

Chapter 159

STORMWATER MANAGEMENT

GENERAL REFERENCES

Groundwater protection -- See Ch. 107.	Wetlands protection -- See Ch. 191.
Hazardous waste -- See Ch. 113.	Zoning -- See Ch. 191.
Streets and sidewalks -- See Ch. 162.	Conservation Commission -- See Ch. 287.
Water -- See Ch. 188.	

§ 159-1. Objectives.

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Stoughton's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The harmful impacts of soil erosion and sedimentation are the impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; flooding; and overloading or clogging of municipal catch basins and storm drainage systems.
- D. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.
- E. The objectives of this bylaw are:
 - (1) To prevent pollutants from entering Stoughton's municipal separate storm sewer system (MS4);
 - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
 - (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 bylaw through inspection, monitoring, and enforcement;
- (6) To require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
- (7) To promote infiltration and the recharge of groundwater;
- (8) 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;
- (9) To require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- (10) To require practices to control the flow of stormwater from new and redeveloped sites into the Stoughton storm drainage system in order to prevent flooding and erosion;
- (11) To protect groundwater and surface water from degradation;
- (12) To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed.

§ 159-2. Definitions.

For the purposes of this bylaw, the following shall mean:

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

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

ALTERATION OF DRAINAGE CHARACTERISTICS — Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the commonwealth or the federal government to the extent permitted by law, requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY — The Stoughton Board of Selectmen, acting as Drain Commissioners (hereafter the Board), its employees or agents designated to enforce this bylaw.

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

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.

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

CLEARING — Any activity that removes the vegetative surface cover.

CONSTRUCTION AND WASTE MATERIALS — Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste, at a construction site that may adversely impact water quality.

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

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

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

EROSION — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN — A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a certified professional in erosion and sediment control (CPESC) which includes best management practices or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction-related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS — Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

GROUNDWATER — Water beneath the surface of the ground.

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 this bylaw.

ILLICIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 157-7. 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 fire-fighting activities exempted pursuant to § 159-7D of this bylaw.

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

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

MASSACHUSETTS ENDANGERED SPECIES ACT — MGL c. 131A and its implementing regulations at 321 CMR 10.00 which prohibit the taking of any rare plant or animal species listed as endangered, threatened, or of special concern.

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

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 Stoughton.

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

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

OPERATION AND MAINTENANCE PLAN — A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

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

OUTSTANDING RESOURCE WATERS (ORWs) — Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00)¹ and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER — A person with a legal or equitable interest in property.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

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

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

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;

1. Editor's Note: The Massachusetts Surface Water Quality Standards.

J. Construction wastes and residues; and

K. Any noxious or offensive matter of any kind.

PRECONSTRUCTION — All activity in preparation for construction.

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

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.

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

REDEVELOPMENT — Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

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

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

SEDIMENTATION — The process or act of deposition of sediment.

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

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

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

STORMWATER — Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN — A plan required as part of the application for a Stormwater Management Permit. See § 159-9.

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

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

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately

or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

TSS — Total suspended solids.

VERNAL POOLS — Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

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, by-product or waste product.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

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

WETLAND RESOURCE AREA — Areas specified in the Massachusetts Wetlands Protection Act MGL c. 131, § 40, and in the Town of Stoughton Wetlands Protection Bylaw.

WETLANDS — Tidal and nontidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

§ 159-3. Authority.

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

§ 159-4. Responsibility for administration.

The Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board.

§ 159-5. (Reserved)

§ 159-6. Regulations.

The Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 159-7. Discharges to the municipal storm drain system.

- A. Applicability. This bylaw shall apply to flows entering the municipally owned storm drainage system.
- B. Prohibited activities.
 - (1) Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the commonwealth.
 - (2) Illicit connections. No person shall construct, use, allow, maintain or continue any 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 Board.
- C. Exemptions.
 - (1) Discharge or flow resulting from fire-fighting activities.
 - (2) The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters 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) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
 - (i) Discharge from landscape irrigation or lawn watering;
 - (j) Water from individual residential car washing;
 - (k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - (l) Discharge from street sweeping;
 - (m) Dye testing, provided verbal notification is given to the Board 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; and
 - (o) Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.
- D. Emergency suspension of storm drainage system access. The Board 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 authorized enforcement agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- E. 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, 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 municipal Fire and Police Departments. In the event of a release of nonhazardous material, the reporting person shall notify the authorized

enforcement agency no later than the next business day. The reporting person shall provide to the authorized enforcement agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

- F. Transitional provisions. Residential property owners shall have 30 days from the effective date of the bylaw to comply with its provisions, provided good cause is shown for the failure to comply with the bylaw during that period.

