



TOWN OF UXBRIDGE
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STORMWATER COMMITTEE MEETING MINUTES

Date of Meeting: October 3, 2011 **Time:** 2:00 p.m.
Place of Meeting: DPW Office, 147 Hecla Street, Uxbridge, MA
List of Attendees: Benn Sherman, Michael Potaski, Stephen O'Connell, Joseph Leonardo
Others in Attendance: None

A. CALL TO ORDER

The meeting was called to order at 2:00 p.m.

B. OLD BUSINESS

A. Review and Discuss Stormwater Bylaw Materials

The Committee reviewed the language from the Town of Douglas, Spencer and Bellingham. Other bylaw materials were being obtained by the Committee. Discussion continued regarding the bylaw material. **Action:** Continue review of materials. Michael Potaski will compile information for review by the committee.

B. NEW BUSINESS


C. ADJOURNMENT

Motion by James Smith to adjourn the meeting at 3:35 p.m. Seconded by Stephen O'Connell, the motion carried unanimously.

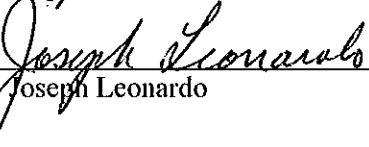
Next Stormwater Committee Meeting is scheduled for **October 17, 2011, at 2:00 p.m.** at the DPW Office at 147 Hecla Street.

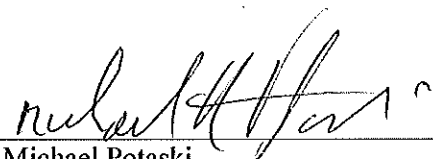
Minutes respectfully submitted by Benn Sherman

Minutes approved by Stormwater Committee


Benn Sherman, Chair


Stephen O'Connell


Joseph Leonardo


Michael Potaski

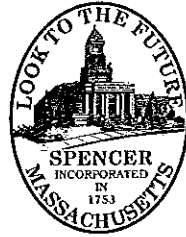
James Smith

01/09/2012
Date Approved

TOWN OF SPENCER
Office of Development & Inspectional Services

*Planning Board
Zoning Board of Appeals
Conservation Commission
Board of Health*

*Town Planner
Inspector of Buildings
Health Agent
Wetland/Soil Specialist*



*Memorial Town Hall
157 Main Street
Spencer, MA 01562
Tel: 508-885-7500 ext. 180
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Spencer Stormwater Regulations
Adopted by the Spencer Planning Board 12/20/2011

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APPENDIX A: STORMWATER BYLAW

1. PURPOSE

The purpose of these Stormwater Regulations is to establish procedures for conducting the business of the Planning Board under its jurisdiction as a permit granting authority for the Spencer Stormwater Bylaw (Spencer General Bylaws, Article 14). [See Appendix A]

2. APPLICABILITY

These Regulations apply to new development and redevelopment that is not exempt under the Stormwater Bylaw. Projects and/or activities that are not exempt must obtain a permit from the Planning Board or its agent (**Stormwater Authority**). The thresholds for a Stormwater Permit are summarized as follows:

Category	Threshold*
Major Project	Land Conversion Activity Equal to or Greater than 1 Acre:
Minor Project	Land Conversion Activity Less than One Acre Meeting 2 of the 3 following conditions:
	1. located within 100 feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component discharging to any lake, pond, river, stream, or wetland;
	2. will occur on or result in a slope of 15% or greater; or
	3. disturbs greater than 10,000 square feet in area.

* Exemptions are listed in the Stormwater Bylaw included as Appendix A

These regulations do not replace provisions of the Spencer Flood Plain District, Water Resources Protection Overlay District, and Wetland Bylaw, and the regulations adopted to administer those bylaws.

3. PERMIT PROCEDURES

Projects requiring a permit shall submit the materials specified in Section 3 (Permit Procedures) and Section 4 (Application Submittal Requirements), and meet the stormwater management criteria specified in Section 5 (Design Standards) and Section 6 (Post-Development Stormwater Management Criteria). Filing an application for a permit grants the Stormwater Authority permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit. The Stormwater Authority is authorized to retain a Registered Engineer or other professional consultant to advise on any aspect of the permit application at the applicant's expense.

