

TOWN OF DOVER

STORMWATER MANAGEMENT AND EROSION CONTROL

General Bylaw Chapter 159

159-1. Purpose

The purpose of this Bylaw is to protect the health, safety, environment and general welfare of the citizens of the Town of Dover in the management, operation and maintenance of the Town's stormwater system through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by Federal, State, and local law, and to eliminate or reduce the adverse effects of soil erosion and sedimentation. The Bylaw does three things. It (1) establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process; (2) controls construction site runoff; and (3) establishes minimum requirements and stormwater management controls as permanent features of a completed project to protect and safeguard the environment, natural resources, general health, safety, and welfare of the public residing in watersheds within the Town's jurisdiction from the adverse impacts of stormwater runoff post-construction.

This Bylaw and its related Stormwater Management Regulations shall be implemented in accordance with the requirements of United States Environmental Protection Agency's most recent Massachusetts Small Municipal Separate Storm Sewer System (MS4) General Permit relating to illicit connections and discharges, construction site runoff, and post-construction stormwater management, as well as the Massachusetts Wetlands Protection Act and the Dover Wetlands Protection Bylaw and Regulations. The Stormwater Authority may establish additional requirements by regulation to further the purposes and objectives of this Bylaw so long as they are not less stringent than those in the MS4 General Permit for Massachusetts.

159-2. Definitions

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

APPLICANT — For the purpose of this Section, APPLICANT shall refer to a property owner or agent of a property owner who has filed an Erosion and Sediment Control Plan or Stormwater Management Plan.

AUTHORIZED ENFORCEMENT AGENCY — The Town of Dover's Board of Selectmen shall administer and implement this Bylaw. The Town's Department of Public Works (DPW) shall enforce this Bylaw.

BEST MANAGEMENT PRACTICES (BMPs) — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, erosion control, spillage or leaks, sludge or water disposal, or drainage from raw materials

storage.

BUILDING — For the purpose of this Section, BUILDING shall refer to any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property and occupying more than 100 square feet (sq. ft.) of area.

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.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

CLEARING — Any activity that removes the vegetative or soil surface cover.

DETENTION — The temporary storage of storm runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DBH — Diameter at Breast Height - The measuring point for the diameter of a tree, which shall be 4.5 'above ground level.

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

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 CONTROL — A measure that prevents erosion.

EROSION AND SEDIMENT CONTROL PLAN — A document containing a narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices (BMPs), or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

GRADING — Excavation or fill of material, including the resulting conditions thereof.

GROUNDWATER — Water beneath the surface of the ground.

HAZARDOUS MATERIAL — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. 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.

ILLICIT CONNECTIONS — An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wastewater to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE — Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 159-5 of this Bylaw.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious surfaces include without limitation, paved or masonry or other impervious surfaces such as: roads, parking lots, sidewalks, walkways, patios, driveways, sports courts and rooftops.

IMPOUNDMENT — A stormwater pond created by either constructing an embankment or excavating a pit which retains a permanent pool of water.

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

LAND DISTURBANCE ACTIVITY — Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

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

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Mass. Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Mass. Wetlands Protection Act G.L. c. 131 §. 40 and Mass. Clean Waters Act G.L. c. 21, §. 23-56. The Policy and Standards address 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 STORM DRAIN SYSTEM (storm drain) or MUNICIPAL SEPARATE STORM

SEWER SYSTEM (MS4) — 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 Dover.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal, and urban runoff sources.

NON-STORMWATER DISCHARGE — Any discharge to the storm drain system that is 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 ensure that it continues to function as designed.

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

PERIMETER CONTROL — A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to an on-site sediment trap or basin.

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT — Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PRE-CONSTRUCTION - All activity in preparation for construction.

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.

PROTECTED TREE — Any tree 6-inches or greater in diameter, as measured at DBH.

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 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.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site or entering off-site drainage structures.

SEDIMENTATION — The process or act of deposition of sediment.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

START OF CONSTRUCTION — The first land-disturbing activity associated with a development, including but not limited to land preparation such as clearing, tree removal, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory structures.

