

STORMWATER MANAGEMENT RULES AND REGULATIONS

Falmouth Select Board
Adopted: September 27, 2021

ARTICLE I – GENERAL

1.0 Purpose

The purpose of these rules and regulations is to establish Stormwater Management Rules and Regulations for the Town of Falmouth..

2.0 Authority

The Falmouth Select Board, under the authority of the Falmouth Home Rule Charter section C3-7 Subsection H of the Code of the Town of Falmouth, and after holding a duly called Public Hearing on August 9, 2021, August 30, 2021 and September 27, 2021 adopts these Stormwater Management Rules and Regulations.

3.0 Definitions

3.1. For the purposes of these rules and regulations, the following shall mean:

- (1) **ABUTTER:** The owner(s) of land abutting the site on which the activity occurs.
- (2) **AGRICULTURAL USE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations.
- (3) **APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land-disturbance activity.
- (4) **ASSESSOR:** Town of Falmouth Assessor’s office and/or Director of Assessing.
- (5) **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.
- (6) **CERTIFICATE OF COMPLETION:** Document issued by the Department of Public Works upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

- (7) **CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.
- (8) **CERTIFIED VERNAL POOLS:** Temporary bodies of freshwater that provide critical habitat for a number of vertebrate and invertebrate wildlife species, certified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).
- (9) **CLEARING:** Any activity that removes vegetative surface cover.
- (10) **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
- (11) **CONSTRUCTION WASTE AND MATERIALS:** Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.
- (12) **DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts from any source.
- (13) **DISTURBANCE OF LAND:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.
- (14) **ENFORCEMENT ORDER:** A written order issued by the Department of Public Works or Reviewing Agent to enforce the provisions of these rules and regulations.
- (15) **EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.
- (16) **EROSION AND SEDIMENT CONTROL PLAN:** A document containing narrative, drawings, and details developed by a registered professional engineer (P.E.) or CPESC, which includes BMPs, or equivalent measures designed to control surface runoff, erosion, and sedimentation during pre-construction and construction-related land disturbance activities.
- (17) **ESTIMATED HABITAT OF RARE WILDLIFE:** Habitats delineated by the NHESP for state-protected rare wildlife and certified vernal pools for use with

the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

- (18) GRADING: Changing the level or shape of the ground surface.
- (19) GROUNDWATER: Water beneath the surface of the ground including confined or unconfined aquifers.
- (20) GRUBBING: The act of clearing land surface by digging up roots and stumps.
- (21) ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of these rules and regulations.
- (22) ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 3.0 of Article II of these rules and regulations. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 3.0 of Article II of these rules and regulations.
- (23) IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents or delays water from infiltrating the underlying soil, or causes water to runoff in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, roads, driveways, parking lots, sidewalks, rooftops, patios, storage areas, concrete or asphalt paving, and gravel/dense-graded crushed stone areas.
- (24) LOW IMPACT DEVELOPMENT (LID): An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing, and mitigating impacts with natural, non-structural and structural measures.
- (25) MASSACHUSETTS ENDANGERED SPECIES ACT (MESA): (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00). This Act prohibits the "taking" of any rare plant or animal species listed as "Endangered", "Threatened", or of "Special Concern".
- (26) MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS (the STANDARDS): The Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection (DEP) 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, and further described in the Wetlands Protection Act Regulations (310 CMR 10.00) and the 401 Water Quality Certification Regulations (314 CMR 9.00). The Stormwater Management Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

- (27) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Falmouth.
- (28) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by the United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.
- (29) **NEW DEVELOPMENT:** Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in total disturbance of land equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of Redevelopment.
- (30) **NATURAL HERITAGE AND ENDANGERED SPECIES PROGRAM (NHESP):** The Commonwealth of Massachusetts' program for implementing MESA requirements.
- (31) **NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.
- (32) **OPERATION AND MAINTENANCE PLAN:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.
- (33) **OUTFALL:** The point where stormwater flows out from a point source which is a discernible, confined and discrete conveyance into waters of the Commonwealth of Massachusetts.
- (34) **OWNER:** A person with a legal or equitable interest in property.

