	Final report of Vine Brook sampling was completed and distributed.	Sample Vine Brook, Mill Brook and Kiln Brook.
Revised 5/1/07		M. Flamang			
2D	Septic Systems Tracking Management	Health Dept	Transfer data to electronic media, maintain and upgrade data	Maintained database.	Maintain database
Revised		K. Fox			

### 2a. Additions

2					
Revised					

### 3. Illicit Discharge Detection and Elimination

BMP ID #	BMP Description	Responsible Dept./Person Name	Measurable Goal(s)	Progress on Goal(s) – Permit Year 5 (Reliance on non-municipal partners indicated, if any)	Planned Activities – Permit Year 6 if continued
3A	Locate and map outfalls	Engineering	Complete GIS mapping of 25% of town	Town-wide GIS efforts have been expanded. Management is being done by DPW Operations. Aerial photograph overflights were done in April 2008.	Continue GIS mapping program and incorporate paper records into the database.
Revised		M. Flamang			
3A	Locate outfalls	Engineering	Review existing plans, interpret and transfer data to digital form	Outfall have been located town-wide. Files are paper and PDF format.	Transfer outfall data to town GIS database.
Revised		M. Flamang			
3C	Stormwater Bylaw	Conservation	Educate staff on framework for bylaw	In process.	Complete
		K. Mullins			
3C	Stormwater Bylaw	Conservation, Planning and Engineering	Form working group and draft bylaw	Stormwater Bylaw passed by Town Meeting, March 31, 2008. (Enclosure 3)	Enact regulations through Town Selectmen to implement the bylaw. Submit bylaw to State Attorney General for review and approval.
Revised		K. Mullins Aaron Henry M. Flamang			

#### 3a. Additions

3A	Locate outfalls	Engineering	Survey to locate coordinate of all drainage structures	Took delivery of GPS handstation. Began program of locating and recording data for outfalls and other structures. Field inspected 5% of outfalls.	Continue survey.
Revised 5/1/07		M. Flamang			
3D	Locate and remediate potential sources of pollution	Engineering	Repair deficient sanitary sewers to reduce infiltration and exfiltration	Relaid 500 feet of cracked sewer on Grant Street near Hayes Lane	Identify priority areas and renovate 5000 feet of sewer.
Added 4/1/08		M. Flamang			

3D	Locate and remediate potential sources of pollution	Engineering	Refine sampling to provide improved data	Installed two monitoring wells to aid in investigating effect of groundwater in Vine Brook basin.	Sample at monitoring wells and surface water.
Added 4/1/08		M. Flamang			
3E	Locate and remediate potential sources of pollution	Engineering and Recreation	Improve stormwater system in vicinity of Old Res to reduce wet weather contamination.		Prepare and review a preliminary design of stormwater treatment to mitigate effect of street runoff on quality of Old Res Recreation Area
		M. Flamang K. Simmons			

**4. Construction Site Stormwater Runoff Control**

<b>BMP ID #</b>	<b>BMP Description</b>	<b>Responsible Dept./Person Name</b>	<b>Measurable Goal(s)</b>	<b>Progress on Goal(s) – Permit Year 5 (Reliance on non-municipal partners indicated, if any)</b>	<b>Planned Activities – Permit Year 6 if continued</b>
4C	Inspection and reporting	Building and Engineering	Train personnel to inspect for runoff issues	Training was not done this year pending final regulations.	Update and deliver training to reflect complete stormwater bylaw and regulations.
Revised		G. Rhodes and M. Flamang			
4C	Inspection and reporting	Engineering and Conservation	Design and distribute handout for permits	During this year, the town referred contractors to the EPA construction permit program. Engineering permits have been annotated to require as-builts of privately owned treatment facilities.	Clarify Building Permit applications and refer contractors to EPA permit program
Revised		M. Flamang and K. Mullen			

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

BMP ID #	BMP Description	Responsible Dept./Person Name	Measurable Goal(s)	Progress on Goal(s) – Permit Year 5 (Reliance on non-municipal partners indicated, if any)	Planned Activities – Permit Year 6 if continued
5B	Develop BMP's list	Engineering	Develop list of BMP's that are appropriate for Lexington public and private projects	Staff has studied State DEP Stormwater Handbook. BMP's are described in the Handbook, now State policy.	Finalize stormwater management regulations to work with state policy.
Revised		M. Flamang			
5D	Runoff Operation and Maintenance Plan	Conservation	Require in-house reviewers to screen permit applications for O&M plans	Review process is part of draft	Insure that review process is incorporated into town stormwater regulations. (Draft regulations are Enclosure 4)
Revised		K. Mullen			
Revised					

#### 5a. Additions


**6. Pollution Prevention and Good Housekeeping in Municipal Operations**

<b>BMP ID #</b>	<b>BMP Description</b>	<b>Responsible Dept./Person Name</b>	<b>Measurable Goal(s)</b>	<b>Progress on Goal(s) – Permit Year 5</b> (Reliance on non-municipal partners indicated, if any)	<b>Planned Activities – Permit Year 6 if continued</b>
6A	Employee training	Public Works	Conduct toolbox session to refresh on BMP's	Operations personnel are temporarily decentralized. Tool box sessions were not practical.	Resume tool box training when Public Works staff occupies new facility.
Revised		W. Brooks			
6B	Municipal pollution prevention	Public Works	Schedule street cleaning	Continued program	Continue program
Revised		W. Brooks			
6C	Vehicle washing	Public Works	Wash indoors to keep solids from stream	Continued program	Continue program
Revised		D. Adams			
6D	Used oil recycling	Health Dept	Collect used oil at drop off facility and dispose of properly	Continued program	Continue program
Revised		D. Fullerton			
6B	Municipal pollution prevention	Public Works	Incorporate BMP's into design of new PW garage facility	Incorporated BMP's into design of new PW facility. The new PW facility is under construction. Possible completion, Fall 2009.	Continue program
		M. Flamang			

