

## CHAPTER 24 - STORMWATER AND EROSION CONTROL BYLAW

### Section I. Purpose

- A. The purpose of this By-Law is to protect, maintain and enhance the public health, safety, environment, and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post- development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment, and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:
1. Establish a mechanism by which the municipality can monitor and ensure compliance with requirements of its 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.
  2. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.
  3. Require that new development, redevelopment, and other land alteration activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics where appropriate in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
  4. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to alterations in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; establish minimum design criteria for measures to eliminate or minimize to the extent feasible nonpoint source pollution from stormwater runoff which would otherwise degrade water quality.
  5. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet or exceed the minimum post-development stormwater management standards, as established by the Massachusetts Department of Environmental Protection and by any site plan or subdivision requirements, bylaws or rules and regulations as adopted by the Dracut Planning Board, Board of Selectmen, Zoning Board of Appeals, Dracut Conservation Commission or any relevant land use board or committee.
-

6. Encourage the use of nonstructural stormwater management, better site design practices or "low-impact development practices", such as reducing impervious cover, increasing site- wide infiltration, and preserving open space and other natural areas, to the maximum extent practicable.
  7. Promote water conservation through the re-use of stormwater for irrigation.
  8. Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.
  9. Establish provisions to 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. Establish provisions for the long-term responsibility for and maintenance of structural
  10. stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment.
  11. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this By-Law.
  12. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, erosion and sediment controls, and for the inspection of approved active projects, and long-term follow up; establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, inspection of construction sites, and the inspection of approved projects.
  13. Ensure that construction and waste materials, toxic materials, hazardous materials, and other pollutants are prevented from mixing with stormwater runoff, which would degrade water quality.
  14. Establish certain administrative procedures and fees for the submission, review, approval or disapproval of stormwater plans and the inspection of approved projects.
  15. Establish the Town of Dracut's legal authority and capacity to ensure compliance with the provisions of this By-Law through funding, permitting, inspection, monitoring, and enforcement.
- B. This bylaw is not intended to interfere with, abrogate or annul any other bylaw, rule or regulation, statute, or other provision of the law. The requirements of this bylaw shall be considered minimum requirements and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health, public safety or the environment shall be considered to take precedence.

## Section II Definitions

The following definitions shall apply in the interpretation and implementation of this By-Law. Additional definitions may be adopted by separate regulation:

**ALTER:** Any activity, including changes to the vegetation, that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbance activities."

**APPLICANT:** A property owner or duly designated agent who has filed an application for a stormwater management permit with the Town of Dracut.

**BEST MANAGEMENT PRACTICE (BMP):** 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.

**BETTER SITE DESIGN:** Site design approaches and techniques, including low-impact development (LID) 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 green space, reducing impervious cover, using natural features for stormwater management, and providing site-wide infiltration.

**COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one common plan. The "common plan" of development or sale may be demonstrated by any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

**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.

**DEVELOPMENT:** Any construction that disturbs or alters a parcel of land.

**DISTURBANCE OF LAND (Land Disturbance):** Any action causing any removal of vegetation including tree and brush clearing; importation, removal or redistribution of soil, sand, rock, gravel or similar earth material.

**EMERGENCY REPAIR:** A condition that poses a threat to public health and/or safety. Such conditions include, but are not limited to, a utility gas leak, electric problem, collapsed or blocked drain, water leak, etc.

**EXISTING LAWN:** Grass area which has been maintained and mowed in the previous two years.

**ILLICIT CONNECTION:** Any drain or conveyance, whether on the surface or subsurface, which allows an illegal or non-permitted discharge to enter the municipal storm drain system, including, but not limited to, any conveyance which allows any non-stormwater discharge, such as sewage, processed wastewater and other wastewater products to enter the municipal storm drain system and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection has been previously allowed, permitted, or approved by an authorized enforcement agency.

**ILLICIT DISCHARGE:** Any direct or indirect non-stormwater discharge to the storm drain system or water body, except as exempted in the stormwater rules and regulations.