- (35) **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- (36) **POINT SOURCE:** Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which stormwater is or may be discharged.
- (37) **POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include, but are not limited to:
- (a) Chemicals, paints, varnishes, and solvents;
 - (b) Oil and other automotive fluids;
 - (c) Non-hazardous liquid and solid wastes and yard wastes;
 - (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 - (e) Pesticides, herbicides, and fertilizers;
 - (f) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
 - (g) Dissolved and particulate metals;
 - (h) Animal wastes;
 - (i) Rock, sand, salt, and soils;
 - (j) Concrete truck washout;
 - (k) Sanitary wastes;
 - (l) Construction wastes, demolition debris, and discarded building materials; and/or
 - (m) Noxious or offensive matter of any kind.
- (38) **PRE-CONSTRUCTION:** All activity in preparation for construction.
- (39) **PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the MESA and its regulations.
- (40) **PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
- (41) **PROFESSIONAL ENGINEER (P.E.):** A registered Professional Engineer within the Commonwealth of Massachusetts in good standing.
- (42) **RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through soil.

- (43) REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in total disturbance of land equal to or greater than 1 acre (or activities that are part of a larger common plan of redevelopment disturbing greater than 1 acre) that does not meet the definition of New Development.
- (44) REVIEWING AGENT: The Department of Public Works or person designated by the Department of Public Works as responsible for enforcing these rules and regulations.
- (45) RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.
- (46) SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.
- (47) SEDIMENTATION: The process or act of deposition of sediment.
- (48) SITE: Any lot, parcel of land, or area of property where land-disturbing activities are, were, or will be performed.
- (49) SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.
- (50) SOIL: Any earth, sand, rock, gravel, or similar material.
- (51) STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or minimize erosion.
- (52) STORMWATER: Stormwater, snow melt, and surface water runoff and drainage.
- (53) STORMWATER MANAGEMENT PERMIT: The written approval granted by the Department of Public Works to undertake a construction activity pursuant to a Stormwater Management Permit Application.
- (54) STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit.
- (55) STRIP: Any activity that removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (56) SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that

authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

- (57) **TOXIC OR HAZARDOUS MATERIAL OR WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic or organic chemical, petroleum product, heavy metal, radioactive, biological, or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- (58) **TOTAL SUSPENDED SOLIDS (TSS):** Sediment being carried in stormwater.
- (59) **WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.
- (60) **WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.
- (61) **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- (62) **WETLAND RESOURCE AREAS:** Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in the Town of Falmouth Wetland Bylaw, as amended.

4.0 Administration

- 4.1. The Select Board authorizes the Department of Public Works to administer, implement and enforce these rules regulations. Any powers granted to or duties may be delegated in writing by the Department of Public Works to employees or agents of the Planning Board, Board of Health, Conservation Commission, and/or other Town Department, hereby known as the “Reviewing Agent”.
- 4.2. The decisions or orders of the Department of Public Works or Reviewing Agent shall be final; provided, however, that the Applicant may apply for administrative review in the following manner. An Applicant who alleges that a decision or order is not authorized by these regulations, is based on an error of law, is unwarranted by facts in the record or is not supported by substantial evidence, may, within 20 days of the decision or order, file a written request for review with the Select Board stating the

grounds of the administrative review. The Select Board shall acknowledge receipt of the request and appoint a hearing officer to conduct the review. The hearing officer is authorized to hear testimony, review written and documentary evidence, conduct site visits and take other appropriate action to prepare and submit a written recommendation to the Select Board. Thereafter, at a public meeting of the board, the Select Board shall consider the matter and the hearing officer's recommendation and affirm, vacate, amend or modify the decision or order as it deems appropriate. The Applicant may thereafter seek any appeal authorized by law.

- 4.3. The Department of Public Works shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act and/or any local regulations.

5.0 Amendments

The Select Board may adopt, and periodically amend, these Stormwater Management Rules and Regulations by majority vote of the Select Board, after conducting a minimum of one (1) advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Falmouth no less than fourteen (14) days prior to the date of the public hearing.

6.0 Orders and Suspension

- 6.1. The Department of Public Works or Reviewing Agent may issue a written order to enforce the provisions of these Rules and Regulations, which may include:
 - (1) Cease and desist from unlawful discharges, practices, operations, construction or land disturbing activity until there is compliance with these Rules and Regulations;
 - (2) Elimination of illicit connections or discharges to the municipal storm drain system;
 - (3) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
 - (4) Maintain, install, or perform additional erosion and sediment control measures;
 - (5) Perform monitoring, analyses, and reporting;
 - (6) Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system; and/or
 - (7) Remediate contamination in connection therewith.

