

**TOWN OF DIGHTON  
STORMWATER BYLAW RULES AND REGULATIONS**

**As Revised and Approved at Special Town Meeting November 2, 2009**

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**RESPONSIBILITY FOR ADMINISTRATION**

The Board of Health shall implement and administer the rules and regulations formulated under the provisions of the Stormwater Bylaw. The Board of Health may appoint an employee, agent, board, or commission as designee to carry out in part or in total specific duties as provided for in this bylaw.

**REGULATIONS**

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

**PROHIBITED ACTIVITIES**

1. Illicit Discharges – No person shall dump, discharge, cause or allow to be dumped or discharged any pollutant or non-stormwater discharge into municipal separate storm sewer systems (MS4), into a watercourse, or into the waters of the Commonwealth.
2. Illicit Connections – No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
3. Obstruction of Municipal Storm Drain System – No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board of Health.

A) Exemptions

Discharge or flow resulting from fire fighting activities.

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwater 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. Natural flow from riparian habitats and wetlands;
4. Diverted stream flow;
5. Rising groundwater;
6. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
7. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
8. Discharge from landscape irrigation or lawn watering;
9. Water from individual residential car washing;
10. 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;
11. Discharge from street sweeping;
12. Non-toxic dye testing, provided verbal notification is given to the Board of Health 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

Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, welfare or the environment.

### **ENFORCEMENT**

The Board of Health shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil remedies for such violation.

1. Civil Relief – If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board of Health may seek injunctive relief in a court of competent jurisdiction restraining the person from the activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
2. Orders – The Board of Health may issue a written order to enforce the provisions of this bylaw or regulations thereunder, which may include :
  - Elimination of illicit connections or discharges to the MS4;
  - Performance of monitoring, analyses, and reporting;
  - That unlawful discharges, practices or operations shall cease and desist; and
  - Remediation of contamination in connection therewith.

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.

3. Non-compliance Orders – Should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Dighton may, at its option, undertake such work, and expenses thereof shall be charged to the violator. 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 of Dighton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Health 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 protest or within thirty (30) days following a decision of the Board of Health 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. Ch. 59, s57 after the thirty-first (31<sup>st</sup>) day at which the costs first become due.
4. Appeals – The decisions or orders of the Board of Health shall be final. Further relief shall be to a court of competent jurisdiction.
5. Criminal Penalty – Any person who violates any provision of this bylaw, or regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ \_\_\_\_\_. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
6. Non-Criminal Disposition – As an alternative to criminal prosecution or civil action, the Town of Dighton may elect to utilize the non-criminal disposition procedure set forth in MGL C.40, s 21D, in which case The Board of Health of the Town of Dighton shall be the enforcing agent. The penalty for the first violation shall be \$ \_\_\_\_\_. The penalty for the second violation shall be \$ \_\_\_\_\_. The penalty for the third and subsequent violations shall be \$ \_\_\_\_\_. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
7. Remedies Not Exclusive – The remedies listed in this bylaw are not exclusive of any other remedies available under applicable federal, state or local law.

### **EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Board of Health 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 Board of Health may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare of the environment.

### **TRANSITIONAL PROVISIONS**

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

### LAND DISTURBANCE AND POST-CONSTRUCTION RUNOFF CONTROL

Applicability –No person may undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than 35,000 square feet of land or will disturb less than 35,000 square feet of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 35,000 square feet of land without a permit from the Board of Health, its designee, or as otherwise provided for in this bylaw.

#### Exemptions -

- Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling conducted in such a way as not to cause a nuisance;
- Construction of fencing that will not substantially alter existing terrain or drainage patterns;
- Construction of utilities other than drainage (gas, water, electric, telephone, sewer, etc.) which will not alter terrain or damage patterns;
- Normal maintenance and improvement of land in agricultural or aquacultural use; and,
- Disturbance of 35,000 square feet or more of land that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in a valid Order of Conditions issued by the Conservation Commission.

Administration – The Dighton Planning Board shall administer, implement and enforce this section of the regulations as it pertains to commercial and/or industrial development activities. The Dighton Conservation Commission shall administer, implement and enforce this section of the regulations as it pertains to residential development activities. Any powers granted to or duties imposed upon the Planning Board and/or the Conservation Commission may be delegated in writing to its employees or agents. Henceforth, the Dighton Planning Board and Conservation Commission shall be referred to as the “Administering Authority” of the “LAND DISTURBANCE AND POST-CONSTRUCTION RUNOFF CONTROL.” section of these regulations.

Waivers – The Administering Authority may waive strict compliance with any requirement of the stormwater bylaw or the rules and regulations promulgated thereunder where such action is allowed by federal, state, and local statutes and/or regulations; is in the public interest; and is not inconsistent with the purpose and intent of the stormwater bylaw.