A. Projects Requiring a Wetland Application from the Conservation Commission:

All projects requiring a Stormwater Permit that also require a wetland permit application with the Conservation Commission shall be processed and reviewed concurrently with the wetland permit application and the Stormwater Permit Decision may be incorporated into the Conservation Commission's written Decision/Order of Conditions. The procedural requirements, including plan submittal requirements, deadlines, plan distribution, fees, and notification requirements shall follow the requirements for wetland permits, except for Minor Applications (see Section 5, below) or where specified otherwise in these regulations.

B. Projects Requiring Site Plan Review or Subdivision Approval from the Planning Board (but not Wetland Application):

All projects requiring a Stormwater Permit that also require Site Plan Review or Definitive Subdivision Approval by the Planning Board shall be processed and reviewed concurrently with the Site Plan or Definitive Subdivision application and the Stormwater Permit Decision may be incorporated into the Planning Board's Decision/Order of Conditions. The procedural requirements, including plan submittal requirements, deadlines, plan distribution, fees, and notification requirements shall follow the requirements for Site Plan Review or Definitive Subdivision Approval as applicable, except for Minor Applications (see Section 5.0, below) or where specified otherwise in these regulations. [Note: In the rare instance where both Site Plan Review and Definitive Subdivision Approval are required for the same project, the fee and deadline requirements shall follow the requirements for Definitive Subdivision Approval.]

C. Other Projects:

Any project subject to the Stormwater Bylaw, but not the Wetlands Protection Act, Site Plan Review, or Definitive Subdivision Approval shall follow the procedural requirements specified below:

Project Type	Designated Permit Entity	Procedure
Driveways	Utilities and Facilities	Driveway Permit*
Single-Family Homes	Utilities and Facilities	Driveway Permit*
2 or 3 family	Utilities and Facilities	Driveway Permit*
Earth Removal	Zoning Board of Appeals	Earth Removal Special Permit
Other	Planning Board	Minor Site Plan Review**

* Spencer Utilities and Facilities Office shall have 60 days to act on applications for Major Projects.

** The Planning Board shall have 35 days to act on Minor Projects; Major project shall follow standard Minor Site Plan Review procedural requirements

The Town of Spencer may adopt fees for such projects.

D. Action:

The Stormwater Authority may take one of the following actions for a permit application: "approval", "approval with conditions", "disapproval", or "withdrawal without prejudice". A written report of the decision shall be made. The failure of the Stormwater Authority to take action within the applicable deadline shall be deemed approval of that application. Applicants shall not receive any building or land development permits until the Stormwater Permit is issued. The project shall begin within one year after issuance of the Stormwater Permit. If the project does not begin within one year, unless there is an extension granted, and the Stormwater Authority finds that the approved Stormwater Management Plan is no

longer valid, the applicant shall submit a modified Plan that requires approval prior to the commencement of land-disturbing activities.

E. Modification:

The permittee must notify the Stormwater Authority in writing before any change or alteration is made to a Stormwater Management Permit or approved Operation and Maintenance Plan. If the change or alteration is significant, the Stormwater Authority may require that an amended application be filed. The owner(s) of the stormwater management system must notify the Stormwater Authority of changes in ownership or assignment of financial responsibility. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the Stormwater Authority and the Responsible Parties. Amendments must be in writing and signed by all responsible parties.

F. Project Completion:

The permittee shall submit as-built drawings of all stormwater controls, which shall show any deviations from the approved plans and be certified by a Registered Professional Engineer, including but not limited to all pipes; structures; controls; inlet, outlet and rim invert elevations; and any other as-built requirements specified in the Stormwater Permit.

4. MAJOR PROJECTS APPLICATION SUBMITTAL REQUIREMENTS:

In addition to the plans and information normally required for Wetland Permits, Site Plan Review or Definitive Subdivision Approval, applicants shall submit the information described in this Section.