6.2. The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

7.0 Enforcement

7.1. The Select Board, or an authorized agent of the Select Board, shall enforce these rules and regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

7.2. If the Select Board determines that abatement or remediation of adverse impacts is required, the Enforcement Order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Falmouth may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.

7.3. Within thirty (30) days after completing all measures necessary to abate the violation, the violator and the property owner shall be notified of the costs incurred by the Town of Falmouth, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Select Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Select Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

7.4. Civil Relief. If a person violates the provisions of these rules and regulations, permit, notices, or order issued thereunder, the Select Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

7.5. Criminal Penalty. Any person who violates any provision of these rules and regulations, order, or permit issued thereunder, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

7.6. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, section 21D, in which case the Select Board or Reviewing Agent shall be the Authorized Enforcing Agent. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8.0 Entry to Perform Duties under these Rules and Regulations

To the extent permitted by Massachusetts law, or if authorized by the owner or other party in control of the property, the Town of Falmouth, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties and may make or cause to be made such examinations, surveys, or sampling as the Department of Public Works or Reviewing Agent deems reasonably necessary.

9.0 Remedies Not Exclusive

The remedies listed in these rules and regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

10.0 Severability

If any provision, paragraph, sentence, or clause of these rules and regulations shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE II – ILLICIT DISCHARGE CONTROL

1.0 Purpose and Objectives

1.1. The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Falmouth's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes:

- (1) Impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
- (2) Contamination of drinking water supplies;
- (3) Alteration or destruction of aquatic and wildlife habitat; and

(4) Flooding.

1.2. The purpose of this Article is to prohibit and eliminate illicit connections and discharges; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; and protect the quality and health of water resources.

1.3. This Article seeks to meet that purpose through the following objectives:

- (1) To prevent pollutants from entering the Town of Falmouth's municipal storm drain system;
- (2) To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

2.0 Applicability

2.1. This Article shall apply to the following prohibited activities entering the municipal storm drainage system:

- (1) **Illicit Discharges.** No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth of Massachusetts.
- (2) **Illicit Connections.** No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- (3) **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works or Reviewing Agent.

3.0 Exemptions

3.1. The following activities are exempt from requirements under this Article:

- (1) Discharge or flow resulting from firefighting activities;
- (2) The following non-stormwater discharges or flows are exempt from this Article, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - (h) Discharge from landscape irrigation or lawn watering;
 - (i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (j) Water from individual residential car washing;
 - (k) Discharge from dechlorinated swimming pool water (less than one part per million chlorine) provided test data is submitted to the Town substantiating that the water meets the one part per million standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town Bylaws;
 - (l) Discharge from street sweeping;
 - (m) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
 - (n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
 - (o) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment; and
- (3) Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Falmouth Town Manager or Select Board.

4.0 Orders and Suspension

- 4.1. The Department of Public Works or Reviewing Agent may issue a written order to enforce the provisions of this Article which may include:
- (1) Elimination of illicit connections or discharges to the municipal storm drain system;
 - (2) Performance of monitoring, analyses, and reporting;
 - (3) That unlawful discharges, practices, or operations shall cease and desist; and
 - (4) Remediation of contamination in connection therewith.
- 4.2. The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

5.0 Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Falmouth Department of Public Works, Fire Department, and Police Department.

ARTICLE III – CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

1.0 Purpose and Objectives

- 1.1. The purpose of this Article is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- 1.2. This Article seeks to meet that purpose through the following objectives:

- (1) Establish the Department of Public Works as the authority to ensure compliance with the provisions of this Article through a review process, inspections, monitoring, and enforcement;
- (2) Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post construction monitoring;
- (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserves and/or restores the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater; and
- (4) Ensure compliance with requirements of the NPDES General Permit for Stormwater Discharges from MS4 and other applicable state and federal mandates.