Rules and Regulations – The Board of Health may periodically amend and adopt rules and regulations relating to the procedures and administration of the stormwater bylaw by majority vote of the Board after conducting a public meeting to receive comments on any proposed revisions. Such public meeting will be adequately publicized at least seven (7) days prior to the meeting date according to town rules, regulations and/or bylaws.

Permits and Procedures – A completed application for a Land Disturbance Permit shall be filed with the Administering Authority. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of 35,000 sq. ft. or more.

The Stormwater Management Permit Application consists of three (3) parts: **Erosion and Sediment Control Plan, Stormwater Management Plan; Operations and Maintenance Plan.** When one (1) or more of the standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

The EROSION AND SEDIMENT CONTROL PLAN shall contain the following information:

- Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan
- Title, date, north arrow, names of abutters, scale, legend, and locus map;
- Location and description of natural features including:
  - Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
  - Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest comminutes, and
  - Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.

- Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
- Existing foils, volume and nature of imported soil materials;
- Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;
- Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);
- Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land areas to be disturbed;
- Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
- Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
- Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;
- Stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy;
- Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
- A description of construction and water materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- A description of provisions for phasing the project where 35,000 square feet of area or greater is to be altered or disturbed;
- Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control,; and
- Such other information as required by the Board of Health.

The design requirements of the Erosion and Sediment Control Plan are to:

- Minimize total area of disturbance;
- Sequence activities to minimize simultaneous areas of disturbances;
- Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
- Minimize soil erosion and control sedimentation during construction provided that prevention of erosion is preferred over sedimentation control;
- Maximize groundwater recharge;
- Install and maintain all Erosion and Sediment Control measures in accordance with the manufacturers' specifications and good engineering practices;
- Prevent off-site transport of sediment;
- Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);

- Comply with applicable federal, state, and local laws and regulations including waste disposal, septic system regulations, and air quality requirements, including dust control;
- Prevent significant alteration of habitats

**STORMWATER MANAGEMENT PLAN** – The Stormwater Management Plan shall fully describe the project in drawings and narrative. It shall include:

- A locus map;
- The existing zoning and land use at the site;
- The proposed land use;
- The location(s) of existing and proposed easements;
- The location of existing and proposed utilities;
- The site's existing and proposed topography with contours at two (2) foot intervals;
- The existing site hydrology;
- A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
- A delineation of 100-year flood plains, if applicable;
- Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
- The existing and proposed vegetation and ground surfaces and runoff coefficients for each;
- A drainage area map showing pre and post construction watershed boundaries, drainage area, and stormwater flow paths;
- A description and drawings of all components of the proposed drainage system including:
  - --- Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
  - --- All measures for the detention, retention or infiltration of water;
  - --- All measures for the protection of water quality;
  - --- The structural details for all components of the proposed drainage systems and stormwater management facilities;
  - --- Notes on drawings specifying materials to be used, construction specifications, and typicals; and
  - --- Expected hydrology and supporting calculations.
- Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.
- Timing schedules and sequence of development, including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;
- A maintenance schedule for the period of construction; and'
- Any other information requested by the Board of Health or its designee.

Projects shall meet the Standards of the Massachusetts Stormwater Management Policy, which are as follows:

- No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
- Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.

- 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.
- For new development, stormwater management systems must be designed to remove eighty percent (80%) of the average annual load (post-development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:
  - Suitable nonstructural practices for source control and pollution prevention are implemented;
  - Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
  - Stormwater management BMPs are maintained as designed.
- Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs. The use of infiltration practices without pretreatment is prohibited.
- Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas. Critical areas are Outstanding Resource Waters (ORWs), shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies.
- Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the Standards, new (retrofitted or expanded stormwater management systems must be designed to improve existing conditions.

**OPERATIONS AND MANAGEMENT PLAN** - An Operations and Management Plan (O&MP) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, the Bylaw, these regulations, and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Administering Authority shall make the final decision of what maintenance option is appropriate in a given situation. The Administering Authority will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The approved O&MP shall remain on file with the Administering Authority, shall be prepared in compliance with and recorded at the Bristol County Northern District Registry of Deeds, and shall be an ongoing requirement. The O&MP shall include:

- The name(s) of the owner(s) for all components of the system;
- The signature of the owner(s);
- Maintenance agreements that specify the names and addresses of the person(s) responsible for operation and maintenance; the person(s) responsible for financing maintenance and emergency repairs.
- A Maintenance Schedule for all drainage structures, including swales and ponds;
- A list of easements with the purpose and location of each;
- The signatures of the owners;
- Identification, purpose and recordable meet-and-bound descriptions of all stormwater management easements located on-site and/or off-site 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 cleanup;
- The purpose of each easement shall be specified in the maintenance agreement signed by the property owner;
- Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Board of Health;
- Easements shall be recorded with the North Bristol County Registry of Deeds prior to issuance of a Certificate of Completion by the Board of Health.