**6a. Additions**

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### **Part III Summary of Minimum Control Measures- (continued)**

Additional comments regarding Item 6B, the new Public Works facility

The Town's new public works facility is approximately 25% complete. The designer has selected and utilized technology for the facility to minimize adverse environmental effects as far as possible.

Measures that are in the design include the following.

- Inside vehicle wash bays with wash water containment and treatment
- Dedicated chemical storage areas with spill containment
- Stormwater infiltration through bioretention swales and basins
- Riparian restoration, including selected removal of invasive plant species and supplemental planting
- Stream bank restoration, including stabilizing North Lexington Brook stream banks through regrading and revegetating
- Improved quality of open space by selectively removing unhealthy/invasive tree species and replacing with non-invasive specimen trees
- Reduction of glare, spillover, and atmospheric light pollution onto adjacent properties and natural areas
- Maximized lighting efficiency include compact fluorescent lamps, motion-sensitive systems

### **Part IV. Summary of Information Collected and Analyzed**

Lexington Health Department samples Old Reservoir Town Beach twice weekly for enteric organisms primarily to insure suitability for recreation. No beach closings were necessary in 2007.

The Town Recreation Department and Berger Engineers conducted a study of the effects of rain events on the quality of the water in the "Old Res" swimming beach. Problems with bacteria in this area were correlated with wet weather. In the future, the department plans to investigate possible remedial action which may include stormwater control and treatment.

The final report of Tutela Engineering Associates (TEA) on the Vine Brook sampling program and study has been received and will be transmitted to DEP and EPA shortly. The study was begun in 2006. Five rounds of dry and wet weather samples were taken and analyzed. While the results are variable, there is sufficient data to suspect some type of illicit discharge into the culverted portion of Vine Brook.

The town will plug two underdrains that are connected to the culvert at Sherman and Sheridan Streets this summer as soon as weather conditions permit entry into the culvert. The town has installed two monitoring wells to be used to observe the height of groundwater

and to sample groundwater in and around Vine Brook. Data will be collected before and after the plugging of the underdrains.

Sampling results provided by the Mystic River Watershed Association did not show any elevated bacteria levels in Lexington's portion of that watershed in 2007.

List of Studies Completed not enclosed

Final Report on Metering, Modeling and Evaluation of the Sanitary Sewer System for the Town of Lexington, Tutela Engineering Associates, Inc, Wilmington, Mass, October 2007

Report on Water Quality Sampling of Vine Brook and Mill Brook Watershed for the Town of Lexington, Tutela Engineering Associates, Inc, Wilmington, Mass, January 2008

Water Quality Survey of Old Reservoir Beach, Town of Lexington, The Louis Berger Group, March 2008

Enclosures

1. Map, Town of Lexington, Streams and Drainage Areas, Scale 1 inch = 1,200 feet, March 24, 2008
2. Article, "Proposed bylaw addresses stormwater issues," Page 6, Lexington Minuteman, March 6, 2008
3. Lexington Stormwater Bylaw passed by Town Meeting, March 31, 2008
4. Draft Stormwater Regulations currently in review by Stormwater Development Committee

# Proposed bylaw addresses stormwater issues

By William Hadley  
Lexington DPW Director

Lexington's Planning and Public Works departments have drafted a stormwater bylaw that will be reviewed and acted upon at the Annual Town Meeting that starts in March. The bylaw would create a stormwater authority and a stormwater permit process.

A public hearing on this bylaw will be held Thursday, March 27 at 7 p.m. in Estabrook Hall at Cary Hall, 1605 Massachusetts Ave.

Most Lexington residents have seen the impact of large construction projects on nearby property. Large developments involving land disturbance often cause an increase in the amount of water flowing across the site when it rains. Abutters might experience a saturated yard,

drowned plantings or a flooded basement. Other consequences of uncontrolled stormwater include increased sediment flowing into a wetland or stream, or increased volumes of water scouring embankments.

Lexington, like all other mid-sized communities in the commonwealth, has a permit to operate the system that was issued by the Environmental Protection Agency (EPA) under the National Pollution Discharge and Elimination System (NPDES). Lexington's Public Works Department has submitted reports on the town's storm drainage system to state regulators and the Federal Environmental Protection Agency since the mid-1990s.

The town's NPDES permit requires a stormwater management

plan that utilizes "Best Management Practices." These practices include control of construction site runoff during and after construction, and detection and elimination of site runoff and illicit discharge.

The town's NPDES permit will expire this year, and before reissuing the permit the EPA will review progress made under the current requirements. State and federal regulators expect local government to pass stormwater bylaws as a first step toward controlling the adverse affect of development on downslope neighbors and watercourses. More rigorous requirements will in all likelihood be part of the next permit. The permit will require sampling and analysis of stormwater and reporting of results.