A. Stormwater Management Plan:

A Stormwater Management Plan submitted with the permit application shall contain sufficient information to evaluate the environmental impact and effectiveness of the measures proposed for reducing adverse impacts from stormwater runoff. This plan shall comply with the criteria established in these regulations and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts. The Plan shall fully describe the project in drawings, narrative, and calculations. At a minimum, the Stormwater Management Plan shall include:

[Note: many of these items are already required for Site Plan Review and/or Subdivision plans]

1. Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;
2. A locus map;
3. The existing zoning, and land use at the site;
4. The proposed land use;
5. The location(s) of existing and proposed easements;
6. The location of existing and proposed utilities;

7. The site's existing & proposed topography with contours at 2 foot intervals,
8. A delineation of 100-year flood plains, if applicable;
9. The existing site hydrology;
10. A depiction of all areas of cut and fill, and soil disturbance;
11. A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
12. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
13. The existing and proposed vegetation and ground surfaces with runoff coefficients for each;
14. Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice;
15. A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows;
16. A description and drawings of all components of the proposed stormwater management system including:
 - a. Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - b. All measures for the detention, retention or infiltration of water;
 - c. All measures for the protection of water quality;
 - d. The structural details for all components of the proposed drainage systems and stormwater management facilities;
 - e. Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations;
 - f. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
17. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Regulation. Such calculations shall include:
 - a. Description of the design storm frequency, intensity and duration;
 - b. Time of concentration;
 - c. Soil Runoff Curve Number (RCN) based on land use and soil hydrologic group;
 - d. Peak runoff rates and total runoff volumes for each watershed area;
 - e. Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed;
 - f. Infiltration rates, where applicable;
 - g. Culvert capacities;
 - h. Flow velocities;
 - i. Data on the increase in rate and volume of runoff for the specified design storms, and
 - j. Documentation of sources for all computation methods and field test results.

18. Post-Development downstream analysis if deemed necessary by the Stormwater Authority;
19. Soils Information from test pits performed at the location of proposed stormwater management facilities, including soil descriptions, depth to seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Registered Soil Evaluator, or a Massachusetts Registered Professional Engineer;
20. Erosion and Sediment Control Plan;
21. Identification of potential pollutant sources such as paint, pesticides, oil, or other toxic chemicals, etc.; and
22. Additional requirements as may be determined necessary by the Stormwater Authority.

B. Operation & Maintenance Plan

The maintenance plan shall ensure there is ongoing compliance with the permit and the Massachusetts Surface Water Quality Standards in all seasons and throughout the life of the system. All property owners are responsible for maintaining the proper operation of all permitted stormwater control features on their property. Stormwater structures shall be maintained to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards are met in all seasons and throughout the life of the system. The Operation & Maintenance (O&M) Plan shall remain on file with the Stormwater Authority, and 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. Record maintenance agreement
3. Stormwater Management Easement(s).
 - a. Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - access for facility inspections and maintenance,
 - preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
 - direct maintenance access by heavy equipment to structures requiring regular cleanout.
 - b. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Stormwater Authority.
 - c. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.

5. MINOR PROJECT APPLICATION SUBMITTAL REQUIREMENTS:

A. Projects requiring Wetland Permits, Site Plan Review, or Definitive Subdivision applications

In addition to standard submittal requirements for wetland permits, Site Plan Review, and/or Definitive Subdivision Applications, submit sufficient information to demonstrate compliance with DEP Stormwater Management requirements as may be requested and these Regulations.

B. Other:

Any other Minor Project subject to the Stormwater Bylaw, but not the Wetlands Protection Act, Site Plan Review, or Definitive Subdivision Approval shall submit the following:

1. For Single-Family Homes, 2 Family Homes, and Driveways not otherwise requiring Conservation Commission or Planning Board review, the applicant shall be required to follow the procedures as outlined below:
 - a. Submit an application to Utilities and Facilities Office (including a sketch plan) and description of the proposed project at least 21 days prior to commencement of site clearing or stockpiling activities;
 - b. Include measures to prevent the offsite discharge of sediment;
 - c. Construction materials (paints, glue, thinners, etc.) shall be managed so as not to pollute stormwater. Containers/materials shall be stored and disposed of properly;
 - d. Include other stormwater management measures as required by the Spencer Utilities and Facilities Office;
 - e. The erosion control system shall be inspected by the Utilities and Facilities Office prior to any further disturbances or alterations to the site. The applicant shall be responsible for maintaining and removing this system at project completion.
 - f. Provide additional stormwater-related information at the request of Utilities and Facilities Office or the Planning Board. This may include providing an engineered plan prepared and stamped by a Massachusetts Registered Professional Engineer or a Certified Professional in Erosion and Sediment Control evaluating existing drainage systems as required.
2. Other minor projects not otherwise requiring Conservation Commission or Planning Board review shall submit the information described in B.1 above to the Planning Board. The Planning Board shall have 35 days to act.

