

**TOWN OF YARMOUTH
CONSERVATION COMMISSION**

STORMWATER MANAGEMENT REGULATIONS

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SECTION 1. GENERAL PROVISIONS

1.01 General Purpose

(1) Introduction

These regulations are promulgated by the Town of Yarmouth Conservation Commission pursuant to the authority granted to it under Chapter 145 of the Code of the Town of Yarmouth. These regulations shall complement the Code, and shall have the force of law upon their effective date.

(2) Purpose

These regulations set forth a public review and decision making process by which nuisance conditions created by stormwater runoff and by illicit connections and discharges to the municipal storm drain system can be addressed and controlled.

(3) Authority

These Regulations are adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

1.02 Definitions

ABUTTER: The owner(s) of land within 100' of the site on which the activity occurs

AGRICULTURAL ACTIVITIES: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations.

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

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, requesting a Stormwater Management Permit.

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

BMP: (See BEST MANAGEMENT PRACTICE).

BURDEN OF PROOF: The responsibility of the applicant to provide credible evidence from a competent source, supporting data, and information

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.

CERTIFIED VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species, certified by NHESP.

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

CLEARING: Any activity that removes the vegetative surface cover.

COMMISSION: The Town of Yarmouth Conservation Commission, its employees or authorized agents designated to enforce these regulations.

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

DEP STORMWATER STANDARDS: The set of stormwater regulations promulgated by the Massachusetts Department of Environmental Protection which are used to protect Wetland Resource Areas from problems created by changes in stormwater characteristics.

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

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

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

DPW: Yarmouth Department of Public Works.

ENFORCEMENT ORDER: A written order issued by the Commission in order to enforce the provisions of these regulations.

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

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

GRADING: Changing the level or shape of the ground surface.

GROUNDWATER: Water beneath the surface of the ground.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of these regulations.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 3. 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 3 of these regulations.

IMPERVIOUS SURFACE: Any material or structure that either prevents or retards the entry of water into the underlying soil or causes water to runoff in greater quantities or at an increased rate of flow. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, and gravel or dense-graded crushed stone areas.

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

MASSACHUSETTS ENDANGERED SPECIES ACT: (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the “taking” of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

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

MS4: (See MUNICIPAL SEPARATE STORM SEWER SYSTEM.)

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 layout with a drainage system; pavement; gutter; curb; inlet; piped storm drain; pumping facility; retention or detention basin; natural, man-made, or altered drainage channel; reservoir; and other drainage structure(s) that together, comprise a storm drainage system owned or operated by the Town of Yarmouth or the Commonwealth of Massachusetts.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER 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.

NHESP: National Heritage and Endangered Species Program.

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

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

ORWs: OUTSTANDING RESOURCE WATERS

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

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

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

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

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

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

- paints, varnishes, and solvents;
- oil and other automotive fluids;
- non-hazardous liquid and solid wastes and yard wastes;
- refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- pesticides, herbicides, and fertilizers;
- hazardous materials and wastes; sewage, fecal coliform and pathogens;
- dissolved and particulate metals;
- animal wastes;
- rock, sand, salt, soils;
- construction wastes and residues; and
- noxious or offensive matter of any kind.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITATS: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

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

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

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

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

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land where land-disturbing activities are, were, or will be performed.

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

SOIL: Any earth, sand, rock, gravel, loam, or similar material.

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

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT: The written approval granted by the Commission to undertake a construction activity pursuant to a Stormwater Management Permit Application. A valid Stormwater Management Permit must be signed by a majority of the Commission participating at a duly noted public hearing, and such permit must be recorded at the Barnstable County Registry of Deeds, prior to any work.

STORMWATER MANAGEMENT PERMIT APPLICATION: The set of documents outlined in Section 2.02 that are required to be submitted in order to apply for a Stormwater Management Permit.

STORMWATER MANAGEMENT SITE PLAN: A plan required as part of the application for a Stormwater Management Permit (see Section 2.03).

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil or other surficial organic material.

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

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive, biological, or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

TSS: Total Suspended Solids.

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.