STORM DRAIN SYSTEM — Publicly owned facilities by which stormwater is collected and/ or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER — Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER AUTHORITY — The Town of Dover's Department of Public Works, on behalf of the Town's Board of Selectmen, shall serve as the Town's Stormwater Authority.

STORMWATER MANAGEMENT — The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

TREE REMOVAL - The removal of any tree 6-inches DBH or greater down to ground level including the entire stem and crown. If more than 50% of the stem and crown are removed it shall be deemed a removal for the purposes of this Bylaw.

TOTAL SUSPENDED SOLIDS or TSS — Undissolved organic or inorganic particles in water.

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.

VEGETATION - All living woody and herbaceous plants, including trees and shrubs, growing in a particular place taken as a whole.

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and any water or other liquid, other than uncontaminated stormwater or groundwater, 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 of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwater, and Waters of the United States as defined under the Federal Clean Water Act as hereafter amended.

WETLAND RESOURCE AREA - Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the Town of Dover Wetlands Protection Bylaw and Regulations.

WETLANDS - Tidal and non-tidal 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 authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Massachusetts home rule statutes, and the regulations promulgated under the Clean Water Act, 40 CFR 122.34.

159-4. Administration

The Board of Selectmen is the Authorized Enforcement Agency and shall administer and implement the provisions of this Bylaw. The Town's Department of Public Works ("DPW") shall enforce this Bylaw as the Stormwater Authority, upon delegation by the Board of Selectmen. Any powers granted to, or duties imposed upon, the Authorized Enforcement Agency may be delegated in writing by the Chair of the Board of Selectman to persons or entities acting in the beneficial interest of the Town of Dover.

The Authorized Enforcement Agency may adopt and amend regulations, rules or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Bylaw by majority vote after conducting a public hearing to receive comments, so long as they are not less stringent than those in the MS4 General Permit for Massachusetts. Such hearing shall be advertised in a newspaper of general local circulation for at least fourteen (14) days prior to the

hearing date.

159-5. Discharge Prohibitions

This Section applies to flows entering the municipally-owned or operated MS4 storm drainage system, unless explicitly exempted by an authorized enforcement agency.

- A. Illicit discharges: No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), onto an impervious surface directly connected to the MS4, or, directly or indirectly, into a watercourse or 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 consent from the Stormwater Authority.
- D. Exemptions:
 - (1) Discharge or flow resulting from fire-fighting activities;
 - (2) The following non-stormwater discharges or flows are exempt from the prohibitions of this section provided that the source is not a significant contributor of a pollutant to the municipal storm drain system or, directly or indirectly, to a watercourse or waters of the Commonwealth:
 - (a) Water line flushing or other potable water sources;
 - (b) Landscape irrigation or lawn watering;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flows;
 - (f) Rising groundwater;
 - (g) Individual resident car washing;
 - (h) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit for such discharge from the Stormwater Authority prior to discharge and thereafter discharges in accordance

with the requirements of the permit and applicable laws and regulations to be issued by the Stormwater Authority;

- (i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- (j) 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;
- (k) Discharge from street sweeping;
- (l) Residential building wash waters without detergents;
- (m) Dye testing, provided written notification is given to the Stormwater Authority two weeks prior to the time of the test;
- (n) Non-stormwater discharge permitted under a NPDES permit, waiver, or waste discharge order held by the owner and administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
- (o) Discharge for which advanced written approval is received from the Stormwater Authority as necessary to protect public health, safety, welfare or the environment; and
- (p) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

159-6. Emergency Suspension of Storm Drainage System Access

The Stormwater Authority may suspend municipal storm drain system access without prior written notice when, in the sole judgment of the Stormwater Authority, 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 Stormwater Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare, or the environment.

159-7. Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a residence, facility or operation, or responsible for emergency response for a residence, facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4 system, or Waters of the United States and/or Commonwealth, said person shall take all the necessary steps to ensure the

discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies and the DPW. If the discharge of prohibited material emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

159-8. Construction Phase Erosion Control Requirements.