6. DESIGN STANDARDS

The following standards shall be applied in planning for stormwater management:

A. Best Management Practices

All measures in the plan shall meet, at a minimum, the Best Management Practices as set forth in the latest addition of the Massachusetts Department of Environmental Protection Stormwater Management Handbook (Massachusetts Stormwater Handbook).

B. Retention of Natural Vegetation

Whenever practical, natural vegetation shall be retained, protected and/or supplemented. The stripping of vegetation shall be done in a manner that minimizes soil erosion.

C. Erosion Control

1. Temporary erosion and sediment control measures shall be installed before any soil disturbance.
2. The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.
3. Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface areas shall be protected from sediment.
4. Off-site surface water and runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried through the project area without causing erosion. Integrity of downstream drainage systems shall be maintained.
5. All temporary erosion and sedimentation control measures shall be removed after final site stabilization. Stabilization measures such as hydroseeding or application of hay/mulch or soil netting shall be applied prior to removal of temporary erosion measures and inspected weekly until stabilization is complete. Temporary erosion control measures may be removed once stabilization of all site soils has been achieved and written authorization to do so has been provided by the Stormwater Authority. Trapped sediment shall be removed immediately with temporary erosion control methods and lawfully disposed of off-site. Other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty days.

D. Annual Recharge

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 post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.

E. Post-Development Runoff

Measures shall be taken to control the post-development peak rate of runoff and volume of runoff so that it does not exceed predevelopment runoff for the two-year, ten-year and one-hundred-year twenty-four-hour storm event as specified in the design criteria of the Massachusetts Stormwater Handbook. The drainage design may, at the discretion of the enforcing agent, incorporate the use of open space to minimize the change in volume of runoff in post-development.

F. Preservation of Natural Drainage Areas

Priority shall be given to preserving natural drainage systems, including perennial and intermittent streams, wetlands, soils and drainage ditches for conveyance of runoff entering and leaving the project area.

When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

7. POST-DEVELOPMENT STORMWATER MANAGEMENT CRITERIA

All projects shall comply with the Massachusetts Stormwater Management Policy and achieve the following performance standards:

A. No Untreated Discharges

Stormwater shall not be discharged directly to a wetland, local water body, municipal drainage system, or abutting property, without adequate treatment.

B. Channel Protection

The post-development peak discharge rate from the 2-year storm event shall be equal to the pre-development rate in order to prevent stream bank erosion and channel degradation.

C. Construction Disturbance

A sediment and erosion control plan shall show best management practices for site conditions, and minimize the area of the land disturbance.

D. Flood Protection

The post-development peak discharge rate for the 10-year storm event shall be equal to the pre-development rate in order to protect downstream property. The 100-year storm event shall be evaluated to demonstrate there will be no increased flooding impacts off-site.

E. Groundwater Recharge

Post-development recharge shall mimic pre-development conditions. Annual recharge rates shall be maintained by use of structural and non structural management practices. The stormwater runoff volume to be recharged shall be determined by methods in the latest version of the Massachusetts Stormwater Handbook.

F. Water Quality

Stormwater treatment shall be based on design criteria in the Massachusetts Stormwater Handbook, and shall remove at least 80% of total suspended solids (TSS).

G. Water Quality Volume

The volume for sizing a structural stormwater facility shall be designed according to criteria specified by the Massachusetts DEP Stormwater Management Standards.

H. Sensitive Areas

Stormwater discharges to swimming beaches, water supplies and other sensitive water resources may be subject to special criteria established by the Planning Board after conducting a public hearing in accordance with the Stormwater Bylaw.

I. Hotspots

Stormwater discharges from land uses with higher pollutant loadings, known as "hotspots", require treatment practices specified in the Massachusetts Stormwater Handbook.

J. Low Impact Design

Improved site design and nonstructural controls are encouraged to minimize use of structural stormwater controls. The applicant may request credit for site design practices that can reduce other requirements in these regulations. The Planning Board may adopt criteria for practices that qualify as low impact designs.