Currently, connections to storm drains are regulated by the Conservation Commission by authority of the Wetland Protection Act. (Direct connections to sanitary sewers are regulated by the Department of Public Works [DPW].) Land disturbance activities within wetlands and buffer zones are also regulated by the Conservation Commission. Land disturbance activities not under the Conservation Commission's jurisdiction are not currently regulated.

The proposed stormwater bylaw would work with existing EPA regulations already in place for construction projects greater than one acre. EPA relies on towns to enforce requirement for an on-line submittal by contractors; Lexington is doing this

through DPW and Conservation Commission inspections.

Lexington's proposed bylaw was drafted with the help of regional planners and officials in neighboring towns. The draft bylaw to be considered by Town Meeting will enable the town to act to mitigate the effects of stormwater on residents and waterways in the town. Most residential renovation activities will not be affected.

First, the draft bylaw names the Board of Selectmen as the "Stormwater Authority" and the Town Engineer as the day-to-day administrator or the "Stormwater Agent."

Second, it creates a stormwater management permit. A stormwater management permit will be required if the project disturbs more than one acre of soil, demolishes more than half of the existing dwelling or if the project requires a special permit, subdivision approval or rezoning. The stormwater permit application will include a maintenance agreement to ap-

ply during and after completion of construction, a maintenance schedule and record keeping. The proposed bylaw prohibits connections and discharges to the town drainage system without a permit.

The proposed stormwater bylaw and subsequent regulations would require developers to submit a plan for stormwater management. The plan would include before-construction and after-construction site runoff calculations prepared by a professional engineer. The plan must address impact on adjacent properties. Soil tests will be required to support the design.

A copy of the stormwater bylaw may be viewed at the town's Web site, <http://ci.lexington.ma.us/dpw/dpw.htm>. For more information, and to give your input on the bylaw, come to the public hearing on March 27.

*William Hadley is the director of the Lexington Department of Public Works.*

Enclosure 2 - Lexington - 1 page

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## STORMWATER MANAGEMENT BYLAW

### § AAA-1. General provisions.

#### A. Purpose.

The purpose of this Stormwater Management Bylaw is to:

- (1) Protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to control the adverse effects of development; and
- (2) Establish a mechanism by which the Town can meet the requirements of its National Pollutant Discharge Elimination System (NPDES) General Permit.

#### B. Compatibility with other permit and bylaw requirements.

This Bylaw is not intended to interfere with, abrogate or annul any other Bylaw, rule or regulation, statute, or other provision of law. The requirements of this Bylaw should be considered minimum requirements, and where any provision of this Bylaw imposes restrictions different from those imposed by any other Bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

#### C. Adoption.

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the rules and regulations of the Federal Clean Water Act found at 40 C.F.R. 122.34, and as authorized by the residents of the Town of Lexington under Article 30 at the Annual Town Meeting of 2008. This Bylaw shall not take effect until implementing rules and regulations are adopted pursuant to Section 5.B.

#### D. Enforcement authority.

The Stormwater Agency shall enforce this Bylaw and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of the Stormwater Management Regulations.

#### E. Penalties.

Any person violating this bylaw is subject to any applicable penalties or other legal enforcement action by the Town.

#### F. Appeals.

The decisions or orders of the Stormwater Agency shall be final. Further relief of a decision by the Stormwater Agency 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. c. 249, § 4.

#### G. 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.

**§ AAA-2. Definitions.**

The definitions contained herein apply to the interpretation and implementation of this Bylaw. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. Additional definitions may be adopted by separate regulation.

**ALTER** — Any activity that will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

**BEST MANAGEMENT PRACTICES (BMPs)** — Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment.

**DEVELOPMENT** — Any alteration, construction, disturbance, improvement or modification of land or structures to accommodate a use, expansion of use or redevelopment on a site.

**LOW IMPACT DEVELOPMENT (LID)** — is a set of strategies that seek to maintain natural hydrologic systems both during and after the development process. This approach is implemented by engineering a site so that the post-development hydrologic functions remain close to pre-development conditions by using design techniques that infiltrate, filter, store, evaporate and detain stormwater runoff close to its source.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) designed or used for collecting or conveying storm water, which is not a combined sewer, that is owned or operated by a city or town having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, that discharges to waters of the United States.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)** — As authorized by the Federal Clean Water Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

**RUNOFF** — A term used to describe the water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into streams or other surface waters or land depressions.

**SITE** — the parcel of land being developed or a designated planning area in which the land development project is located.

**STORMWATER** — Water that accumulates on land because of storms, and can include runoff from urban areas such as roads and roofs.

**STORMWATER AUTHORITY** — The entity responsible for adopting regulations pursuant to this Bylaw.

**STORMWATER AGENCY** — The Town’s Department of Public Works Engineering Division is designated to administer, implement and enforce this Bylaw.

**STORMWATER MANAGEMENT** — The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

**STORMWATER MANAGEMENT PERMIT** — A permit issued by the Stormwater Agency, after review of an application, plans, calculations, and other supporting documents, approving a system that is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

**§ AAA-3. Regulation of discharges to the municipal storm sewer system.**

**A. Prohibited activities.**

The prohibition of illicit connections and discharges to the municipal storm sewer system is necessary for the protection of local water bodies and groundwater and to safeguard public safety, health and welfare.