- A. No person shall excavate, cut, grade or perform any Land Disturbance Activities which meet or exceed any of the following thresholds, without first getting an Erosion and Sediment Control Plan approved in accordance with Section 159-9:
 - (1) Any change of existing grade of more than 5,500 sq. ft. or 25% of the lot, whichever is smaller;
 - (2) Clearing of existing vegetation of more than 5,500 sq. ft. or 25% of the lot, whichever is smaller;
 - (3) Storage of more than 100 cubic yards of excavate or fill; or
 - (4) Any activities within Wetland Resource Areas and their Protected Buffer Zones that require separate permits from the Dover Conservation Commission before any activities may be performed.
- B. The following activities are exempt from the requirements of this Section:
 - (1) Emergency activities for the protection of life, property, or natural resources;
 - (2) Pruning undertaken on trees in accordance with the ANSI 300 Pruning Standard, as amended;
 - (3) Maintenance of existing landscaping, gardens or lawn areas associated with a single lot conducted in such a way as not to cause any negative impact to or removal of any existing trees and other vegetation;
 - (4) Construction of fencing that will not alter any grade or existing terrain or drainage patterns;
 - (5) Construction of utilities other than drainage (gas, water, electric, communication, etc.) which will not alter any grade or existing terrain or drainage patterns or result in discharge of sediment to the MS4; and
 - (6) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.04.

159-9. Review and Approval of Erosion and Sediment Control Plan.

- A. Prior to commencing any Land Disturbance Activities at the thresholds set forth in Section 159-8, an Applicant shall submit an Erosion and Sediment Control Plan to the Stormwater Authority to determine its conformance with the provisions of this Bylaw. Within 30 days after receiving an application, the Stormwater Authority shall in writing:
 - (1) Approve the plan as submitted;
 - (2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - (3) Disapprove the plan, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- B. Failure of the Stormwater Authority to act on an Applicant's plan within 30 days of receipt shall authorize the Applicant to proceed in accordance with the plans as filed, unless such time is extended by agreement between the applicant and the Stormwater Authority.
- C. A construction project shall be considered in conformance with this section if soils or other eroded matter have been prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse. The design, testing, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards and specifications contained in the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas dated March 1997, or the latest edition thereof.
- D. Applicants must ensure that retained Protected Trees in the Lot's setback areas have protective measures implemented to prevent damage to the tree and its root system during all Land Disturbance and construction activities. The protective measures shall be as follows:
 - (1) Creation of a Tree Protection Zone, which at a minimum must include the critical root zone of the protected tree(s). A common and acceptable formula for calculating the Tree Protection Zone is:

Each 1" of DBH = 1' radius from base of tree.
 - (2) The Tree Protection Zone must be adequately marked prior to the commencement of building activity and maintained in place until work is completed on the property. The Tree Protection Zone installation guideline can be found in the Regulations promulgated under this Bylaw.
 - (3) Should an applicant have no other alternative than to encroach within the Tree Protection Zone of a protected tree, the Tree Protection Zone may only

be reduced for the area of unavoidable encroachment.

159-10. Tree Mitigation

In the event that an Applicant proposes to remove Protected Trees 6-inch DBH or greater within the Lot's front-, side-, or rear-yard setback prescribed by the Zoning Bylaw, the Stormwater Authority may require any one of the following mitigative steps:

1. Replacement of trees on the Lot, or abutting property, at a scale of one-half inch (0.5") trunk caliper per one inch (1") of trunk size at DBH of Protected Trees removed;
2. Contribution to the Town of Dover's Tree Protection Revolving Fund, if established, and the General Fund, if such Revolving Fund is not created, according to the most recent Tree Mitigation Contribution Rate Schedule set forth in the Regulations promulgated under this Bylaw; or
3. A combination of on- or near-site tree replacement and contribution to the Town of Dover's General Fund.

159-11. Post-Construction Stormwater Management Plans.