**IMPERVIOUS/IMPERVIOUS COVER:** Any material on, above or below the ground that significantly impedes the infiltration of water into the underlying soil. This can include, but is not limited to: roads, driveways, parking areas and other areas created using non-porous material; buildings, roof tops, structures, artificial turf and compacted gravel or soil.

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

**LOW IMPACT DEVELOPMENT (LID):** An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site. This can be achieved by the incorporation of non-structural and natural approaches to new and redevelopment projects to reduce adverse effects on water quality and the natural environment by conserving natural areas, reducing impervious cover and better integrating stormwater treatments.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS:** The latest version as may be amended from time to time of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-56. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a) and address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quality of runoff from a site.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collection or conveyance of 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 Dracut.

**NEW DEVELOPMENT:** Any construction or land disturbance of a parcel of land, including all projects requiring municipal site plan review, that is currently in a natural vegetated state and does not currently contain alteration by man-made activities at the location of the proposed land disturbance.

NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall, snowmelt, or other methods of pollutant transport moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

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

NORMAL MAINTENANCE: Activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

PERSON: Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth, or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body,

PRE-DEVELOPMENT: The conditions that exist prior to the proposed disturbance activity. 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 pre-development conditions.

**POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, dredged spoil, incinerator residue, filter backwash, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, cellar dirt, concrete truck wash out, chemicals, sanitary waste, municipal waste, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or Waters of the Commonwealth.**

**Pollutants shall include without limitation:**

- (1) paints, varnishes, and solvents;**
- (2) oil and other automotive fluids;**
- (3) non-hazardous liquid and solid wastes and yard wastes;**
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;**
- (5) pesticides, herbicides, and fertilizers;**
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;**
- (7) dissolved and particulate metals;**
- (8) animal wastes;**
- (9) rock, sand, salt, soils;**
- (10) construction wastes and residues including discarded building materials; and**
- (11) noxious or offensive matter of any kind.**

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans 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.

RECONSTRUCTION: Any action causing complete removal and replacement of paved surfaces, such as driveways, parking areas and roads.

REDEVELOPMENT: Any construction, alteration, or improvement on a previously developed site which contains impervious cover provided that the activity does not involve an increase in the net amount of impervious cover.

RUNOFF: Rainfall or snowmelt water flowing over the ground surface or other source which may result in transport of pollutants.

SITE: The entire parcel of land being developed and/or where land-disturbing activities are or will be performed.

STOCKPILING: The storage of more than 10 cubic yards of material for future use.

STORMWATER MANAGEMENT: The use of structural or non-structural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of Low- Impact Development (LID) management practices.

STORMWATER PERMITTING AUTHORITY The entity who reviews and issues stormwater management permits in accordance with this bylaw and the related rules and regulations.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Stormwater Permitting Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

STORMWATER CONTROL MEASURE (SCM) means a structural or nonstructural technique for managing stormwater to prevent or reduce point or non-point source pollutants from entering surface waters or ground waters. A Nonstructural Stormwater Control Measure includes but is not limited to source control, Environmentally Sensitive Site Design, some Low Impact Development techniques or practices, street cleaning and pollution prevention measures. A structural Stormwater Control Measure includes, but is not limited to, a basin, discharge outlet, swale, rain garden, filter, some Low Impact Development techniques or practices, or other stormwater treatment practice or measure either alone or in combination, including without limitation, any overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater.

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

**the United States as defined under the Federal Clean Water Act (33 U.S.C. § 1251, et seq.) as hereafter amended.**

### **Section III. Authority**

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34., and as authorized by the residents of the Town of Dracut at Town Meeting dated June 5, 2017, and as thereafter amended.