- (1) **Illicit discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- (2) **Illicit connections.** No person shall construct, use, allow, maintain or continue any connection to the municipal storm sewer system, except as exempted in Section 3.B below.
- (3) **Obstruction of the municipal storm sewer system.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer system without prior written approval from the Stormwater Authority.
- (4) **Alteration of the MS4.** No person shall modify or remove any part of the MS4 including surface drainage or piping that crosses private property if it serves the public as part of the drainage system.

**B. Exemptions.**

Stormwater discharges that are wholly subject to jurisdiction under the Wetlands Protection Act or the Wetland Protection Code of Lexington and demonstrate compliance with the Massachusetts Storm Water Management Standards as most recently revised and updated in accordance with revisions to the Wetlands regulations 310 CMR 10.00, and as reflected in an Order of Conditions or in a Determination of Applicability issued by the Conservation Commission are exempt from compliance with this section of the bylaw.

**§ AAA-4. Regulation of stormwater management practices.**

**A. Applicability**

This Bylaw shall be applicable to the following activities:

- (1) Any activity that results in a land disturbance greater than one acre of land, or any activity that disturbs less than one acre if that project is part of a larger common plan of development that eventually will disturb more than one acre of land; or
- (2) A new dwelling on a vacant lot, a new dwelling replacing an existing dwelling, or the reconstruction of an existing dwelling that is demolished to the extent of 50% or more of its replacement cost, as determined by the Building Commissioner or designee; or
- (3) Any development project that:
  - [1] Requires a Special Permit or a Special Permit with Site Plan Review; or
  - [2] Requires approval of a Definitive Plan under the Subdivision Control Law.

**B. Exemptions**

No person who meets the applicability of this bylaw shall alter land within the Town of Lexington without having obtained a Stormwater Management Permit, except as follows:

- (1) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw;
- (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations at 310 C.M.R. 10.04,
- (3) Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, as protected under the Zoning Act, M.G.L. c. 40A, § 3;
- (4) Customary cemetery management;
- (5) Stormwater discharges that are wholly subject to jurisdiction under the Wetlands Protection Act or the Wetland Protection Code of Lexington and demonstrate compliance with the Massachusetts Storm Water Management Standards as most recently revised and updated in accordance with revisions to the Wetlands regulations 310 CMR 10.00, and as reflected in an Order of Conditions or in a Determination of Applicability issued by the Conservation Commission.
- (6) The construction, reconstruction, or repair of any fence or wall that will not alter the existing terrain or drainage patterns;
- (7) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not permanently alter terrain, ground cover, or drainage patterns;
- (8) Emergency repairs to any stormwater management facility or practice that poses a threat to public safety or health, or as deemed necessary by the Stormwater Authority.

**§ AAA-5. Administration.****A. The Stormwater Authority**

The Board of Selectmen shall be the Stormwater Authority.

**B. Stormwater Management Regulations**

The Board of Selectmen may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least fourteen (14) days prior to the hearing date. After public notice and public hearing, the Stormwater Authority may promulgate rules and regulations to effectuate the purposes of this Bylaw.

**C. The Stormwater Agency**

The Town's DPW Engineering Division shall be responsible for the day-to-day administration of the Stormwater Management Bylaw and the Stormwater Management Permit granting authority.

#### D. Actions by the Stormwater Agency

The Stormwater Agency shall take final action within thirty (30) days from the receipt of a complete application unless such time is extended by written agreement between the applicant and the Agency. The Stormwater Agency may take any of the following actions on an application for a Stormwater Management Permit:

- (1) Approve the application;
- (2) Approve the application with conditions; or
- (3) Disapprove the application.

#### E. Stormwater "Buy-Out"

The Stormwater Agency may allow the applicant to contribute to the construction of a public or shared stormwater facility in lieu of an onsite stormwater facility where it has been demonstrated that there is not sufficient space for onsite stormwater best management practices.

#### F. Waivers

The Stormwater Agency may waive strict compliance with any requirement of this Bylaw, where such action is allowed by federal, state and local law or regulations, is in the public interest and consistent with the purpose and intent of the Bylaw.

Any applicant may submit a written request for a waiver as part of the application process. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrate that strict application of the Bylaw or Regulations is not necessary to meet the purposes or objectives of the Bylaw.

#### G. Stormwater Utility

The Stormwater Agency may recommend to the Board of Selectmen the formation of a Stormwater Utility, pursuant to M.G.L. c. 83, § 16 and c. 40, § 1A, as a special assessment district to generate funding specifically for stormwater management. Users within the district pay a stormwater fee, and the revenue thus generated directly supports maintenance and upgrade of the existing municipal separate storm sewer system (MS4); development of drainage plans, flood control measures, and water-quality programs; administrative costs; and construction of major capital improvements.

#### **§ AAA-6. Low Impact Development (LID) and Better Site Design**

The use of non-structural LID Management practices and Better Site Design are encouraged to minimize reliance on structural management measures. The use of Better Site Design and/or LID Management Practices may, if approved by the Stormwater Agency, also allow for a reduction in the treatment volume, a reduction of applicable fees associated with the project, or other incentive approved by the Agency.

#### **§ AAA-7. Severability**

If any court of competent jurisdiction declares that any section, provision, paragraph, sentence, or clause of this Bylaw, or any rule or regulation promulgated hereunder, is invalid or unconstitutional, any other section, provision, sentence or clause thereof, or other rule or regulation promulgated hereunder, shall remain in full force and effect.