2.0 Applicability

- 2.1. No person may undertake a construction activity, including clearing, grading, or excavation that results in a land disturbance to an area equal to or greater than one (1) acre of land or will disturb less than one acres of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town of Falmouth without first obtaining a Stormwater Management Permit issued by the Department of Public Works.
- 2.2. The Department of Public Works shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act and/or any local regulations.
- 2.3. The Department of Public Works or Reviewing Agent shall take any of the following actions as a result of an application for a Stormwater Management Permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this Article: Approval, Approval with Conditions, or Disapproval.

3.0 Exemptions

- 3.1. The following activities are exempt from requirements under this Article:
 - (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
 - (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;

- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (4) Normal maintenance and improvements of the Town of Falmouth publicly owned roadways and associated drainage infrastructure;
- (5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board; and
- (6) Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and/or the Falmouth Wetlands Protection Bylaw and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions issued by the Conservation Commission

4.0 Permit Procedures and Requirements

4.1. The Building Inspector shall not issue a Building Permit without first confirming that a Stormwater Management Permit has been obtained or is otherwise not required. The Stormwater Management Permit process shall be incorporated into existing permits to ensure efficiency of the Town permitting process for the Town and Applicant. The following Town boards or commissions shall serve as the Permit Granting Authority (PGA) as described below and their respective permits may serve as the Stormwater Management Permit upon finding the Project has demonstrated compliance with these rules and regulations:

- (1) Conservation Commission: An Order of Conditions issued by the Falmouth Conservation Commission shall serve as the Stormwater Management Permit, provided the project demonstrates compliance with these rules and regulations and the Order includes a condition as such.
- (2) Department of Public Works: All other applications, including Site Plan Applications, Subdivision Plan Applications, or Special Permit Applications that meet the applicability criteria of this Article shall also be submitted to the Department of Public Works for review for compliance with these rules and regulations.

4.2. Filing Application.

- (1) The site owner or his/her agent shall file with the Department of Public Works, three (3) hard copies and an electronic version of a completed Stormwater Management Permit Application package as outlined below. Permit issuance is required prior to any applicable site-altering activity. While the applicant can be a representative, the permittee must be the owner of the site.
- (2) Proposed projects shall submit the following:

- (a) Completed Application Form with original signatures of all owners;
- (b) List of abutters, certified by the Assessor’s Office;
- (c) Three (3) copies of the Stormwater Management Plan as specified in Section 5.0 of this Article of these Rules and Regulations;
- (d) Three (3) copies of the Erosion Control Plan as specified in Section 6.0 of this Article of these Rules and Regulations;
- (e) Three (3) copies of the Operation and Maintenance Plan as specified in Section 7.0 of this Article of these Rules and Regulations;
- (f) An acknowledgement of the Site Inspections and Final Reports requirements as specified in Section 8.0 of this Article of these Rules and Regulations; and
- (g) Payment of any application and review fees.

4.3. Fee Structure. The Department of Public Works shall obtain with each submission an Application Fee payable to the Town of Falmouth. Applicants shall pay review fees as listed below to cover any expenses connected with the review of the Stormwater Management Permit Application before the review process commences. The Department of Public Works may, at the applicant’s expense, retain a registered P.E. or other professional consultant to advise the Department of Public Works or Reviewing Agent on any or all aspects of these plans.

Fees are subject to review on an annual basis by the Select Board acting in accordance with the bylaw.

- (1) Application fee for single family residential or duplex (1+ acres)\$100
- (2) Application fee for projects from 1 to 2 acres\$200
- (3) Application fee for projects from 3 to 10 acres\$300
- (4) Application fee for projects greater than 10 acres\$500
- (5) Application fee for a resubmittal / amendment.....\$100
- (6) Fees for a professional peer review Assessed on a case by case basis

4.4. Information Requests. The applicant shall submit all additional information requested by the Department of Public Works or Reviewing Agent to issue a decision on the application.