8. WAIVERS

The Stormwater Authority may waive strict compliance with these regulations if: such action is allowed by federal, state and local statutes; is in the public interest; and is consistent with the purpose of the Stormwater Bylaw. Any applicant may submit a written request for a waiver, accompanied by supporting information explaining how the waiver will comply with the purpose of the Stormwater Bylaw.

9. SURETY:

The Stormwater Authority may require the permittee to post a bond, cash, or other acceptable surety. The form of the bond shall be approved by the Town of Spencer, in an amount deemed sufficient to ensure that the work will be completed in accordance with the permit. A portion of the bond may be released as each phase of the project is completed in compliance with the permit, but the bond shall not be fully released until the Stormwater Authority has issued a Certificate of Completion.

10. CONSTRUCTION INSPECTIONS

A. Inspections

The Stormwater Authority may appoint an inspector, at the owner's expense, to perform routine inspections during construction, to determine compliance with conditions of the permit and to ascertain if the owner is maintaining water quality protection measures.

B. Notification

The applicant must notify the Stormwater Authority before starting a land disturbing activity. The applicant must also notify the Stormwater Authority before constructing the key components of the stormwater management system and shall coordinate with the Stormwater Authority to allow for timely inspections and construction reviews as determined necessary by the Stormwater Authority.

C. Reports

Inspections and written reports of the stormwater system construction shall be conducted by the applicant's professional engineer. The Stormwater Authority may also require inspections during construction by the Town or a professional engineer at the expense of the applicant. Written reports shall include: the inspection date and location; evaluation of compliance with the Stormwater Permit; any variations from approved specifications, or violations of the Stormwater Management Plan.

D. Inspection Schedule

At a minimum, inspections shall include: an initial site inspection prior to permit approval; inspection of site erosion controls; inspection of the stormwater system prior to backfilling of underground drainage or conveyance structures; and a final inspection before the surety is released or occupancy permit issued. The stormwater system shall be inspected at least twice a month and following any storm event of 0.5 inches or greater during construction. The Stormwater Authority will issue a Certificate of Completion following review of as-built drawings of all stormwater infrastructure certified by a Registered Professional Engineer.

E. System Inadequacy

If the system is found to be inadequate due to operational failure, even though built according

to the Stormwater Management Plan, the system shall be corrected by the applicant at the applicant's expense. If the applicant fails to act, the Stormwater Authority may use the surety bond to complete the work. If the system does not comply with the Plan, the applicant shall be notified in writing of the violation and the required corrective actions. A Stop Work Order shall be issued until any violations are corrected and all work previously completed has received approval by the Stormwater Authority.

11. CERTIFICATE OF COMPLETION

Upon completion, the applicant shall certify that the project is in accordance with plan specifications and shall provide inspections to adequately document compliance. All required easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a Certificate of Completion by the Stormwater Authority. The Stormwater Authority will issue a letter certifying completion upon its receipt and approval of the final inspection reports, and/or otherwise determining that all work was completed in conformance with these regulations.

12. POST-CONSTRUCTION INSPECTION AND MAINTENANCE

A. General Requirements

Structures and practices used to manage stormwater shall be inspected to ensure compliance with Operation and Maintenance Plan (O&M Plan) approved by the Stormwater Authority. The owner of the property, or other person in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, structures, vegetation, erosion controls, and other protective measures. Repairs and maintenance shall comply with the approved O&M Plan.

B. Inspection and Maintenance Schedule

At a minimum, inspections shall occur during the first year of operation and every three years thereafter. An agreement between the property owner and the Stormwater Authority shall be executed for privately-owned stormwater systems, which specifies the responsible party for conducting long-term inspections and maintenance. The agreement shall include a mechanism for cost of inspection and maintenance.

C. Reports

Inspection reports shall include: the date of the inspection; an evaluation of the condition of structures and practices used to manage stormwater; and a description of any needed maintenance.

D. Inspection Agreement

The inspection agreement shall allow the Stormwater Authority to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Stormwater Authority upon request (or as specified in the project approval), and shall retain those records for five years.