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**§ 999-1. General Provisions**

**A. Purpose & Authority**

The following Regulations are hereby adopted by the Stormwater Authority, as provided in [Article/Section] of the Code of Lexington.

**B. Adoption & Amendment**

These Regulations may be periodically amended by the Stormwater Authority in accordance with the procedures outlined in Section 5, Administration, of the Stormwater Management Bylaw.

**C. Effective Date**

These Regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as the date of adoption, date filed with the Town Clerk and any amendments.

**§ 999-2. Definitions**

The definitions contained here apply to issuance of a Stormwater Management Permit (SMP) established by the Town of Lexington Stormwater Management Bylaw and implemented through these Stormwater Management Regulations. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

**ABUTTER:** A property owner within 300 feet of a proposed project.

**APPLICANT:** A property owner or Agency of a property owner who has filed an application for a Stormwater Management Permit.

**BETTER SITE DESIGN:** Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural Stormwater Management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.

**CERTIFICATE OF COMPLETION (COC):** A document issued by the Stormwater Agency after all construction activities have been completed which states that all conditions of an issued Stormwater Management Permit have been met.

**CONVEYANCE:** 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.

**DEVELOPER:** A person who undertakes or proposes to undertake land disturbance activities.

**DRAINAGE EASEMENT:** A legal right granted by a landowner to a grantee allowing the use of private land for Stormwater Management purposes.

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

**EROSION CONTROL:** The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff.

**EROSION CONTROL PLAN:** A plan that shows the location and construction detail(s) of the erosion and sediment reduction controls to be utilized for a construction site during and after construction.

**FLOOD CONTROL:** The prevention or reduction of flooding and flood damage.

**GROUNDWATER:** All water beneath any land surface including water in the soil and bedrock beneath water bodies.

**HOTSPOT:** Land uses or activities with higher potential pollutant loadings, such as vehicle salvage yards, vehicle fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping and outdoor storage and loading areas of hazardous substances. Refer to Massachusetts Stormwater Management Standard 5 for higher potential pollutant loads, or the most current Massachusetts *Stormwater Management Handbooks*.

**INFILTRATION:** The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

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

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

**OPERATION AND MAINTENANCE PLAN:** 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.

**PRE-DEVELOPMENT:** The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish the site's pre-development conditions.

**POINT SOURCE:** Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, or container from which pollutants are or may be discharged.

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

**RECHARGE:** The replenishment of underground water reserves.

**RESOURCE AREA:** Any area protected under, including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act or Town of Lexington Wetlands Protection Bylaw.

**SEDIMENTATION:** A process of depositing material that has been suspended and transported in water.

**STOP WORK ORDER:** An order issued by the Stormwater Agency that requires that all construction activity on a site be stopped.

**TOTAL SUSPENDED SOLIDS (TSS):** A measure of the filterable solids present in a sample, as determined by the method specified in 40 CFR Part 136.

### **§ 999-3. Applicability**

These Regulations apply to all activities in accordance with *Section 4, Regulation of stormwater practices*, of the Stormwater Management Bylaw and as described below. Permit issuance is required prior to any site altering activity. If a SMP is required, the application shall be filed with the Stormwater Agency.

### **§ 999-4. Stormwater Management Permit Procedures and Requirements**

#### **A. Stormwater Management Application**

The Applicant shall file with the Stormwater Agency, three (3) copies of a completed application package for a Stormwater Management Permit. Permit issuance is required prior to any site altering activity. The Stormwater Management Application package shall include:

- (1) A completed Application Form with original signatures of all owners and representatives and any and all applicable fees;
- (2) A list of abutters, certified by the Assessor's Office;
- (3) A Stormwater Management Plan and project description;
- (4) An Erosion and Sediment Control Plan;
- (5) An Operation and Maintenance Plan; and
- (6) A completed Estimated Cost to Construct.

#### **B. Entry on Land**

Filing an application for a stormwater management permit grants the Stormwater Agency permission to enter the site to verify the information in the application and to inspect for compliance after issuance of the Stormwater Management Permit.

#### **C. Fees**

##### **(1) Application Fees**

The appropriate application fee, as established by the Authority, shall accompany each application.

##### **(2) Revision of Fee Schedules and Regulations Governing Fees**

- (a) The Stormwater Authority may review and revise these Regulations and fee schedules periodically as it sees fit.
- (b) Amendments shall be preceded by a posted public hearing of the Stormwater Authority not less than 14 days prior to the date upon which the change is to be effective.
- (c) A copy of the written decision will be filed with the Town Clerk within 10 business days after final action is taken.

#### D. Permit Application Review Procedures

All applications for a stormwater management permit shall be reviewed and determined by the Stormwater Agency.

##### (1) Public Notice

Once the Agency has accepted a complete application, it shall provide notice to all abutters of the projects filing and invite input on said application for a period of not less than seven (7) days. The Agency shall make the application available for inspection by the public during business hours at the Town's *[specify office]*.

##### (2) Final Action

The Agency shall take final action within ~~twenty-one (21) days~~ of the receipt of a complete application unless such time is extended by agreement between the applicant and the Agency, per subsection D.(3) below. The Stormwater Agency's final action, rendered in writing, shall be filed with the Town Clerk.