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

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

WETLAND RESOURCE AREAS: Areas specified in the Massachusetts Wetlands Protection Regulations, 310 CMR 10.00, as amended, and in the Town of Yarmouth Wetland Bylaw and Regulations, as amended.

1.03 Applicability

(1) No person may undertake a construction activity, including clearing, grading, and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Town of Yarmouth municipal separate storm sewer system (MS4) that is hydraulically connected to a wetland without a Stormwater Management Permit issued by the Commission. Construction activity does not include routine maintenance that is performed to maintain the original line

and grade, hydraulic capacity or the original purpose of the site. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4, or into a wetland resource area. No person shall construct, use, allow, maintain or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Commission with input from the Department of Public Works.

(2) Exemptions

(a) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;

(b) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;

(c) The construction of fencing that will not substantially alter existing terrain or drainage patterns;

(d) The construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not permanently alter terrain or drainage patterns;

(e) Any construction that can be proven beyond a reasonable doubt to the satisfaction of the Commission to occur in a completely contained watershed that can not possibly empty into the Town of Yarmouth MS4 that is hydraulically connected to a Wetland Resource Area. The applicant shall have the burden of proof in demonstrating that an activity is not subject to the jurisdiction of these regulations.

1.04 Administration

(1) The Commission shall administer, implement and enforce these regulations. Any powers granted to or duties imposed upon the Commission may be delegated by the Commission to its agents and/or assigns.

1.05 Permits, Procedure, and Enforcement

See Sections 2.02 thru 2.07 for detailed application requirements.

(1) Filing Application. The applicant or his agent shall file with the Yarmouth Conservation Commission, 9 copies of a completed application package for a Stormwater Management Permit Application (SMPA), as outlined in Section 2.02. Permit issuance is required prior to any site altering activity.

- (2) Entry. Filing an application for a permit grants the Commission permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- (3) Other Entities. The Conservation Commission shall give one (1) copy of the application package to the Department of Public Works Engineering Division.
- (4) Fee Structure. Each application must be accompanied by a \$200.00 fee payable to the Town of Yarmouth. Applicants shall pay review fees as determined by the Commission sufficient to cover any expenses connected with the public hearing and review of the Stormwater Management Permit before the review process commences. The Commission may, at the Applicant's expense, retain a Registered Professional Engineer or other professional consultant to advise the Commission on any or all aspects of the Application.
- (5) Public Hearing. The Commission shall hold a public hearing within twenty-one (21) days of the receipt of a complete Stormwater Management Permit Application and shall take final action within twenty-one (21) days from the time of the close of the hearing unless such time is extended by agreement between the Applicant and the Commission. Notice of the public hearing shall be given by publication and posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The Commission shall make the application available for inspection by the public during business hours at the Town of Yarmouth Conservation Office. Failure of the Commission to take final action upon an Application within the time specified above shall be deemed to be an approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Commission action, the Commission must issue a Stormwater Management Permit.
- (6) Information requests. The Applicant shall submit all additional information requested by the Commission to issue a decision on the application.
- (7) Actions. The Commission's action, rendered in writing, shall consist of either:
 - (a) Approval of the Stormwater Management Permit Application based upon determination that the proposed plans meet the requirements of Sections 2.03, 2.04, and 2.05 and will adequately protect the wetland resources of the Town and is in compliance with the requirements set forth in these regulations; or,
 - (b) Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the Commission which will ensure that the project meets the requirements of Sections 2.03, 2.04, and 2.05, and will adequately protect wetland resources, set forth in these regulations; or,
 - (c) Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plans, as submitted, do not meet the requirements

of Sections 2.03, 2.04, and 2.05 or will adequately protect wetland resources, as set forth in these regulations.