If a responsible person fails to meet the requirements of the inspection agreement, the Stormwater Authority may take action to restore a stormwater facility or practice after 30 days written notice. If the violation is an immediate threat to public health or public safety, 24 hours notice shall be sufficient prior to actions required to return the facility or practice to

proper working condition. The Stormwater Authority may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property.

13. ENFORCEMENT

A. Enforcement Options

The Stormwater Authority shall be responsible for enforcing the provisions of this chapter. To this end, they shall have the authority to seek any or all of the following remedies to enforce this chapter, its regulations and/or the terms and conditions of its permit:

1. Written notice of violation.
2. Injunctive relief in a court of appropriate jurisdiction.
3. Noncriminal disposition. Whoever violates any provision of this chapter or a regulation promulgated by the Stormwater Authority, a condition contained in a permit issued by the Planning Board, or its agent, the conditions of a notice of violation or the conditions on the cease and desist order may, in the discretion of the Stormwater Authority, be subject to the noncriminal procedure established pursuant to Spencer General Bylaws Article 11, Section 5.
4. Criminal prosecution for violation of any provision of this chapter, the permit and/or regulations promulgated by the Stormwater Authority. Any such violation shall be punished by a fine of \$300 for each offense. Each day on which such violation continues shall constitute a separate offense.
5. Issuance of a cease and desist order if the Stormwater Authority determines that conditions at the site are in violation of any of the requirements of this chapter, the Stormwater Bylaw or permit and that such violation is either an immediate threat to the environment, the public health or safety; or that the property owner has failed to take the corrective action(s) identified in a written notice of the violation issued under this chapter or has failed to take such corrective action within the time required in the notice of violation.
6. If the Stormwater Authority takes remedial action upon failure of the owner to abate or remediate, notice shall be given to the owner of the costs, including administrative costs, incurred by the Town. Said notice shall be sent within thirty (30) days of completion of all measures necessary to abate the violation or to perform remediation. The violator or owner shall also be notified that they may, within thirty (30) days of receipt of said notice, file an appeal in writing to the Board of Selectmen objecting to either the amount or basis of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal or within thirty (30) days following a decision by the board of Selectmen 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 M.G.L. c. 59, s. 57 after the thirty-first day at which the costs first become due.

B. Written Notice

The Stormwater Authority may issue a written notice of violation to any person whom it determined is in violation of any of the requirements of this chapter, the regulations enacted

by the Enforcing Agent or a permit and plan approved under this chapter. The notice of violation shall:

1. Specify the actions, conditions or omissions which create the violation
2. Identify the necessary corrective actions;
3. Specify the time within which the violations must be corrected;
4. Be served by certified mail upon the violator with a copy maintained in the records of Office of Development and Inspectional Services (ODIS)

14. SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of these Regulations shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

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Article 14
Stormwater Management Bylaw
(Added 5/7/2009, Art. 5)

Section 1. Purpose

- A. The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of land conversion activities. Increased and contaminated stormwater runoff associated with these activities may impair the water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater. The objectives of the Bylaw are to:
1. Establish an authority and controls for land conversion activities to protect and preserve water resources;
 2. Regulate land conversion activities to minimize changes to the natural hydrologic characteristics of the land;
 3. Require that the quality and quantity of stormwater runoff from land conversion activities is maintained;
 4. Prevent erosion and sedimentation from land conversion activities;
 5. Establish procedures for review, inspection, maintenance, and enforcement of this Bylaw;
 6. Comply with Federal and State laws relating to stormwater.

Section 2. Definitions

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

CLEARING: Any activity that removes or disturbs the vegetative surface cover.

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

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

IMPACT: Effect of a change in the quality or quantity of water at a particular location, system, or resource area.

LAND CONVERSION ACTIVITY: Any new development, redevelopment, clearing, or disturbance of land.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, and any other legal entity, its legal representatives, agents, or assigns.

REDEVELOPMENT: Any construction, alteration, or improvement that disturbs the ground surface (either natural or man-made materials) or increases the impervious area on previously developed sites.

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

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

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

SITE: The parcel of land being developed, or a designated planning area in which the land conversion act is located.

STORMWATER AUTHORITY: The Town of Spencer Planning Board. The Stormwater Authority is responsible for coordinating the review, approval, permit, and processes as defined in this Bylaw. Other Boards and/or departments may act for the Stormwater Authority as defined in the Stormwater Regulations adopted by the Planning Board.