##### (3) Mutual Extension of Time

The required time limits for final action may be extended by written agreement between the applicant and the Stormwater Agency. A copy of such an agreement shall be filed with the Town Clerk.

#### E. Constructive Approval

Failure of the Stormwater Agency to take final action upon an application within 21 business days of receipt of a complete application shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Stormwater Agency action, the Stormwater Agency shall issue a Stormwater Management Permit.

#### F. Appeals of Actions

~~Decisions of the Stormwater Agency shall be final. Further relief of a decision by the Stormwater Agency made under these Regulations shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with MGL Ch 249, § 4.~~

An appeal of an action by a board, commission or department that has current regulatory authority for a project and/or activity shall be conducted under the applicable appeal provisions of said board, commission and/or department of the Town of Lexington. Such an appeal shall result in the stay of the SMP, until the appeal process of the applicable board, commission and/or department has been resolved. If any changes to the plan result from any such appeal, the SMP may require an amended permit application.

#### G. Lapse of Stormwater Management Permit

A SMP granted under this Bylaw and Regulations shall expire within two (2) years from the date of final action unless substantial use or construction has commenced. This period shall not include any time required to pursue or await the determination of an appeal referred to in Subsection H, above.

#### H. Vesting of Rights

Upon amendment of the bylaw or regulations, applicants shall have a 180-day period following the effective date of the new bylaw or regulations, to use a previously issued SMP.

After such time the Stormwater Agency may reevaluate the originally approved Stormwater Management Plan to determine whether the plan still satisfies the bylaw and regulation requirements. If the Agency finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved before the commencement of land-disturbing activities.

#### **§ 999-5. Stormwater Management Plan Contents**

The Stormwater Management Plan shall fully describe the project in drawings, narrative and calculations. The plan shall bear the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts to certify that the Stormwater Management Plan is in accordance with the criteria established in the Stormwater Management Bylaw and these Regulations. It shall include, at a minimum:

##### **A. Project Narrative**

The project narrative shall include the following elements:

- (1) Completed Application Form
- (2) Existing Conditions Statement

A description of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows.

- (3) Project Description

Applicant shall document and an evaluation of alternatives for the site, including:

- (a) Potential building envelopes avoiding environmental resource areas and appropriate buffers; and
- (b) Methods to minimize impervious surfaces, and to protect and preserve open space.
- (c) Description of any alternative processes or methods that were contemplated.

- (4) Stormwater Impact Statement

A brief description of the project, how and where stormwater will be controlled, including:

- (a) A recharge area analysis that calculates pre- and post-construction annual groundwater recharge rates on the parcel;
- (b) All measures for the detention, retention or infiltration of water;
- (c) Description of non-structural BMPs;
- (d) All measures for the protection of water quality;
- (e) Expected hydrology with supporting calculations;
- (f) Hydrologic and hydraulic design calculations for the pre- and post-development conditions for the design storms specified in these Regulations. Such calculations shall include:
  - [1] Description of the design storm frequency, intensity and duration;
  - [2] Time of concentration;
  - [3] Soil Runoff Curve Number (CN) based on land use and soil hydrologic group;
  - [4] Peak runoff rates and total runoff volumes for each watershed area;

- [5] Provisions for maintaining during construction the infiltration capacity of the soil where infiltration is proposed;
  - [6] Infiltration rates, where applicable;
  - [7] Culvert capacities;
  - [8] Flow velocities;
  - [9] Data on the increase in rate and volume of runoff for the specified design storms, and
  - [10] Documentation of sources for all computation methods and field test results.
- (g) Soils information from test pits performed at the location of proposed structures and stormwater facilities, including but not limited to stormwater retention, detention or infiltration systems, including but not limited to soil descriptions, depth to estimated seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Certified Soil Evaluator;
- (5) Erosion & Sediment Control Statement, containing:
- (a) Estimation of the total area (in square footage and percentage) and total volume (in cubic feet) expected to be disturbed by excavation, grading or other construction activities (include dedicated off-site borrow and fill areas).
  - (b) Description of appropriate erosion control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.
  - (c) Description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site.
  - (d) Description of construction and waste materials expected to be stored on-site and a description of controls, including storage practices, to minimize exposure of the materials to stormwater, and spill prevention and response practices.
  - (e) Description of interim and permanent slope stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Use of impervious surfaces for stabilization should be avoided.
  - (f) A description of measures to minimize the tracking of sediments and dust off-site.
- (6) Operation and Maintenance Plan
- The Operation and Maintenance Plan shall be designed to ensure compliance with the Permit, these Regulations and the Massachusetts Surface Water Quality Standards (314 CMR 4.00) in all seasons and throughout the life of the system. When applicable, Stormwater Management easements will be required for all areas used for off-site stormwater control, unless the Stormwater Agency grants a waiver. The O&M Plan shall specify:
- (a) The names, addresses and contact information of the property owner;
  - (b) The names, addresses and contact information of the person(s) responsible for site operation and maintenance;

- (c) The person(s) responsible for financing maintenance and emergency repairs;
- (d) A list of easements with the purpose of each; and
- (e) An Inspection and Maintenance Schedule for all stormwater management facilities, including what routine and non-routine maintenance tasks are to be performed, when they are to be conducted, who is to perform them, and to whom to report results (per SECTION, Annual Reports).
- (f) Maintenance Inspections
  - [1] Stormwater management facilities and practices included in an O&M Plan with a Maintenance Agreement in accordance with Section 6.M of these Regulations shall undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the Plan and these Regulations.
  - [2] At a minimum, inspections shall occur once every year. A Maintenance Agreement as specified under Section 6.M of these Regulations between the owner and the Stormwater Agency shall be executed for privately owned stormwater management systems that specify the Responsible Party for conducting long term inspections.
- (g) 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 Stormwater Agency upon request. Parties responsible for the operation and maintenance of a stormwater management facility shall prepare records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the Stormwater Agency during inspection of the facility and at other reasonable times upon request.