### **Section IV. Applicability**

- A. No person shall alter land above the thresholds established within the Town of Dracut without having obtained a stormwater management permit (SWP). The Stormwater Permitting Authority may seek input from town departments during the review of the storm water permit application. Town departments shall provide input to the Stormwater Permitting Authority, upon request.
- B. This By-Law shall be applicable to all new development and redevelopment, land disturbance and any other activity that may result in an increased amount of stormwater runoff or ~~P~~pollutants, or changes to drainage characteristics causing an increase in runoff, flowing from a parcel of land. This By-Law shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) ~~as of the effective date of this By-Law~~ **or is part of a larger Common Plan of Development or Sale** if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section IV.C and are not exempted by Section V. A development shall not be segmented or phased in a manner to avoid compliance with the By-Law.
- ~~C. A single or two family residence project (outside of a proposed subdivision), yielding less than 2,500sf of impervious area, is presumed to meet the intentions of the Dracut Bylaw and Regulations if the following conditions are met:~~
  - ~~1. Submission of a site plan showing test pit location(s), property lines, proposed building(s), retention walls, driveway(s) and existing and proposed topography;~~
  - ~~2. At least one (1) deep hole test pit is excavated per lot, ideally in the vicinity of any proposed stormwater infiltration.~~
  - ~~3. Storage and infiltration of stormwater is proposed for a minimum of one inch (1") of water over the entire impervious area of the proposed site. Design shall show at least two feet (2') of separation between the infiltration base elevation and estimated high groundwater.~~
  - ~~4. Design includes appropriately graded and vegetated rain garden, swale areas, dry wells and similar elements which illustrate generally the intent to not alter runoff conditions at any of the property lines, including those shared with the Town of Dracut for public roadways.~~

- ~~5. Document(s) are shared outlining the function and maintenance required of the stormwater elements to be protected by the owner. Deed language shall be included to prohibit alteration of stormwater elements and to require routine maintenance of infiltration devices.~~

C. A Minor Stormwater Permit must be obtained prior to the commencement of land disturbing activity on any project involving:

- 1. Construction of any new impervious area in excess of 1,000sf; or**
- 2. Any land disturbance exceeding an area of 20,000sf but less than 40,000sf.**

- ~~1. which will have less than 2,500sf of impervious area upon completion; or~~
- ~~2. that includes ONLY in-kind replacement of existing impervious areas — typical examples include repaving an existing roadway or parking lot without any expansion.~~

D. A Major Stormwater Permit must be obtained prior to the commencement of land disturbing activity on any project involving:

- 1. Construction that is not related to a single or two family residence, adding impervious area totaling more than 2,500sf in any five year period;**
- 2. Any land disturbance in excess of 40,000sf;**
- 3. Reconstruction of any public or private way by any non-governmental entity;**  
**or**
- 4. Replacement of existing parking lot and/or driveway over 2,500sf.**

- ~~1. which upon completion will yield a site with 2,500sf or more of impervious area;~~
- ~~2. requesting a waiver of any Stormwater Permitting Requirement; or~~
- ~~3. required to submit a Notice of Intent to the Conservation Commission.~~

## Section V. Exemptions

Exemptions from this By-Law apply to the following activities, provided that a project is solely comprised of any one of these activities:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 ("Agricultural") and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of Best Management Practices recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources.
2. Normal maintenance of existing landscaping, gardens or lawn areas.
3. Construction of any fence that will not alter existing terrain or drainage patterns.
4. Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, so long as BMPs are used to prevent erosion, sedimentation and release of pollutants and surface conditions are restored.

5. Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility that poses a threat to public health or safety, designated by the Stormwater Permitting Authority. Where such activity is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission.

## **Section VI. Fees**

### **A. Filing Fee.**

At any time of an application, the applicant shall pay a filing fee pursuant to a fee schedule, which shall be determined by the Stormwater Permitting Authority and approved by the Board of Selectmen. Any subsequent changes to the fee schedule shall be submitted to the Board of Selectmen for approval.

### **B. Consultant Fee.**

Pursuant to the rules and regulations promulgated by the Stormwater Permitting Authority, reasonable fees may be imposed upon applicants for the purposes of securing outside consultants including, engineers or other experts, in order to aid in the review of proposed projects. The Stormwater Permitting Authority shall follow the provisions of the Massachusetts General Laws, Chapter 44, Section 53G in securing a consultant to review the project.

Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account and expenditures may be made at the sole discretion of the Stormwater Permitting Authority, or their designated agent. Any consultant hired under this provision shall be selected by and report exclusively to the Stormwater Permitting Authority. The Stormwater Permitting Authority shall provide applicants with written notice of the selection of the consultant, identifying the consultant, the amount of the fee to be charged to the applicant and a request for payment of the fee. Notice shall be deemed to have been given on the date it is mailed or delivered. ~~The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.~~

## **Section VII. Administration**

- A. The Conservation Commission shall serve as the Stormwater Permitting Authority, and shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Stormwater Permitting Authority may be delegated in writing to any Town employee, or agent in writing. Meetings of the Stormwater Permitting Authority shall be subject to the Massachusetts Open Meeting Law, MGL Ch. 30A, §§ 18-25.

- B. Stormwater & Erosion Control Regulations ("Regulations"). The Stormwater Permitting Authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees; (application, inspection or consultant fees), and delegation of authority, procedures and administration of this By-Law after conducting a public hearing to receive comments on the proposed rules and regulations or 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 of the Stormwater Permitting Authority to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this By-Law
- C. Massachusetts Stormwater Handbook. The Stormwater Permitting Authority will utilize the policy, criteria and information including specifications and standards of the most recent edition of the Massachusetts Stormwater Handbook for execution of the provisions of this By-Law. Unless otherwise specified in the Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
- D. Stormwater Management Permit. The Stormwater Permitting Authority shall have the authority to issue a Minor and Major Stormwater Permit (for projects exceeding the thresholds defined in Section IV.D. and E. of this By-Law and not otherwise exempted by Section V. Additional requirements of a Minor or Major Stormwater Permit may be defined and included within the Regulations promulgated pursuant to Section VI.B of this By-Law.
- E. Stormwater Permitting Authority Approval Process.
1. Action by Stormwater Permitting Authority
    - a. Determination of Stormwater Permit type and Procedure: The Stormwater Permitting Authority, or their designated agent, shall, upon request, review the conceptual project upon request and issue a determination stating whether the project needs a Minor or Major Stormwater Permit.
    - b. Determination of Application Completeness: The Stormwater Permitting Authority, or their designated agent, shall review the application submission and determine whether the application is complete.
    - c. Incomplete Applications: If the Stormwater Permitting Authority, or their designated agent, determines that the application is incomplete, including insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Stormwater Permitting Authority, or their designated agent, may require the submission of additional information and/or disapprove the application and deny the Permit.
  2. Minor Stormwater Management Permit –Each application for a Minor Stormwater Management Permit that complies with the Regulations and is determined to be a complete application by the Stormwater Permitting Authority, or their designated

agent, shall be acted upon within thirty (30) days of the date of **a complete permit** filing unless such application has been withdrawn from consideration. The Stormwater Permitting Authority, or their designated agent, may:

- a. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law and the Stormwater Regulations;
  - b. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law and the Stormwater Regulations;
  - c. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law and the Stormwater Regulations. Such disapproval may be appealed to the Stormwater Permitting Authority by seeking a Major Stormwater Management Permit; or
  - d. Require submission of a Major Stormwater Permit if the project, in the opinion of the Stormwater Permitting Authority or their designated agent, requires more extensive review.
3. Major Stormwater Management Permit - Each application for a Major Stormwater Management Permit that complies with the Regulations, and is determined to be a complete application by the Stormwater Permitting Authority, or their designated agent, ~~including projects found to not comply with Design Standards under a Minor Stormwater Management Permit Application, or projects requesting one or more waivers, and~~ shall be acted upon within sixty (60) days of the date of filing unless such application has been withdrawn from consideration.
- ~~i. A Public Hearing is required for all Major Stormwater Management Permits including those where a previous decision is being appealed or waivers have been requested. Notice of Public Hearings shall be published in a newspaper of general circulation for two (2) consecutive weeks. The first publication date shall be published not less than fourteen (14) days before the day of the hearing. A copy of the hearing notice shall be posted in the office of the Town Clerk for not less than fourteen (14) days before the date of the hearing. Copies of the notice shall be mailed, postage prepaid, to the applicant, property owner (if different) and to abutters within 100' as they appear on the most recent Assessor's list.~~

The Stormwater Permitting Authority may take any of the following actions following the close of the public hearing for **consideration of** an application for a Major Stormwater Management Permit:

- a. Approve the Major Stormwater Permit Application and issue a permit if it finds that the performance standards and requirements set forth herein have been met according to this Bylaw and the Stormwater Regulations;
- b. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and

meets the objectives and requirement of this By-Law and the Stormwater Regulations; or

- c. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law and the Stormwater Regulations.