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

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

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, and pursuant to the regulations of the Federal Clean Water Act, and as authorized by the residents of the Town of Spencer at Town Meeting, dated May 7, 2009.

Section 4. Applicability

- A. No person shall discharge anything other than runoff into the Town's stormwater collection system or roads.
- B. This Bylaw applies to any land conversion activity that disturbs greater than 1 acre in area.

- C. This Bylaw applies to any land conversion activity that is less than 1 acre in area if it meets 2 of the following 3 conditions: (1) located within 100 feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component discharging to any lake, pond, river, stream, or wetland; (2) will occur on or result in a slope of 15% or greater; or (3) disturbs greater than 10,000 square feet in area.

Section 5. Exemptions

- A. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations 310 CMR 10.04.
- B. Any emergency activity that is immediately necessary for the protection of life, property, or the environment, as determined by the Stormwater Authority; including emergency repairs to any stormwater management facility, or condition that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority.
- C. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.
- D. Non-stormwater discharges such as:
1. Flushing of lines that contain water.
 2. Landscape and lawn irrigation.
 3. Diverted flows from streams or wetlands.
 4. Rising ground waters.
 5. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)].
 6. Uncontaminated pumped ground water.
 7. Discharge from potable water sources except noncontact cooling water.
 8. Foundation perimeter and footing drains.
 9. Air conditioning condensation.
 10. Uncontaminated water from crawl space pumps.
 11. Individual resident car washing.
 12. De-chlorinated swimming pool discharges.
 13. Street wash water.
 14. Residential building wash waters, without detergents.
 15. Discharges or flows from fire fighting activities

Section 6. Administration

- A. Stormwater Authority. The Spencer Planning Board is designated as the Stormwater Authority. The Stormwater Authority shall administer, implement and enforce this Bylaw. The Stormwater Authority may designate Town Boards, including the Conservation Commission and the Board of Health, as its authorized agent.
- B. Stormwater Management Regulations. For the administration of the Bylaw, the Stormwater Authority may adopt and amend regulations relating to the procedures, terms, conditions, definitions, fees, surety, and enforcement.
- C. Waivers. The Stormwater Authority may waive strict compliance with this Bylaw if such action is allowed by Federal, State and local statutes, bylaws, and/or regulations; is in the public interest; and is consistent with the purposes of this Bylaw.
- D. Actions by the Stormwater Authority. The Stormwater Authority may take any of the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, or Disapproval.
- E. Appeals. Appeals made under this Bylaw shall be reviewable in a court of competent jurisdiction in an action filed within sixty (60) days thereof, in accordance with M.G.L. Ch 249 § 4.

Section 7. Enforcement

The Planning Board or its authorized agent shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater Regulations promulgated as permitted under Section 6 of this Bylaw.

Section 8. Severability

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

The Committee shall have jurisdiction over any public construction or reconstruction project that exceeds ten thousand dollars (\$10,000). Additionally, the Board of Selectmen may, in its sole discretion, place under the jurisdiction of the Committee any public construction or reconstruction project under ten thousand dollars (\$10,000) which the Board of Selectmen deems significant.

Section 5 – Interrelationships

The Committee shall serve in an advisory capacity to various Town entities, as follows:

A. Assist the board of selectmen to establish policies governing the selection of architects and designers, and to assure compliance with public bidding and procurement statutes and other requirements. The Committee shall provide project updates as requested by the Board of Selectmen, and at least annually. The Board of Selectmen shall award and execute all designer services contracts and construction contracts.

B Meet regularly with Executive Administrator to discuss ongoing projects and other tasks and to facilitate an orderly interface with municipal entities. The Executive Administrator shall provide clerical and professional assistance to the Committee. All solicitations for designer services and invitations for bids for construction shall be coordinated by the Executive Administrator as Chief Procurement Officer.

C. Meet regularly with other Town boards, committees, commissions, and officers to ensure that the Committee is fully apprised of the needs and requirements of those entities.

Section 6 – Meetings

The Committee shall meet as warranted by public construction projects.