#### B. Project Drawings and Specifications

The project drawings shall include the following sheets:

- (1) Cover, including:
  - (a) Project Name
  - (b) Name(s) and address(es) of owner(s) and applicant(s);
  - (c) USGS quad map highlighting project site and watershed boundaries;
  - (d) Index to plan sheets;
  - (e) Legend, North Arrow and Scale (include both a scale bar and scale text);
  - (f) Benchmark data, including reference to the starting benchmark;
  - (g) Date of submission and, if applicable, any revision date(s);
  - (h) Name(s) and address(es) of the professional engineer or land surveyor who prepared the plans.
- (2) Existing Drainage Area, showing:
  - (a) Pre-construction drainage area(s);

- (b) The delineation of all existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches and critical environmental resource areas on, or adjacent to, the site into which stormwater flows;
  - (c) Vegetation and ground surfaces (include all impervious cover);
  - (d) Time of concentration ( $t_c$ );
  - (e) Stormwater flow paths, including municipal drainage system flows; and
- (3) Proposed Drainage Area, showing:
- (a) Post-construction drainage area(s);
  - (b) The delineation of any existing stormwater conveyances to be retained and any proposed stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches and critical environmental resource areas on, or adjacent to, the site into which stormwater flows;
  - (c) Vegetation and ground surfaces (include all impervious cover);
  - (d) Time of concentration ( $t_c$ );
  - (e) Stormwater flow paths, including municipal drainage system flows; and
  - (f) Location(s) of any test pit(s).  
 Test pits should coincide with the location(s) of any proposed stormwater practice(s), including non-structural practices and foundation or perimeter drains.
- (4) Existing Conditions, containing:
- (a) Existing topography at 2-foot intervals;
  - (b) Existing site hydrology and soil types;
  - (c) Delineation of any flood plains, if applicable;
  - (d) Location(s) of existing easements;
  - (e) Location(s) of existing utilities;
- (5) Proposed Conditions, containing:
- (a) Existing and proposed topography (finished grading) at 2-foot intervals;
  - (b) Proposed vegetation and ground surfaces (include all impervious cover);
  - (c) Delineation of any flood plains, if applicable;
  - (d) Location(s) of any existing easements to be retained and any proposed easements;
  - (e) Final location(s) of utilities;
  - (f) All structural and non-structural stormwater utilities and/or facilities; and
  - (g) As necessary, the details of the drainage system components, including stabilization and management techniques to be used within and/or adjacent to any stormwater practice.
- (6) Erosion and Sediment Control, containing:
- (a) Locations of all bodies of waters (including wetlands);
  - (b) Direction(s) of stormwater flow and approximate slopes anticipated after major grading activities;
  - (c) Areas of soil disturbance and areas that will not be disturbed (limit of work line);
  - (d) Locations of site access/egress, including applicable sediment control measures;

- (e) Locations where stabilization practices are expected to occur;
  - (f) Locations where stormwater discharges to a surface water (include all roads, drains and other structures that could carry stormwater to a wetland or other water body, on or offsite); and
  - (g) The on-site location(s) to be used for storage of materials, wastes, vehicles, equipment, soil, snow and other potential pollutants. If off-site, note location(s) of storage area(s) and detail applicable sediment control measures;
- (7) Operation and Maintenance, showing:
- (a) The location of the systems and facilities including all stormwater and low-impact development best management practices, catch basins, manholes/access lids, pipes, and other stormwater devices;
  - (b) The location(s) of Stormwater Management easements 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;
    - [3] Direct maintenance access by heavy equipment to structures requiring regular maintenance.

#### **§ 999-6. Stormwater Management Performance Standards**

##### **A. Minimum Performance Standards**

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 Regulations (999 CMR 99.99) and the *Stormwater Management Handbooks*.

##### **B. Additional Landscape Design Performance Standards**

Site plans and landscape plans for all proposed projects shall take appropriate steps to minimize water use for irrigation and to allow for natural recharge of groundwater. Native species and habitat creating species shall be used in all landscape plans to the maximum extent possible. Invasive species shall not be planted in the Town of Lexington.

#### **§ 999-7. Construction Implementation & Monitoring**

##### **A. Surety**

Before the start of any land disturbance or construction activity the Stormwater Agency may require the applicant to post a surety bond, irrevocable letter of credit, cash, or other acceptable security in an amount sufficient to cover the approved Estimated Cost of Construction.

The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Stormwater Agency to ensure that the work will be completed in accordance with the permit. The Stormwater Agency may release part of the bond as each phase is completed in compliance with the permit but the bond may not be released to an amount less than 15% of the original amount until the Stormwater Agency has received the final inspection report as required by Section 11 of these Regulations and issued a Certificate of Completion.