- (8) Recording of Approval. Upon issuance by the Commission, the Stormwater Management Permit shall be recorded by the applicant at the Barnstable County Registry of Deeds. Proof of such recording shall be provided to the Commission prior to the commencement of any work.
- (9) Appeals. The decisions or orders of the Commission shall be final. Further relief shall be to a court of competent jurisdiction.
- (10) Remedies Not Exclusive. The remedies listed in these regulations are not exclusive of any other remedies available under any applicable federal, state or local law.
- (11) Plan Changes. The permittee must notify the Commission in writing of any changes or alterations in the project authorized in a Stormwater Management Permit before any change or alteration is made. If the Commission determines that the change or alteration is significant, based on the Stormwater Management requirements of Sections 2.03, 2.04, and 2.05 and accepted construction practices, the Commission may require that an amended application be filed and a public hearing held. If any change or alteration from the Stormwater Management Permit occurs during any activities, the Commission may require the installation of interim measures before approving the change or alteration.
- (12) Project Completion. At completion of the project the permittee shall submit as-built record drawings of the Stormwater Management System required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.
- (13) Enforcement. The Commission shall enforce these regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- (14) Civil Relief. If a person violates the provisions of these regulations, permit, notices, 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.

(15) Enforcement Orders.

(a) The Commission may issue a written order to enforce the provisions of these regulations, which may include requirements to:

- (1) cease and desist from construction or land disturbing activity until there is compliance with these regulations and the stormwater management permit;
- (2) repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan.
- (3) maintain, install or perform additional erosion and sediment control measures;
- (4) perform monitoring, analyses, and reporting;
- (5) remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;
- (6) eliminate illicit connections and/or discharges to the MS4;
- (7) cease and desist from unlawful discharges, practices, or operations; and/or,
- (8) remediate contamination in connection therewith.

(b) If the Commission determines that abatement or remediation of adverse impacts is required, the Enforcement Order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Yarmouth may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

(c) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Yarmouth, 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.

(16)Entry to Perform Duties Under These Regulations. To the extent permitted by state law, or if authorized by the owner or other party in control of the site, the Commission may enter upon privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonably necessary.

1.06 Severability

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

1.07 Surety

The Commission may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, cash, or other acceptable security. Letters of Credit shall not be accepted. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Commission 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 Commission has received the final reports as required by Section 2.08 and issued a Certificate of Completion.

1.08 Waivers

- (1) The Commission may waive strict compliance with any requirement of these rules and regulations, where:
 - (a) such action is allowed by Federal, State and local statutes and/or regulations; or,
 - (b) is in the public interest; or,
 - (c) a public safety issue exists; or,
 - (d) such requirement is not inconsistent with the purpose and intent of these regulations.
- (2) Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of these regulations does not further the purposes or objectives of these regulations. The Commission may

require documentation to be submitted and stamped by a Professional Engineer or Certified Professional in Erosion and Sediment Control.

- (3) All waiver requests shall be discussed and voted on at the public hearing for the project.
- (4) If in the Commission's opinion, additional time or information is required for review of a waiver request, the Commission 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.

1.09 Certificate of Completion

The Commission will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all permitted work has been satisfactorily completed in conformance with these regulations. The commission may, in addition to certifying satisfactory completion of the project, require ongoing maintenance procedures and/or work deemed necessary by the commission. The certificate of completion shall be recorded by the applicant in the Barnstable County Registry of Deeds. Proof of such recording shall be supplied to the Commission.

SECTION 2. REGULATIONS GOVERNING CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT OF NEW DEVELOPMENTS AND REDEVELOPMENTS

2.01 Purpose

Regulation of discharges to the MS4 is necessary for the protection of the Town of Yarmouth's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increased impervious surface area are major causes of:

- impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- contamination of drinking water supplies;
- erosion of stream channels;
- alteration or destruction of aquatic and wildlife habitat;
- flooding; and,
- overloading and clogging of the MS4.

Therefore, these regulations establish stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople and the general public.

The objectives of these regulations are:

- To require practices that control the flow of stormwater from new and redeveloped sites into the Town of Yarmouth's MS4 in order to prevent flooding, erosion, and system damage;
- To protect groundwater and surface water from degradation;
- To promote infiltration and groundwater recharge;
- To prevent pollutants from entering the Town of Yarmouth's MS4 and to minimize discharge of pollutants from the MS4;
- To require practices that eliminate soil erosion and sedimentation, and control the volume and rate of stormwater runoff resulting from land disturbance activities;
- To ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- To require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- To ensure adequate long-term operation and maintenance of structural stormwater BMPs so that they work as designed;

- To comply with State and Federal statutes and regulations relating to stormwater discharges; and,
- To establish the Town of Yarmouth’s legal authority to ensure compliance with the provisions of these regulations through inspection, monitoring, and enforcement.