Section 7 – Annual Report

The Committee shall make a report of its activities to be included in the Annual Town Report. (*Adopted at an Annual Town Meeting under Article 18 held on May 1, 2006 and approved by the Attorney General on August 28, 2006.)

ARTICLE 11: MUNICIPAL STORM DRAIN SYSTEM BYLAW

SECTION 1: PURPOSE

- 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 the town's water bodies

and groundwater, and to safeguard the public health, safety, welfare and the environment.

C. The objectives of this by-law are:

1. to prevent pollutants from entering the town'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 by-law through inspection, monitoring, and enforcement.

SECTION 2: DEFINITIONS

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

1. **AUTHORIZED ENFORCEMENT AGENCY:** The Douglas Conservation Commission (hereafter The Commission), its employees or agents designated to enforce this by-law.
2. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
3. **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
4. **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.
5. **GROUNDWATER:** Water beneath the surface of the ground.
6. **ILLICIT CONNECTION:** A surface or subsurface drain or conveyance that 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 by-law.
7. **ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater,

except as exempted in Section 8. 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 Section 8. A. of this by-law.

8. 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.
9. 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 Douglas, Massachusetts.
10. 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.
11. NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.
12. 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.
13. POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:
 - a) paints, varnishes, and solvents;
 - b) oil and other automotive fluids;
 - c) non-hazardous liquid and solid wastes and yard wastes;
 - d) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 - e) pesticides, herbicides, and fertilizers;

- f) hazardous materials and wastes; sewage, fecal coliform and pathogens;
 - g) dissolved and particulate metals;
 - h) animal wastes;
 - i) rock, sand, salt, soils;
 - j) construction wastes and residues; and
 - k) noxious or offensive matter of any kind.
14. **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.
 15. **RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
 16. **STORMWATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.
 17. **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.
 18. **TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
 19. **WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
 20. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

21. **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.

SECTION 3: APPLICABILITY

This by-law shall apply to point or non-point flows entering the municipally owned storm drainage system.

SECTION 4: AUTHORITY

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

SECTION 5: RESPONSIBILITY FOR ADMINISTRATION

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

SECTION 6: REGULATIONS

The Commission may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

SECTION 7: PROHIBITED ACTIVITIES

- A. **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.
- B. **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.
- C. **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 Commission.

SECTION 8: EXEMPTIONS

- A. Discharge or flow resulting from fire fighting activities.
- B. 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:
 - 1. Waterline flushing;
 - 2. Flow from potable water sources;
 - 3. Springs;
 - 4. Natural flow from riparian habitats and wetlands;
 - 5. Diverted stream flow;
 - 6. Rising groundwater;
 - 7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - 8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - 9. Discharge from landscape irrigation or lawn watering;
 - 10. Water from individual residential car washing;
 - 11. 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;
 - 12. Dye testing for flow analysis, provided verbal notification is given to the the Commission prior to the time of the test;
 - 13. 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
 - 14. Discharge for which advanced written approval is received from the Commission as necessary to protect public health, safety, welfare or the environment.

SECTION 9: EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Commission 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.

SECTION 10: 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 non-hazardous 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.

SECTION 11: ENFORCEMENT

- A. The Commission or an authorized agent of The Commission shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Commission 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.
- C. Orders. The Commission or an authorized agent of The Commission may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:

- (1) elimination of illicit connections or discharges to the MS4;

- (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.

- D. 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.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with The Commission 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 Commission 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.
- F. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. "As an alternative to criminal prosecution or civil action, the Commission may elect to utilize the noncriminal disposition procedure set forth in G. L. c. 40, §21D, in which case the Conservation Commission Agent is authorized to be the enforcing person designated to issue non-criminal disposition penalties. The penalty for the first violation shall be \$300.00. The penalty for the second violation shall be \$300.00. The penalty for the third and subsequent violations shall be \$300.00. Each day of part thereof that such violation continues shall constitute a separate offense."
- H. Entry to Perform Duties Under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, The Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as The Commission deems reasonably necessary.

- I. Appeals. The decisions or orders of The Commission shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 12: Severability

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-law 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 by-law.

SECTION 13: Transitional Provisions

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

(Adopted at an Annual Town Meeting under Article 20 held on May 5, 2008 and approved by the Attorney General on August 20, 2008.)