4.5. Actions. The Department of Public Works or Reviewing Agent’s action, rendered in writing, shall consist of either:

- (1) “Approval” of the Stormwater Management Permit Application based upon determination that the proposed Stormwater Management Plan meets the Standards and will adequately protect the water resources of the community and

is in compliance with the requirements set forth in these rules and regulations;

- (2) “Approval with Conditions” of the Stormwater Management Permit Application subject to any conditions, modifications, or restrictions that will ensure the proposed Stormwater Management Plan meets the Standards and will adequately protect the water resources of the community and is in compliance with the requirements set forth in these rules and regulations;
 - (3) “Disapproval” of the Stormwater Management Permit Application based upon determination that the proposed Stormwater Management Plan, as submitted, does not meet the Standards or will not adequately protect the water resources of the community and is not in compliance with the requirements set forth in these rules and regulations.
- 4.6. Appeals. The applicant may appeal the decision, within thirty (30) consecutive calendar days, to the Superior Court, in accordance with M.G.L. Ch. 249 §4.
- 4.7. Access Permission. To the extent permitted by Massachusetts law, the Department of Public Works, Reviewing Agent, or their designee and third-party inspector may enter upon privately owned property for the purpose of performing their duties under these rules and regulations and may make or cause to be made such examinations, surveys or sampling as the Reviewing Agent deems reasonably necessary to determine compliance with the Stormwater Management Permit.
- 4.8. Plan Changes. The permittee must notify the Department of Public Works in writing of any drainage change or alteration in the system authorized in the Stormwater Management Permit before any change or alteration is made. If the Department of Public Works or Reviewing Agent determines that the change or alteration is significant, based on the Standards, the requirements set forth in these rules and regulations, or accepted construction practices, the Department of Public Works or Reviewing Agent may require that an amended application be filed. If any change or alteration from the Stormwater Management Permit occurs during any land disturbing activities, the Department of Public Works or Reviewing Agent may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

5.0 Stormwater Management Permit Application

- 5.1. The Stormwater Management Permit Application shall consist of a submittal of a Stormwater Management Plan to the Department of Public Works. This Stormwater Management Plan shall contain sufficient information for the Department of Public Works, Reviewing Agent, or their designee to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Stormwater Management Plan shall be designed to meet the Standards, as set forth in Section 5.3 of this Article of these

Rules and Regulations, and the Massachusetts DEP Stormwater Handbook Volumes 1, 2, and 3, as amended.

- 5.2. The Stormwater Management Plan shall full describe the project in drawings and narrative. It shall include, as a minimum, the following:
- (1) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
 - (2) Project narrative containing relevant information related to stormwater requirements;
 - (3) Locus map of the site;
 - (4) Description of existing and proposed conditions;
 - (5) Existing and proposed zoning and land use at the site;
 - (6) Existing and proposed easements and utilities at the site;
 - (7) Existing and proposed topography (1-foot or 2-foot interval contours with additional spot grades as needed to depict detailed drainage patterns) at the site;
 - (8) Existing and proposed hydrology, watershed boundaries, drainage area, and stormwater flow paths;
 - (9) Existing and proposed stormwater conveyances, impoundments, and wetlands into which stormwater flows at and adjacent to the site;
 - (10) Existing and proposed 100-year flood plain, if applicable;
 - (11) Estimated high groundwater elevation (November to April) as determined via completion of representative test pits or other suitable geological investigations in areas to be used for stormwater retention, detention, or infiltration;
 - (12) Description of subsurface conditions in areas to be used for stormwater retention, detention, or infiltration;
 - (13) Plans, drawings, and descriptions of proposed drainage system and all components including:
 - (a) Locations, cross sections, and profiles of all stormwater conveyances such as drainage swales and their method of stabilization;
 - (b) All measures for the detention, retention, and/or infiltration of stormwater;
 - (c) All measures for the protection of water quality;
 - (d) The structural details and sizing for all components of the proposed drainage systems and stormwater management facilities;