§ 159-8. Stormwater management and land disturbance.

A. Applicability.

- (1) This bylaw shall apply to all activities that result in disturbance of one or more acres of land that drains to the municipal separate storm sewer system.
- (2) Except as authorized by the Board in a land disturbance permit or as otherwise provided in this bylaw, no person shall perform any activity that results in disturbance of an acre or more of land. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4, are exempt. In addition, as authorized in the Phase II small MS4 general permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an order of conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

B. Responsibility for administration.

- (1) The Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its employees or agents.
- (2) Waiver. The Board may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:
 - (a) Such action is allowed by federal, state and local statutes and/or regulations;
 - (b) Is in the public interest; and
 - (c) Is not inconsistent with the purpose and intent of this bylaw.

- (3) Rules and regulations. The Board may adopt and periodically amend rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

C. Permits and procedures.

- (1) Application. A completed application for a land disturbance permit shall be filed with the Board. A permit must be obtained prior to the commencement of land-disturbing activity that may result in the disturbance of an area of one acre or more. The land disturbance permit application package shall follow the procedures outlined in the Site Plan Review Bylaw (available at the Stoughton Engineering Department).
- (2) Entry. Filing an application for a permit grants the Board or its agent permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- (3) Other boards. The Board shall notify the Town Clerk of receipt of the application and shall give one copy of the application package to each of the other relevant boards. The submission of a site plan review application shall be considered as a valid submission under this bylaw.
- (4) Public hearing. The public hearing required in the Site Plan Review Bylaw shall be considered sufficient satisfaction of this requirement. In the event the proposed project does not require site plan review, the Board shall hold a public hearing within 21 days of the receipt of a complete application and take final action within 21 days from the time of closure of the public hearing, unless such time is extended by agreement between the applicant and the Board. Notice of the public hearing shall be given by publication and by first-class mailing to abutters at least seven days prior to the hearing. The Board shall make the application available for inspection by the public during business hours at the Town Hall, 10 Pearl Street.
- (5) Information requests. The applicant shall submit all additional information requested by the Board to issue a decision on the application.
- (6) Action by the Board. The Board may:
 - (a) Approve the land disturbance permit application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this bylaw;
 - (b) Approve the land disturbance permit application and issue a permit with conditions, modifications or restrictions that

the Board determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this bylaw;

- (c) Disapprove the land disturbance permit application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this bylaw.
- (7) Failure of the Board to take final action. Failure of the Board to take final action upon an application within the time specified above shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without the Board action, the land disturbance permit shall be issued by the Board.
- (8) Fee structure. Each application must be accompanied by the appropriate application fee as established by the Board. Applicants shall pay review fees as determined by the Board sufficient to cover any expenses connected with the public hearing and review of the land disturbance permit application before the review process commences. The Board is authorized to retain a registered professional engineer or other professional consultant to advise the Board on any or all aspects of the application.
- (9) Project changes. The permittee, or their agent, must notify the Board in writing of any change or alteration of a land-disturbing activity authorized in a land disturbance permit before any change or alteration occurs. If the Board determines that the change or alteration is significant, based on the design requirements listed in § 159-8C(10)(b) and accepted construction practices, the Board may require that an amended land disturbance permit application be filed and a public hearing held. If any change or alteration from the land disturbance permit occurs during any land-disturbing activities, the Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.
- (10) Erosion and sediment control plan.
 - (a) The erosion and sediment control plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Subsection C(10)(b) below.
 - (b) The design requirements of the erosion and sediment control plan are:

- [1] Minimize total area of disturbance;
 - [2] Sequence activities to minimize simultaneous areas of disturbance;
 - [3] Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
 - [4] Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
 - [5] Divert uncontaminated water around disturbed areas;
 - [6] Maximize groundwater recharge;
 - [7] Install and maintain all erosion and sediment control measures in accordance with the manufacturer's specifications and good engineering practices;
 - [8] Prevent off-site transport of sediment;
 - [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); comply with applicable federal, state and local laws and regulations, including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
 - [10] Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species from the proposed activities;
 - [11] Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
 - [12] Properly manage on-site construction and waste materials; and
 - [13] Prevent off-site vehicle tracking of sediments.
- (11) Erosion and sediment control plan content. The plan shall contain the information required by the Site Plan Review Bylaw.
- (12) Inspection and site supervision.