#### B. Pre-construction Meeting

The applicant shall notify the Stormwater Agency        days before the commencement of construction to arrange for an on-site, pre-construction meeting.

#### C. Required Inspections

The Stormwater Agency shall inspect the project site at the following stages:

- (1) Initial Site Inspection, prior to approval of any plan;
- (2) Pre-construction Meeting;
- (3) Stormwater Management System Inspection: Applicant will conduct an inspection of the completed stormwater management system, before the backfilling of any underground drainage or stormwater conveyance structures.
- (4) Final Inspection, upon receipt of final As-Built.

Other inspections may be required as deemed necessary.

#### D. Erosion Control Inspection

To ensure erosion control practices are in accord with the filed Erosion and Sediment Control Plan, Erosion Control Inspections will be conducted by the site owner or an authorized representative at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater, from the start of construction until the site is permanently stabilized. Inspection frequency may be reduced to once a month if the site is temporarily stabilized, runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or, if construction is occurring during seasonal dry periods. The applicant is required to notify the Stormwater Agency of any change in inspection frequency, including termination of inspections due to site stabilization using the Erosion Control Inspection Form.

If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities (Construction General Permit), then the applicant is required to submit all Inspection Reports to the Stormwater Agency. If the Inspection Reports meet the requirements of the Construction General Permit, it will be considered equivalent to the Erosion Control Inspection as described above.

#### E. Changes to approved plan(s)

The applicant shall notify the Stormwater Agency in writing of any changes in the Stormwater Management Plan as authorized in the SMP before any change or alteration is made, including but not limited to drainage practices, change of ownership or responsible parties. If the Stormwater Agency determines that the change or alteration is significant, based on the Stormwater Management Standards in Section 7 and accepted construction practices, the Stormwater Agency may require that an amended application be filed.

#### F. Inadequacy of System

If the system is found to be inadequate, before the Certificate of Completion is issued, by virtue of physical evidence of operational failure, even though it was built in accordance with the Stormwater Management Plan, the applicant shall correct it.

## § 999-8. Project Completion

### A. "As-Built" Plans

At completion of the project, the applicant shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required in Section 7. A Registered Professional Engineer must prepare As-built Plans that show the "as built" conditions, including all final grades, developed by. All changes to project design shall be indicated in red on plans (or otherwise noted). All work deleted, corrections in elevations, and changes in materials, shall be shown on the as-built drawings and explained in writing. A Registered Professional Engineer shall certify deviations, if any, from the approved SMP.

As-builts shall be submitted electronically to the Town consistent with the current *Standard for Digital Plan Submission to Municipalities*, published by the Commonwealth's Office of Environmental Information (MassGIS).

### B. Certificate of Completion

Upon completion, the Applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications by submitting As-built Plans to the Stormwater Agency as described in Section 6.K. The certification statement shall be based on regular inspections that occurred during construction sufficient to adequately document compliance.

Easements shall be properly recorded and/or registered before the Stormwater Agency can issue a Certificate of Completion.

The Stormwater Agency will issue a letter to Applicant and Town Clerk, certifying completion upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Bylaw.

## § 999-9. Perpetual Maintenance

The owner of the property on which work has been done pursuant to these Regulations 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.

## § 999-10. Enforcement

Enforcement powers of the Stormwater Agency are granted in the Stormwater Management Bylaw, Section 6.

### A. Failure to Maintain

- (1) If a Responsible Party fails to meet the requirements of the Maintenance Agreement, the Stormwater Authority, after 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 Stormwater Agency may assess the owner(s) of the facility for the cost of repair work, which shall be a lien on the property.
- (2) After notification of any deficiencies discovered from an inspection of a stormwater management system is provided to the person responsible for carrying out the maintenance plan, the person responsible for carrying out such plan shall have 30 days, or other time frame mutually agreed to between the Stormwater Agency and the person responsible for carrying out the maintenance plan, to correct the deficiencies. The Stormwater Agency will conduct a subsequent inspection to ensure completion of repairs.

#### B. Notices and Orders

- (1) The Stormwater Agency may issue a written notice of violation or an enforcement order to enforce the provisions of the Stormwater Management Bylaw and the Regulations, which may include requirements to:
  - (a) Cease and desist construction or land disturbing activity until there is compliance with the Bylaw and the Stormwater Management Permit;
  - (b) Repair, maintain, or replace the Stormwater Management system or portions thereof in accordance with the O&M Plan;
  - (c) Perform monitoring, analyses, and reporting; and/or
  - (d) Fix adverse impact resulting directly or indirectly from malfunction of the Stormwater Management system.
- (2) If the Stormwater Agency determine that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation shall 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 Lexington may, at its option, undertake such work, and the property owner shall reimburse the Town of Lexington for expenses incurred.
- (3) 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 Lexington, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Agency 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 Stormwater Agency 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 will 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.

#### C. Fines

Any person who violates any provision of the Town of Lexington Stormwater Management Bylaw, or order or permit issued thereunder, may be ordered to correct the violation and/or fined.

**D. Appeals**

The decisions or orders of the Stormwater Agency are final. Further relief is to a court of competent jurisdiction.

**E. Remedies Not Exclusive**

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

**§ 999-11. 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 permit or determination that previously has been issued.