2.02 Stormwater Management Permit Application Procedures

The application for a Stormwater Management Permit shall consist of the submittal of nine (9) copies of the following to the Commission:

- Completed Application Form;
- List of Abutters;
- Stormwater Management Site Plan (see Section 2.03);
- Erosion and Sediment Control Plan (see Section 2.04);
- Operation and Maintenance Plan (see Section 2.05);
- Fee Payment.

2.03 Stormwater Management Site Plan

(1) The proposed Stormwater Management Plan (SMSP) shall contain sufficient information for the Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from stormwater. The SMSP shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Section 2.03(2) below and DEP Stormwater Management Handbook Volumes I and II, as amended. The SMSP shall fully describe the project in drawings, and narrative. It shall include, as a minimum:

- (a) A locus map;
- (b) The existing zoning, and land use at the site;
- (c) The proposed land use;
- (d) The location(s) of existing and proposed easements;
- (e) The location of existing and proposed utilities;
- (f) The site's existing and proposed topography with contours at 1 foot intervals;
- (g) The existing site hydrology;
- (h) A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater presently flows, or is proposed to flow;

- (i) A delineation of 100-year flood plains, if applicable;
- (j) Estimated seasonal high groundwater elevation using the Cape Cod Commission adjustment method (Cape Cod Commission Technical Bulletin 92-001, as amended) in areas to be used for stormwater retention, detention, or infiltration;
- (k) The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
- (l) A drainage area map showing pre- and post-construction watershed boundaries, drainage areas, and stormwater flow paths;
- (m) A description and drawings of all components of the proposed drainage system including:
 - (1) locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - (2) all measures for the detention, retention, and/or infiltration of stormwater;
 - (3) all measures for the protection of water quality;
 - (4) the structural details for all components of the proposed drainage systems and stormwater management facilities;
 - (5) notes on drawings specifying materials to be used, construction specifications, and typical details and cross-sections; and,
 - (6) proposed hydrology with supporting calculations.
- (n) Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
- (o) Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;
- (p) A maintenance schedule for the period of construction;
- (q) Documents must be stamped and certified by a qualified Professional Engineer (PE) registered in Massachusetts; and
- (r) Any other information requested by the Commission.

(2) Stormwater Management Standards

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

- (a) No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
- (b) Stormwater management systems shall be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
- (c) Loss of annual recharge to groundwater shall be eliminated or minimized through the use of infiltration measures including environmentally sensitive site design, low impact development techniques, stormwater best management practices, and good operation and maintenance. At a minimum, the annual recharge from the post-development site shall approximate the annual recharge from pre-development conditions based on soil type. This Standard is met when the stormwater management system is designed to infiltrate the required recharge volume as determined in accordance with the Massachusetts Stormwater Handbook.
- (d) Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of Total Suspended Solids (TSS). This Standard is met when:
 - (1) Suitable practices for source control and pollution prevention are identified in a long-term pollution prevention plan, and thereafter are implemented and maintained;
 - (2) Structural stormwater best management practices are sized to capture the required water quality volume determined in accordance with the Massachusetts Stormwater Handbook; and
 - (3) Pretreatment is provided in accordance with the Massachusetts Stormwater Handbook.
- (e) For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt, and stormwater runoff, the proponent shall use the specific structural stormwater BMPs determined by the Department to be suitable for such uses as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses

with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.

(f) Stormwater discharges within the Zone II or Interim Wellhead Protection Area of a public water supply, and stormwater discharges near or to any other critical area, require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Department to be suitable for managing discharges to such areas, as provided in the Massachusetts Stormwater Handbook. A discharge is near a critical area if there is a strong likelihood of a significant impact occurring to said area, taking into account site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A “storm water discharge” as defined in 314 CMR 3.04(2)(a)1 or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply.

(g) A redevelopment project is required to meet the following Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3, and the pretreatment and structural best management practice requirements of Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and improve existing conditions.

(h) A plan to control construction-related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation, and pollution prevention plan) shall be developed and implemented.