- A. All projects requiring an Erosion and Sediment Control Plan under this Bylaw shall incorporate permanent stormwater management controls into the applicable project. The Applicant shall submit an "as-built" plan for the stormwater controls after the final construction is completed.
- B. The Stormwater Management Plan must show the final design specification of all stormwater management controls, including but not limited to any regulations promulgated under this Bylaw.
- C. At the discretion of the Stormwater Authority, a project that, upon review of the project documents, the Stormwater Authority determines does not generate stormwater runoff into the municipal stormwater system will not require a Stormwater Management Plan.
- D. Stormwater Management for any Lot subject to the requirements of this Bylaw shall also meet the minimum requirements set forth in Chapter 248-13 (Drainage), as directed by the Town Engineer.

159-12. Review and Approval of Stormwater Management Plans.

- A. Prior to commencing any Land Disturbance Activities at the thresholds set forth in Section 159-8 an Applicant shall submit a Stormwater Management Plan to the Stormwater Authority to determine its conformance with the provisions of this Bylaw. For major projects as defined regulations promulgated pursuant to this Bylaw, the Stormwater Authority shall solicit review and comments on the proposed Stormwater Management Plan from the Building Inspector, Planning Board, Board of Health and the Conservation Commission.

- B. Within 30 days after receiving an application, the Stormwater Authority shall in writing:
 - (1) Approve the plan as submitted;
 - (2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation and approve the plan subject to these conditions; or
 - (3) Disapprove the plan indicating the reason(s) and procedure for submitting a revised plan and/or submission.
- C. Failure of the Stormwater Authority to act on an original or revised application within 30 days of receipt shall authorize the Applicant to proceed in accordance with the plan as filed, unless such time is extended by agreement between the Applicant and the Stormwater Authority.

159-13. Certificate of Stormwater and Erosion Control Compliance

Since a Stormwater and Erosion Control Plan approval runs with the title of a property, the Applicant shall request the Stormwater Authority or its Agent to issue a Stormwater and Erosion Plan Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the plan has been satisfactorily completed in conformance with this Bylaw. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Norfolk County Registry of Deeds by the Owner(s).

159-14. Waivers

- A. The Stormwater Authority may waive strict compliance with any requirement of this Bylaw or the regulations promulgated hereunder, where such action is:
 - (1) allowed by Federal, State, and local statutes and/or regulations;
 - (2) in the public interest; and
 - (3) not inconsistent with the purpose and intent of this Bylaw.
- B. Any person seeking a waiver must submit a written waiver request to the Stormwater Authority. 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 of this Bylaw.
- C. All waiver requests shall require a public hearing by the Stormwater Authority.
- D. If, in the opinion of the Stormwater Authority, additional time or information is required for review of a waiver request, the Stormwater Authority 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.

159-15. Inspections.

- A. Inspectors authorized by the Stormwater Authority shall be permitted to enter and inspect Applicant's property or project subject to this Bylaw as often as may be necessary to determine compliance with this Bylaw. To obtain an inspection, the Applicant shall notify the Stormwater Authority at least five (5) business days before the following:
 - (1) Installation of sediment and erosion control measures;
 - (2) Installation of Stormwater controls;
 - (3) Start of construction, removal of protected trees, or site clearing;
 - (4) Completion of site clearing;
 - (5) Completion of rough grading;
 - (6) Close of the construction season; and
 - (7) Completion of final grading and landscaping.
- B. Inspectors shall approve that portion of the work completed or shall notify the Applicant in the event that the work fails to comply with the Erosion and Sediment Control or Stormwater Management Plans as approved. Plans for grading, stripping, excavating, tree removal as well as protective measures for the trees to remain, and filling work bearing the stamp of approval of the Stormwater Authority shall be maintained by the Applicant at the site during the progress of the work.
- C. In addition to the inspections by the Stormwater Authority, the person responsible for implementation of the Erosion and Sediment Control or Stormwater Management Plan(s) shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Plan(s). The Design Engineer may be required to perform regular inspections, submit reports, specify needed changes to achieve compliance, and coordinate with the Stormwater Authority. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Stormwater Authority at the time interval specified in the approved plan.
- D. No later than one (1) year following completion of the work triggering compliance with this Bylaw, the Applicant shall submit a report (including certified "as-built" construction plans) from and stamped by a Professional Civil Engineer (P.E.), Registered Land Surveyor, or other appropriately licensed and experienced professional, certifying that all BMPs, erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved Erosion and Sediment Control Plan and Stormwater Management Plan. The Stormwater Authority may, by regulation, require ongoing reporting to ensure long-term compliance, including, but not limited to, appropriate

operation and maintenance of stormwater BMPs.