- F. Appeals of Action by the Stormwater Permitting Authority. A decision **made by staff designated to act by the SWPA shall be appealable to the SWPA.** ~~of the Stormwater Permitting Authority shall be final.~~ Further relief of a decision by the Stormwater Permitting Authority made under this By-Law shall be to a court of competent jurisdiction.

**A Public Hearing is required for all Stormwater Management Permit appeals. Notice of Public Hearing shall be published in a newspaper of general circulation for once not less than seven (7) days prior to the day of the hearing. A copy of the hearing notice shall be posted in the office of the Town Clerk for not less than seven (7) days before the date of the hearing. Copies of the notice shall be mailed, postage prepaid, to the applicant, property owner (if different) and to abutters within 100' as they appear on the most recent Assessor's list.**

- G. Waivers. The Stormwater Permitting Authority, or their designated agent, may waive strict compliance with any of the requirements of this By-Law or the Rules and Regulations promulgated hereunder, if it determines that some of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site and where such action is:
  1. Allowed by federal, state and local statutes and/or regulations,
  2. In the public interest, and
  3. Not inconsistent with the purpose and intent of this By-Law.

Any request from an Applicant for a waiver of these rules shall be submitted, in writing, to the Stormwater Permitting Authority at the time of submission of the ~~Major~~ Stormwater Management Permit application. Such requests shall clearly identify the provision/s of the rule from which relief is sought and be accompanied by a statement setting forth the reasons why, in the applicant's opinion, the granting of such a waiver would be in the public interest or the specific information required to show strict compliance is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of this By-Law and the rules and regulations promulgated hereunder.

## **Section VIII. Performance Standards**

Criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section VII.B of this By-Law.

## **Section IX. Enforcement**

- A. The Stormwater Permitting Authority, or their designated agent, shall enforce this By-Law, and any Regulations, permits, orders, violation notices, and enforcement orders,

and may pursue all civil and criminal remedies for violations.

- B. If a person violates the provisions of this By-Law or its Regulations, or a permit, notice or order issued there under, the Stormwater Permitting Authority, or their designated agent, may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or to compel the person to perform abatement or remediation of the violation.
- C. The Stormwater Permitting Authority, or their designated agent, may issue a written order to enforce the provisions of this By-Law or the Regulations, which may include requirements to:
  - 1. Cease and desist from land-disturbing activity until there is compliance with the By-Law or provisions of an approved Stormwater Management Permit;
  - 2. Maintain, install or perform additional erosion and sediment control measures;
  - 3. Perform monitoring, analyses, and reporting;
  - 4. Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity;
  - 5. Comply with requirements in the Stormwater Management Permit for operation and maintenance of stormwater management systems; and,
  - 6. Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management systems.

If the Stormwater Permitting Authority or its authorized agent determines that abatement or remediation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

- D. Criminal Penalties. Any person who violates any provisions of this By-Law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300. Each day a violation exists shall constitute a separate violation.
- E. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may utilize the non- criminal disposition procedure set forth in M.G.L. Ch. 40, §21D and Chapter 19 of the Town of Dracut By-Laws, in which case any police officer of the Town of Dracut, the Town Engineer, and such other persons as are authorized by the Stormwater Permitting Authority shall be the enforcing person. If non-criminal disposition is used, any person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished as follows:
  - 1. First Violation: Warning
  - 2. Second violation: \$100
  - 3. Third violation: \$200
  - 4. Fourth and subsequent violations: \$300
  - 5. Each day a violation exists shall constitute a separate violation

- E. Remedies Not Exclusive. The remedies listed in this By-Law are not exclusive of any other remedies available to the Stormwater Permitting Authority or the Town under any applicable federal, state or local law.

#### **Section X. Severability**

The invalidity of any section, provision, paragraph, sentence, or clause of this By-Law shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.”

Chapter 24     Added - Article 25, June 5, 2017 Town Meeting  
                  Amended – Article 27, June 3, 2024 Town Meeting