- (e) Notes on drawings specifying materials to be used, construction specifications, and typical details and cross-sections;
 - (f) Analysis of existing and proposed hydrology with supporting calculations;
 - (g) Calculations supporting the estimate of stormwater treatment performance;
 - (h) Calculations supporting the design of infiltration practices, including design infiltration rates, estimated dewatering times, and mounding analyses, where applicable;
- (14) Stormwater runoff shall be calculated using latest Northeast Regional Climate Center (NRCC) extreme precipitation amounts for recurrence intervals (storm events) 2-, 10-, 25-, 50- and 100-year frequencies;
- (15) An Erosion and Sediment Control Plan as detailed in Section 6.0 of this Article of these Rules and Regulations;
- (16) An Operation and Maintenance Plan as detailed in Section 7.0 of this Article of these Rules and Regulations;
- (17) Documents must be stamped and certified by a qualified P.E. registered in Massachusetts; and
- (18) Any other information requested by the Department of Public Works or Reviewing Agent.
- 5.3. Stormwater Management Standards. Projects shall meet the Massachusetts DEP Stormwater Management Standards, as amended, which are as follows:
- (1) No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth of Massachusetts.
 - (2) The design of treatment and infiltration practices should follow the guidance in Volume 2 of the Massachusetts Stormwater Handbook, as amended, or other federally or State approved BMP design guidance.
 - (3) Stormwater management systems on new development sites shall be designed to:
 - (a) Not allow new stormwater conveyances to discharge untreated stormwater in accordance with Massachusetts Stormwater Handbook Standard 1;
 - (b) Control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard 2;
 - (c) Recharge groundwater in accordance with Massachusetts Stormwater Handbook Standard 3;

- (d) Eliminate or reduce the discharge of pollutants from land uses with higher pollutant loads as defined in the Massachusetts Stormwater Handbook in accordance with Massachusetts Stormwater Handbook Standard 5;
 - (e) Protect Zone II or Interim Wellhead Protection Areas of public water supplies in accordance with Massachusetts Stormwater Handbook Standard 6;
 - (f) Implement long term maintenance practices in accordance with Massachusetts Stormwater Handbook Standard 9;
 - (g) Optimize stormwater BMPs for nitrogen and phosphorus removal to the maximum extent practicable; and
 - (h) Require that all stormwater management systems be designed to:
 - i. Retain the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the site AND/OR
 - ii. Remove 90% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious area AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or state approved BMP design guidance or performance standards (e.g. state stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
- (4) Stormwater management systems on redevelopment sites shall be designed to:
- (a) Not allow new stormwater conveyances to discharge untreated stormwater in accordance with Massachusetts Stormwater Handbook Standard 1;
 - (b) Control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard 2;
 - (c) Recharge groundwater in accordance with Massachusetts Stormwater Handbook Standard 3;
 - (d) Meet the pretreatment and structural best management practices requirements of Massachusetts Stormwater Standards 5 and 6;
 - (e) Optimize stormwater BMPs for nitrogen and phosphorus removal to the maximum extent practicable; and
 - (f) Require:
 - i. Retaining the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site AND/OR
 - ii. Removing 80% of the average annual post-construction load of Total Suspended Solids (TSS) generated from the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post-construction

impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1 where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or state approved BMP design guidance or performance standards (e.g. state stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.

- (5) Stormwater management systems on redevelopment sites may utilize offsite mitigation within the same USGS Hydrologic Unit Code (HUC) 10 as the redevelopment site to meet the equivalent retention or pollutant removal requirements in Section 5.3(4) of this Article of these Rules and Regulations.
- (6) Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from part Section 5.3(4)(a)-(e) of this Article of these Rules and Regulations. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the above requirements.

6.0 Erosion and Sediment Control Plan

6.1. The Stormwater Management Permit Application shall include submittal of an Erosion and Sediment Control Plan to the Department of Public Works. This Erosion and Sediment Control Plan shall contain sufficient information for the Department of Public Works, Reviewing Agent, or their designee about the nature and purpose of the proposed development, pertinent conditions of the site and adjacent areas, proposed erosion and sedimentation controls, and proposed control for other wastes on construction sites such as demolition debris, litter, and sanitary wastes to ensure they are not discharged to the MS4, drainage system, or waters of the United States or Commonwealth of Massachusetts. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements as follows:

- (1) Minimize total area of disturbance;
- (2) Sequence activities to minimize simultaneous areas of disturbance;
- (3) Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
- (4) Divert uncontaminated water around disturbed areas;

- (5) Maximize infiltration and groundwater recharge;
 - (6) Install, inspect, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
 - (7) Prevent off-site transport of sediment and wastes;
 - (8) Protect all storm drain inlets and armor all newly constructed outlets;
 - (9) Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
 - (10) Comply with applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
 - (11) Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than fourteen (14) days after construction activity has temporarily or permanently ceased on that portion of the site;
 - (12) Properly manage on-site construction waste and materials;
 - (13) Stabilize construction site entrances and exits and prevent off-site vehicle tracking of sediments; and
 - (14) Ensure that any stormwater BMP (for post-construction stormwater management) installed during construction will be protected from compaction, siltation, and erosion or will be restored or replaced such that the BMP will be capable of functioning as designed in accordance with these rules and regulations.
- 6.2. The content of the Erosion and Sediment Control Plan shall contain the following information:
- (1) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing this plan;
 - (2) Title, date, north arrow, names of abutters, scale, legend, and locus map;
 - (3) Location and description of natural features including:
 - (a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most