- (a) Preconstruction meeting. Prior to starting clearing, excavation, construction, or land-disturbing activity the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project shall meet with the Board to review the permitted plans and their implementation.
- (b) Board inspection. The Board or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Board at least two working days before each of the following events:
 - [1] Erosion and sediment control measures are in place and stabilized;
 - [2] Site clearing has been substantially completed;
 - [3] Rough grading has been substantially completed;
 - [4] Final grading has been substantially completed;
 - [5] Close of the construction season; and
 - [6] Final landscaping (permanent stabilization) and project final completion.
- (c) Permittee inspections. The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly, or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Board or designated agent in a format approved by the Board.
- (d) Access permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary to determine compliance with the permit.

- (13) Surety. the Board may require the permittee to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel and be in an amount deemed sufficient by the Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Board has received the final report as required by § 159-8C(14) and issued a certificate of completion.
- (14) Final reports. Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a professional engineer (PE), surveyor, or certified professional in erosion and sediment control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.
- (15) Certificate of completion. The issuing authority will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

§ 159-9. Postconstruction stormwater management of new developments and redevelopments.

- A. Applicability. No person may undertake a construction activity, including clearing, grading and excavation, that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Stoughton municipal separate storm sewer system without a permit from the Board. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.
- B. Exemptions.
 - (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.4;
 - (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) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
- (5) As authorized in the Phase II small MS4 general permit for Massachusetts, stormwater discharges resulting from the activities identified in § 159-8A that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an order of conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

C. Permits and procedure.

- (1) The application for a stormwater management permit shall consist of submittal of a stormwater management plan to the Board. This stormwater management plan shall contain sufficient information for the Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The plan shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Subsection C(2) of this section and DEP Stormwater Management Handbook Volumes I and II. The stormwater management plan shall fully describe the project in drawings, and narrative. It shall represent as-built conditions on the site being permitted and shall contain the following information:
 - (a) A locus map;
 - (b) The existing zoning and land use at the site;
 - (c) The location(s) of existing easements;
 - (d) The location of existing utilities;
 - (e) The site's final topography with contours at two-foot intervals;
 - (f) The site hydrology;
 - (g) A description and delineation of existing stormwater conveyances, impoundments, and wetlands on and adjacent to the site or into which stormwater flows;
 - (h) A delineation of one-hundred-year floodplains, if applicable;
 - (i) The existing vegetation and ground surfaces with runoff coefficients;
 - (j) A drainage area map showing postconstruction watershed boundaries, drainage area and stormwater flow paths;
 - (k) A description and drawings of all components of the drainage system, including:

- [1] Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - [2] All measures for the detention, retention or infiltration of water;
 - [3] All measures for the protection of water quality;
 - [4] The structural details for all components of the proposed drainage systems and stormwater management facilities;
 - [5] Notes on drawings specifying materials used, construction specifications, and typicals.
- (l) Location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
 - (m) A maintenance schedule for the on-site drainage facilities;
 - (n) Any other information requested by the Board.
- (2) Standards.
- (a) Projects shall meet the standards of the Massachusetts Stormwater Management Policy, which currently 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.
 - [2] Stormwater management systems must be designed so that postdevelopment peak discharge rates do not exceed predevelopment peak discharge rates.
 - [3] Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the postdevelopment site should approximate the annual recharge rate from the predevelopment or existing site conditions, based on soil types.
 - [4] For new development, stormwater management systems must be designed to remove 80% of the average annual load (postdevelopment conditions) of total suspended solids (TSS). It is presumed that this standard is met when:
 - [a] Suitable nonstructural practices for source control and pollution prevention are implemented;
 - [b] Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and

- [c] Stormwater management BMPs are maintained as designed.
 - [5] Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management Volume I: Stormwater Policy Handbook). The use of infiltration practices without pretreatment is prohibited.
 - [6] Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see Stormwater Management Volume I: Stormwater Policy Handbook). Critical areas are outstanding resource waters (ORWs), shellfish beds, swimming beaches, cold-water fisheries and recharge areas for public water supplies.
 - [7] Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.
 - [8] Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
 - [9] All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.
 - (b) When one or more of the standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.
- D. Operation and maintenance plans. An operation and maintenance plan (O&M plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the permit, this bylaw 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 Board shall make the final decision of what maintenance option is appropriate in a given situation. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The operation and maintenance plan shall remain on file with the Board, attached to the stormwater management plan, and shall be an ongoing requirement. The O&M Plan shall include:
- (1) The name(s) of the owner(s) for all components of the system.