(i) A long-term operation and maintenance plan shall be developed and implemented to ensure that stormwater management systems function as designed.

(j) All illicit discharges to the stormwater management system are prohibited.

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

2.04 Erosion and Sediment Control Plan

- (1) The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The Applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Section 2.04(2) below.
- (2) The design requirements of the Erosion and Sediment Control Plan are:
 - (a) Minimize total area of disturbance;
 - (b) Sequence activities to minimize simultaneous areas of disturbance;
 - (c) Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
 - (d) Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
 - (e) Divert uncontaminated water around disturbed areas;
 - (f) Maximize infiltration and groundwater recharge;
 - (g) Install and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
 - (h) Prevent off-site transport of sediment;
 - (i) 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);
 - (j) Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
 - (k) Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats from the proposed activities;
 - (l) Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than fourteen

- (14) days after construction activity has temporarily or permanently ceased on that portion of the site;
- (m) Properly manage on-site construction and waste materials; and,
- (n) Prevent off-site vehicle tracking of sediments.
- (o) To ensure that any stormwater BMP (for post construction stormwater management) installed during construction will be protected from compaction, siltation, and erosion, or will be restored or replaced such that the BMP will be capable of functioning as designed in accordance with these stormwater regulations.
- (3) Erosion and Sedimentation Control Plan Content. The Plan shall contain the following information:
- (a) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
- (b) Title, date, north arrow, names of abutters, scale, legend, and locus map;
- (c) Location and description of natural features including:
- (1) 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;
- (2) Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve (12) inches diameter breast height or larger, noting specimen trees and forest communities; and
- (3) 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 within five hundred (500) feet of any construction activity.
- (d) Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
- (e) Volume and nature of existing and proposed soil materials;
- (f) Topographical features including existing and proposed contours at intervals no greater than one (1) foot with spot elevations provided as needed;

(g) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;

(h) Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);

(i) 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;

(j) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;

(k) Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;

(l) Stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy;

(m) Location and description of, and implementation schedule for, temporary and permanent seeding, vegetative controls, and other stabilization measures;

(n) A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

(o) A detailed description of project phases;

(p) Plans must be stamped and certified by a qualified Professional Engineer (PE) registered in Massachusetts or a Certified Professional in Erosion and Sediment Control (CPESC); and

(q) Any other information requested by the Commission.

2.05 Operation and Maintenance Plan (post-construction)

- (1) An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The O&M Plan shall be designed to ensure compliance with the Stormwater Management Permit, 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 Commission shall make the

final decision of what maintenance option is appropriate in a given situation. The Commission will consider natural features, the proximity of the site to MS4s, water bodies and wetlands, the extent of impervious surfaces, size of the site, the types of stormwater management practices, and potential need for ongoing maintenance activities when making this decision. The O&M Plan shall remain on file with the Commission and shall be an ongoing requirement. The O&M Plan shall include:

- (a) The name(s) of the owner(s) for all components of the system.
- (b) Maintenance Agreement(s) that specifies:
 - (1) The names and addresses of the person(s) responsible for operation and maintenance;
 - (2) The person(s) responsible for financing maintenance and emergency repairs;
 - (3) A Maintenance Schedule that includes routine inspection along with routine and non-routine maintenance tasks for each BMP;
 - (4) A list of easements with the purpose and location of each; and,
 - (5) The signature(s) of the owner(s).
 - (6) Estimated operation and maintenance budget.
 - (7) The responsible party shall
 - (a) maintain a log of all operation and maintenance activities for the last three years including inspections, repair, replacement, and disposal (the log shall indicate the type of material and the disposal location);
 - (b) make this log available to the Conservation Commission and the Commonwealth of Massachusetts upon request; and,
 - (c) allow MASS DEP and the Conservation Commission to inspect each BMP to determine whether the responsible party is implementing the Operation and Maintenance Plan.

(2) Changes to Operation and Maintenance Plan

- (a) The owner(s) of the stormwater management system must notify the Commission of changes in ownership or assignment of financial responsibility.

(b) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of these regulations by mutual agreement of the Commission 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.

2.06 Inspection and Site Supervision

- (1) Pre-construction Meeting. Prior to starting clearing, excavation, construction, or land disturbing activity the Applicant, the Applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the Commission to review the permitted plans and their implementation.