**Changes to Operation and Maintenance Plan**

- The owner(s) of the stormwater management system must notify the Board of Health of changes in ownership or assignment of financial responsibility.
- The maintenance schedule in the Maintenance agreement must be amended to achieve the purposes of this bylaw by mutual agreement of the Board of Health and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility and persons with operational responsibility.

The **Stormwater Management Permit application package** shall include:

- A completed Application Form with original signatures of all owners;

- A list of abutters, certified by the assessor's office;
- Three (3) copies of the Erosion and Sediment Control Plan as specified above;
- Three (3) copies of the Stormwater Management Plan as specified above;
- Three (3) copies of the Operation and Maintenance Plan as specified above;
- Payment of the application and review fees; and,
- One (1) copy of the Application Form and the certified list of abutters filed with the town clerk.

**INSPECTION AND SITE SUPERVISION**

Pre-construction Meeting – Prior to the start of clearing, excavation, construction, or land disturbing activity, the applicant, applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the Board of Health or its designee to review the permitted plans and their implementation,

Board Inspection – The Board of Health or its designee shall make inspections as hereunder required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Board of Health, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Board of Health or its designee at least two (2) working days before each of the following events:

- Erosion and sediment control measures are in place and stabilized;
- Bury inspection to ensure erosion control practices are in accord with the filed plan;
- Site clearing has been substantially completed;
- Rough grading has been substantially completed;
- Final grading has been substantially completed;
- Close of the construction season; and
- Final landscaping (permanent stabilization) and project final completion.

Permitted Inspections – The permittee or his/her agent shall conduct and document inspections of all control measures (no less than weekly) or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspection will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Board of Health or its designee in a format approved by the Board of Health.

**ENTRY**

Filing an application for a permit grants the Administering Authority and its employees or agents permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

**SURETY**

The Board of Health may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Board of Health to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board of Health may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board of Health has received the final report as required by the following section and issued a certificate of completion.

**FINAL REPORTS**

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a professional engineer (PE), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

**CERTIFICATE OF COMPLETION**

After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system installed. The Board of Health or its designee shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate, he/she shall so report to the Board of Health. The Board of Health will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw and these regulations.

**OTHER BOARDS**

The Administering Authority shall give one copy of the application package to the Planning Board, the Conservation

Commission, The Board of Health, the Building Inspector, and the Highway Department.

**PUBLIC HEARING**

The Administering Authority shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the close of the hearing unless such time is extended by agreement between the applicant and the Administering Authority. Notice of the public hearing shall be given by publication in a local newspaper of general circulation, by posting and by first-class mailings to abutters at least seven (7) days prior to the hearing.

**APPLICATION FEE STRUCTURE**

The Administering Authority shall obtain with each submission an application fee established by the Board of Health to cover expenses associated with the public hearing and application review.

**TECHNICAL SERVICE FEE**

The Administering Authority is authorized to retain a registered professional engineer or other professional consultant to advise the Administering Authority on any or all aspects of these plans. Applicants must pay a technical review fee sufficient to cover professional review before the review process may begin at the Administering Authority's discretion.

**ACTIONS**

The Administering Authority's action, rendered in writing, shall consist of either:

- Approval of the application based upon determinations that the proposed plan meets the requirements as referenced above and will adequately protect the water resources of the community and is in compliance with the requirements set forth in these regulations; or
- Approval of the application subject to any conditions, modifications or restrictions required by the Administering Authority which will ensure that the project meets the requirements referenced above and adequately protect water resources set forth in these regulations; or
- Disapproval of the application based upon a determination that the proposed application as submitted, does not meet the requirements as referenced above, or adequately protect water resources, as set forth in the stormwater bylaw and these regulations.

**FAILURE OF THE ADMINISTERING AUTHORITY TO TAKE FINAL ACTION**

Failure of the Administering Authority to take final action upon the application within the time specified above shall be deemed to be approval of said application. Upon certification by the town clerk that the allowed time has passed without the Administering Authority action, the Administering Authority shall issue the Land Disturbance Permit.

**PROJECT CHANGES**

The permittee must notify the Administering Authority in writing of any change or alteration of a land-disturbing activity authorized in a permit before any change or alteration occurs. If the Administering Authority determines that the change or alteration is significant based on the design requirements referenced above and accepted construction practices, the Administering Authority may require that an amended application is filed and a public hearing held.