- (2) Maintenance agreements that specify:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance.
 - (b) The person(s) responsible for financing maintenance and emergency repairs.
 - (c) A maintenance schedule for all drainage structures, including swales and ponds.
 - (d) A list of easements with the purpose and location of each.
 - (e) The signature(s) of the owner(s).
- (3) Stormwater management easement(s).
 - (a) Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - [1] Access for facility inspections and maintenance.
 - [2] Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the one-hundred-year storm event.
 - [3] 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 Board.
 - (d) Easements shall be recorded with the Norfolk County Registry of Deeds prior to issuance of a certificate of completion by the Board.
- E. Changes to operation and maintenance plans.
 - (1) The owner(s) of the stormwater management system must notify the Board of changes in ownership or assignment of financial responsibility.
 - (2) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the Board and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.
- F. Surety. The Board may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, irrevocable

letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel and be in an amount deemed sufficient by the Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Board has received the final inspection report as required by § 159-8C(14) and issued a certificate of completion.

G. Inspections. The Board shall inspect the project site at the following stages:

- (1) Initial site inspection: prior to approval of any plan.
- (2) Erosion control inspection: to ensure erosion control practices are in accord with the filed plan.
- (3) Bury inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
- (4) Final inspection.
 - (a) After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The Board shall inspect the system to confirm its as-built features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the Board, which will issue a certificate of completion.
 - (b) If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the stormwater management plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act, the Town may use the surety bond to complete the work. Examples of inadequacy shall be limited to errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

H. Waivers.

- (1) The Board may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where;
 - (a) Such action is allowed by federal, state and local statutes and/or regulations,
 - (b) Is in the public interest; and

- (c) Is not inconsistent with the purpose and intent of this bylaw.
 - (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 the bylaw does not further the purposes or objectives of this bylaw.
 - (3) All waiver requests shall be discussed and voted on at the public hearing for the project.
 - (4) If, in the Board's opinion, additional time or information is required for review of a waiver request, the Board may continue a hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance or fails to provide requested information, the waiver request shall be denied.
- I. Certificate of completion. The Board will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.
 - J. Town acceptance of drainage and stormwater structures and systems. When a developer requests the Town to accept a drainage system, stormwater management system, and/or a detention basin for a subdivision of three or more housing units, or for a commercial/industrial land development of one acre or larger, the Town shall have the option to refuse or accept it. If the Town accepts the basin or system, a contribution to the Stormwater Management Revolving Fund shall be made which shall be equal to \$1,000 for each drainage/stormwater management system and \$2,500 for every acre or portion thereof in the detention basins to compensate the Town for ongoing maintenance. The minimum contribution for any system or basin, regardless of size, shall be \$5,000.

§ 159-10. Enforcement.

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

- A. Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders.

- (1) The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
 - (a) Elimination of illicit connections or discharges to the MS4;
 - (b) Performance of monitoring, analyses, and reporting;
 - (c) That unlawful discharges, practices, or operations shall cease and desist; and
 - (d) Remediation of contamination in connection therewith.
 - (2) If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
 - (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the appropriations incurred by the Town, including administrative appropriations. The violator or property owner may file a written protest objecting to the amount or basis of appropriations with the Board within 30 days of receipt of the notification of the appropriations incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Board affirming or reducing the appropriations, or from a final decision of a court of competent jurisdiction, the appropriations shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said appropriations. Interest shall begin to accrue on any unpaid appropriations at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the appropriations first become due.
- C. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a fine of not more than \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Noncriminal disposition. As an alternative to criminal prosecution, the Town of Stoughton may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D. The Board, or its authorized agent, shall be the enforcing person. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- E. Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.
- F. Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.
- G. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 159-11. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.