- (2) Commission Inspections. The Commission shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Stormwater Management Permit, as approved. The Permit and associated Stormwater Management Plan, Erosion and Sediment Control Plan, and Operation and Maintenance Plan, bearing the signature of approval of the Commission, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall provide an inspection report stamped by a qualified Professional Engineer and notify the Commission at least two (2) working days before each of the following:
 - Initial Site Inspection: prior to approval of any permit/plan;
 - Erosion and sediment control measures are in place and stabilized;
 - Site Clearing has been substantially completed;
 - Rough Grading has been substantially completed;
 - Final Grading has been substantially completed;
 - Bury Inspections: prior to backfilling of any underground drainage or stormwater structures.
 - Close of the Construction Season;
 - Landscaping (permanent stabilization);
 - Final Inspection. After the stormwater management system has been constructed and before the surety has been released, the Applicant must submit a record plan detailing the actual stormwater management system as installed. Such plans shall show compliance with the final approved plans by the Commission.

- (3) Permittee Erosion and Sediment Control Inspections. The permittee shall conduct and document inspections of all erosion and sediment control measures no less than weekly or as specified in the Permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the erosion and sediment control plan, and the need for maintenance or additional control measures. The permittee shall submit monthly

erosion and sediment control reports to the Commission in a format approved by the Commission.

- (4) Access Permission. To the extent permitted by State law, the Commission may enter upon privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonably necessary to determine compliance with the Permit.

2.07 Final Reports

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (PE), or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all permitted construction, plans, 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.

If any system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, or in the Erosion and Sediment Control Plan it shall be corrected by the permittee before the performance guarantee is released. The permittee shall revise the O&M Plan based upon the final stormwater management system installed. If the permittee fails to act, the Town of Yarmouth may use the surety bond to complete the work.

SECTION 3. REGULATIONS GOVERNING DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM

3.01 Purpose

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.

Regulation of illicit connections and discharges to the municipal storm drain system, wetland resource areas, or waters of the Commonwealth is necessary for the protection of the Town of Yarmouth's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of these regulations are:

- to prevent pollutants from entering the Town of Yarmouth's MS4;
- to prohibit illicit connections and unauthorized discharges to the MS4;
- to require the removal of all such illicit connections;
- to comply with State and Federal statutes and regulations relating to stormwater discharges; and
- to establish the legal authority to ensure compliance with the provisions of these regulations through inspection, monitoring, and enforcement.

3.02 Applicability

These regulations shall apply to flows entering the MS4.

3.03 Prohibited Activities

- Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4, into a water resource area, or into the waters of the Commonwealth.
- Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Commission with input from the Department of Public Works.

3.04 Exemptions

The following non-stormwater discharges or flows are exempt from these regulations provided that they are not a significant contributor of a pollutant to MS4:

- Waterline flushing;
- Flow from potable water sources;
- Springs;
- Natural flow from riparian habitats and wetlands;
- Legally authorized diverted stream flow;
- Rising groundwater;
- Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- Discharge from landscape irrigation or lawn watering;
- Water from individual residential car washing;
- Discharge from dechlorinated swimming pool water;
- Discharge from street sweeping;
- Dye testing, provided verbal notification is given to the Commission prior to the time of the test;
- 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;
- Discharge for which advanced written approval is received from the Commission as necessary to protect public health, safety, welfare or the environment; and,
- Discharge or flow resulting from fire fighting activities.

3.05 Emergency Suspension of Storm Drainage System Access

The Commission may suspend municipal storm drain system access 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 Commission may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

3.06 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, oil or hazardous materials to the MS4, wetland resource areas, or waters of the Commonwealth, the person shall immediately notify the Town Fire, Police and Natural Resources Departments, and take all necessary steps to ensure containment, and cleanup of the release. The reporting person shall notify the Commission no later than the next business day. The reporting person shall provide to the Commission 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 by the facility operator for at least three (3) years.

3.07 Transitional Provisions

Residential property owners shall have ninety (90) days from the effective date of these regulations to comply with its provisions provided good cause is shown for the failure to comply with the regulations during that period.