- recent Flood Insurance Rate Map, or as calculated by a qualified P.E. for areas not assessed on these maps;
- (b) Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities; and
 - (c) Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife, and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.
- (4) Lines of existing abutting streets showing drainage and driveway locations and curb cuts, including immediately downstream of the project;
 - (5) Existing soils, volume and nature of imported soil materials;
 - (6) Topographical features including existing and proposed contours at intervals no greater than one (1) feet with spot elevations provided when needed;
 - (7) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;
 - (8) Drainage patterns and approximate slopes anticipated after major grading activities;
 - (9) Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
 - (10) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
 - (11) Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
 - (12) A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (13) A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;

- (14) A description of how the project owner will inspect the site during the course of construction to monitor the management of stormwater in accordance with applicable town, state, and federal regulations;
- (15) Plans must be stamped and certified by a qualified P.E. registered in Massachusetts or a CPESC; and
- (16) Such other information as is required by the Department of Public Works or Reviewing Agent.

7.0 Operation and Maintenance Plan

7.1. The Stormwater Management Permit Application shall include a submittal of Operation and Maintenance Plan (O&M Plan) to the Department of Public Works or Reviewing Agent. This O&M Plan shall be designed to ensure compliance with the Stormwater Management Permit, these rules and regulations, and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Department of Public Works or Reviewing Agent shall make the final decision of what maintenance option is appropriate in a given situation. The Department of Public Works, Reviewing Agent, or their designee will consider natural features, proximity of the site to MS4 infrastructure, proximity of the site to waterbodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The O&M Plan shall remain on file with the Department of Public Works and shall be an ongoing requirement. The O&M Plan shall include:

- (1) The name(s) of the owner(s) of all components of the system;
- (2) Maintenance agreements that specify:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance
 - (b) The person(s) responsible for financing maintenance and emergency repairs.
 - (c) A Maintenance Schedule that includes routine inspection along with routine and non-routine maintenance tasks for each BMP.
 - (d) A list of easements, if applicable, with the purpose and location of each.
 - (e) The signature(s) of the owner(s).
 - (f) Estimated operation and maintenance budget.
 - (g) The responsible party shall:
 - i. Maintain a log of all operation and maintenance activities for the last three years including inspections, repair, replacement, and disposal (the log shall indicate the type of material and the disposal location);

- ii. Make this log available to the Department of Public Works, Reviewing Agent, or their designee and the Commonwealth of Massachusetts upon request; and
 - iii. Allow DEP and the Reviewing Agent or their designee to inspect each BMP to determine whether the responsible party is implementing the Operation and Maintenance Plan.
 - (3) Stormwater Management Easement(s).
 - (a) Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - i. Access for facility inspections and maintenance;
 - ii. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and
 - iii. Direct maintenance access by heavy equipment to structures requiring regular cleanout.
 - (b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
 - (c) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Department of Public Works or Reviewing Agent.
 - (d) Easements shall be recorded by the Owner with the Barnstable County Registry of Deeds prior to issuance of a Certificate of Completion.
 - (4) Changes to Operation and Maintenance Plans.
 - (a) The owner(s) of the stormwater management system must notify the Department of Public Works of changes in ownership or assignment of financial responsibility.
 - (b) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of these rules and regulations by mutual agreement of the Department of Public Works or Reviewing Agent, and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility during future years.
- 7.2. Stormwater infrastructure shall be privately owned, inspected and maintained per the Operation and Maintenance procedures approved for the project. Inspection and maintenance logs shall be provided to the Department of Public Works on a yearly basis by final day in June for the Town to use in preparation of its annual report to the US EPA as part of the NPDES MS4 Permit requirements.
- 7.3. Landowner shall provide the Department of Public Works an annual report prepared and stamped by a Massachusetts Licensed Professional Engineer documenting and certifying performance of required maintenance and providing an assessment of overall system performance.