159-16. Enforcement

- A. When the Stormwater Authority determines that an activity is not being carried out in accordance with the requirements of this Bylaw, a written notice of non-compliance to the applicant shall be issued which shall contain the following:
 - (1) The name and address of the applicant;
 - (2) The street address or description of the building, structure, or land upon which the non-compliance is occurring;
 - (3) A statement specifying the nature of the non-compliance; and
 - (4) A description of the remedial measures necessary to bring the activity into compliance with this Bylaw and a time schedule for the completion.
- B. Applicants receiving a notice of non-compliance will be required to halt all construction activities. This Stop Work Order will be in effect until the Stormwater Authority confirms that the activity involved in the non-compliance has been satisfactorily addressed. Occupancy permits, if applicable, will not be granted until the requirements of this Bylaw are complied with.
- C. The Authorized Enforcement Agency shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all applicable civil and criminal remedies for such violations.
 - (1) Civil relief. If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued thereunder, the Board of Selectmen 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.
 - (2) Orders. The Board of Selectmen or another authorized agent may issue a written order to enforce the provisions of this Bylaw or any regulations thereunder, which may include:
 - a. Elimination of illicit connections or discharges to the MS4, including discharges from properties not owned by or controlled by the Town of Dover that discharge into the MS4;
 - b. Elimination of discharges to the MS4 or, directly or indirectly, into a watercourse or into the Waters of the Commonwealth;
 - c. Performance of monitoring, analyses, and reporting;
 - d. Cessation of unlawful discharges, practices, or operations;

- e. Implementation of measures to minimize the discharge of pollutants until such time as the illicit connection or discharge shall be eliminated; and
- f. Remediation of contamination in connection therewith.

(3) Reimbursement of Costs.

- a. If the Authorized Enforcement Agency 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 fail to abate or perform remediation within the specified deadline, Authorized Enforcement Agency may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- b. Within 60 days after completing all measures necessary to abate the violation or to perform remediation, the violator will be notified of the costs incurred by the Town of Dover, including administrative costs. The violator may file a written protest objecting to the amount or basis of costs with the Authorized Enforcement Agency within 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 30 days following a decision of Authorized Enforcement Agency affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property pursuant to G.L. c. 40, § 58 for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. c. 59, § 57 after the 31st day on which the costs first become due.

(4) 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 \$250. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(5) Noncriminal disposition: As an alternative to criminal prosecution or civil action, the Authorized Enforcement Agency may elect to utilize the noncriminal disposition procedure set forth in G.L. c. 40, § 21D and Chapter 20 of the Town of Dover Town Code, in which case the Stormwater Authority shall be the enforcing Town department. The penalty for the 1st violation shall be \$50. The penalty for the 2nd violation shall be \$100. The penalty for the 3rd violation shall be \$200. The penalty for the fourth and subsequent violations shall be \$300. Each day or part thereof that such violations occur or continue shall constitute a separate offense.

D. Entry to perform duties under this Bylaw: To the extent permitted by local, State or Federal law, or if authorized by the owner of the property, the Authorized

Enforcement Agency, 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 Authorized Enforcement Agency deems reasonably necessary.

- E. Remedies not exclusive. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable Federal, State or local law.
- F. Appeals: The decisions of the Authorized Enforcement Agency shall be final. Further relief shall be appealed to a court of competent jurisdiction.

159-17. Surety

The Stormwater Authority may require the Applicant to post a surety bond, irrevocable letter of credit, cash, or other acceptable security before the start of Land Disturbance Activity or construction activity. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the plan(s) approved by the Stormwater Authority. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the plan(s).

159-18. 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.

END OF DRAFT BYLAW