- 7.4. The O&M Plan shall include procedures for using dedicated funds, establishing an escrow account, and/or developing a maintenance contract, if determined appropriate to ensure adequate long-term maintenance.
- 7.5. Stormwater Management operation and maintenance duties shall be recorded with the deed for each lot in a subdivision. The applicant may elect to setup a home owner's association (HOA) or other means to ensure all BMPs are inspected and maintained as required.
- 7.6. Long-term operators responsible for O&M Plan implementation shall submit an annual report to the Department of Public Works documenting all inspection and maintenance completed on the stormwater system.

8.0 Site Inspections and Final Reports

- 8.1. Pre-Construction Meeting. Prior to starting clearing, excavation, construction, or disturbance of land, the Applicant, the Applicant's technical representative, the general contractor, or any other person with authority to make changes to the project, shall meet with the Department of Public Works or Reviewing Agent to review the permitted Stormwater Management, Erosion and Sediment Control, and Operation and Maintenance Plans and their implementation.
- 8.2. Permittee Erosion and Sediment Control Inspections. The permittee shall conduct and document inspections of all erosion and sediment control measures no less than weekly or as specified in the Stormwater Management Permit, and prior to and following anticipated storm events. The purpose of such inspections is to determine the overall effectiveness of the erosion and sediment control plan, and the need for maintenance or additional control measures. The permittee shall submit monthly erosion and sediment control reports to the Department of Public Works in a format approved by the Department of Public Works.
- 8.3. Routine Inspections. Routine inspections shall be performed as follows:
 - (1) Initial Site Inspection: prior to approval of any permit/plan;
 - (2) Erosion and Sediment Control Inspection: to ensure erosion and sediment control measures are in place and stabilized, and to ensure erosion control practices are in accordance with the filed plan.
 - (3) Site Clearing has been substantially completed;
 - (4) Rough Grading has been substantially completed;
 - (5) Final Grading has been substantially completed;

- (6) Bury Inspections: prior to backfilling of any underground drainage or stormwater structures;
 - (7) Close of the Construction Season;
 - (8) Landscaping (permanent stabilization); and
 - (9) Final Inspection. After the stormwater management system has been constructed, and before any surety is released, the Applicant must submit a record as-built plan detailing the actual stormwater management system as installed. Such plans shall show compliance with the final approved plans by the Department of Public Works. The Department of Public Works, Reviewing Agent, or their designee shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate, he/she shall so report to Department of Public Works which will issue a Certificate of Completion.
- 8.4. Inspector Qualifications. Inspections shall be performed by an independent third-party registered Professional Engineer or CPESC. Alternatively, inspections shall be performed by a qualified employee of the Town of Falmouth.
- 8.5. Final Reports. Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) to the Department of Public Works from a P.E. or CPESC. As-built drawings shall be submitted no later than one year after completion of construction projects. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post-construction stormwater management). The report shall certify that all permitted construction, plans, and approved changes and modifications, were completed in accordance with the conditions of the approved Stormwater Management Permit. Any discrepancies should be noted in the report.

If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act the Town of Falmouth may use the surety bond to complete the work. Examples of inadequacy include but are not limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins or other structural BMPs.

9.0 Certification of Completion

The Department of Public Works will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the Stormwater Management Permit has been satisfactorily completed in conformance with

these rules and regulations. The Department of Public Works or Reviewing Agent may, in addition to certifying satisfactory completion of the project, require ongoing maintenance procedures as outlined O&M Plan and/or work deemed necessary by the Department of Public Works or Reviewing Agent.

10.0 Waivers and Provisions for Relief

10.1. The Department of Public Works or Reviewing Agent may waive strict compliance with any requirement of this Article promulgated hereunder, where:

- (1) Such action is allowed by federal, state and local statutes and/or regulations;
- (2) It is in the public interest;
- (3) A public safety issue exists; and/or
- (4) It is consistent with the purpose and intent of this Article.

10.2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Article does not further the purposes or objectives of this Article. The Department of Public Works or Reviewing Agent may require documentation to be submitted and stamped by a qualified P.E. registered in Massachusetts or a Certified Professional in Erosion and Sediment Control (CPESC).

11.0 Surety

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

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