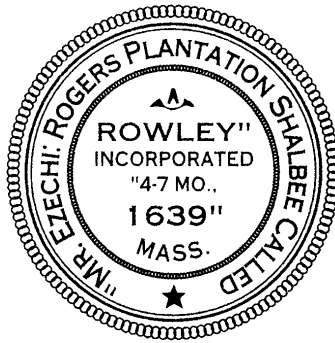


# **STORMWATER MANAGEMENT AND EROSION CONTROL BYLAW**

## **TOWN OF ROWLEY**

**EFFECTIVE November 28, 2007**



### **Rowley Conservation Commission**

39 Central Street  
PO Box 24  
Rowley, MA 01969

Tel.: 978 948-2330; Fax: 978 948-7196  
email: [Conservation@TownofRowley.org](mailto:Conservation@TownofRowley.org)

Public Hearing(s): October 9<sup>th</sup>, and October 15<sup>th</sup>, 2007

This bylaw was passed at the Special Town Meeting of November 5, 2007 (Article 20),  
unanimously by voice vote without amendment.

It was approved by the Attorney General on November 20, 2007, and posted in accordance with  
the law on November 28, 2007.

# Stormwater Management and Erosion Control Bylaw

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Stormwater Management and Erosion Control Bylaw  
**STORMWATER MANAGEMENT AND EROSION CONTROL BYLAW**  
**Town of Rowley**

**SECTION 1. PURPOSE**

- A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:
1. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  2. Contamination of drinking water supplies;
  3. Erosion of stream channels;
  4. Alteration or destruction of aquatic and wildlife habitat;
  5. Flooding; and
  6. Overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the water resources within the Town of Rowley, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

- B. The objectives of this Bylaw are to:
1. Protect water resources;
  2. Require practices that minimize and manage soil erosion and sedimentation;
  3. Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
  4. Require practices to manage and treat stormwater runoff generated from new development and redevelopment;
  5. Protect groundwater and surface water from degradation;
  6. Promote infiltration and the recharge of groundwater;
  7. Maximize recharge of groundwater in the Municipal Water Supply Protection District as defined by Section 4.11 of the Town of Rowley Protective Zoning Bylaw, as amended;
  8. Prevent pollutants from entering the municipal storm drain system;
  9. Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
  10. Ensure adequate long-term operation and maintenance of structural stormwater best management practices;
  11. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
  12. Comply with state and federal statutes and regulations relating to stormwater discharges; and
  13. Establish the Town of Rowley's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

**SECTION 2. AUTHORITY**

This Bylaw is 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 published in the Federal Register on December 8, 1999, as amended and as authorized by the residents of the Town of Rowley at Special Town Meeting, dated November 5, 2007.

**SECTION 3. APPLICABILITY**

This Bylaw shall apply to all new land-disturbing activities within the jurisdiction of the Town of Rowley. All persons shall be required to obtain a Stormwater Management Permit from the Conservation Commission subject to the following:

## Stormwater Management and Erosion Control Bylaw

### A. Regulated Activities. Regulated activities shall include, but not be limited to:

1. Land disturbance of greater than 20,000 square feet or a land disturbance that will alter an area of 10,000 square feet or more on existing or proposed slopes steeper than 15 %, unless exempt pursuant to Subsection 3 C. Exempt Activities.
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 20,000 square feet or more of land,
3. Any development or redevelopment of land involving any of the following uses identified by Massachusetts Stormwater Management Policy as having higher potential pollutant loads: vehicle salvage yard, vehicle fueling facility, fleet storage yard, commercial parking lot, road salt storage area, garden center and landscaping facility, outdoor storage and loading area of hazardous substances, or marina,
4. Paving or other change in surface material over an area of 20,000 square feet or more causing a significant reduction of permeability or increase in runoff,
5. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 20,000 square feet,
6. Any other activity altering the surface of an area exceeding 20,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way, the municipal storm drain system, an adjacent or abutting parcel of land, or
7. Construction or reconstruction of structures where more than 20,000 square feet of roof drainage is altered.

### B. Erosion and Sedimentation Control Requirement

A project which includes land disturbance of less than 20,000 square feet or a land disturbance that will alter an area of less than 10,000 square feet on existing or proposed slopes steeper than 15 % shall be considered to be in conformance with this Bylaw if soils or other eroded matter have been and will be prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage systems, or wetlands or watercourses. These projects do not need to apply as long as appropriate sedimentation and erosion control measures are implemented. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulation to the Bylaw.

### C. Exemptions

No person shall alter or disturb land within the Town of Rowley without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act M.G.L. c. 131, § 40 and its implementing regulations at 310 CMR 10.04;
2. Repair of septic systems when required by the Board of Health for the protection of public health and in compliance with Section 3, Paragraph B;
3. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling; construction of patios, walkways, driveways less than the minimum square foot thresholds, swimming pools below the minimum square foot thresholds, or replacement of wells or septic systems on lots having an existing dwelling;
4. The construction of any fencing that will not alter existing terrain or drainage patterns;

5. Construction of utilities (gas, water, electric, telephone, cable, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns, the reconstruction of or resurfacing of any public way; the construction and associated grading of a street that has been approved by the Planning Board;
6. Any activity that will alter an area of less than 10,000 square feet on existing or proposed slopes steeper than 15 %. This exception may not be applied for contiguous properties held in common ownership at the time of adoption of this Bylaw that may have been previously subdivided and/or are attributed to multiple separate owners;
7. Emergency repairs to any utilities (gas, water, electric, telephone, etc.), stormwater management facility or practice that poses a threat to public health, safety, or the environment or as deemed necessary by the Conservation Commission;
8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

#### SECTION 4. DEFINITIONS

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

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

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act MGL c. 131 § 40 and its implementing regulations 310 CMR 10.00.

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, or the force, quantity, 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" as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

**BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

**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.

**CHANNEL:** An open conduit either naturally or artificially created which periodically, or continuously contains moving water, or forms a connecting link between two bodies of water.

**CLEARING:** Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

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

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

**ENVIRONMENTAL SITE MONITOR:** A registered professional engineer (PE) or other trained professional acceptable to the Conservation Commission and retained by the holder of a Stormwater Management Permit to periodically inspect the work and report to the Conservation Commission.

**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 registered professional engineer (PE) or a professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

**ESTIMATED HABITAT OF RARE WILDLIFE; and CERTIFIED VERNAL POOLS:** Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00) as defined by these state regulations.

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

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

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

**LAND-DISTURBING ACTIVITY or LAND DISTURBANCE:** Any activity, including without limitation: clearing, grubbing, grading, digging, cutting, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**LOT:** A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

**MASSACHUSETTS ENDANGERED SPECIES ACT:** (M.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 MGL c. 131 § 40 and the Massachusetts Clean Waters Act MGL 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.

**MUNICIPAL STORM DRAIN SYSTEM 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 Rowley.

**OPERATION AND MAINTENANCE PLAN:** A plan describing 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.

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

**OUTSTANDING RESOURCE WATERS (ORW):** Waters designated by the Massachusetts Department of Environmental Protection as Outstanding Resource Waters. 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 set forth in the Massachusetts Stormwater Management Policy. Outstanding Resource Waters 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.

**PERMITTEE:** The person who holds a Stormwater Management Permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

**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 means of 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.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its regulations at (321 CMR 10.00).

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

**RESPONSIBLE PARTIES:** owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility.

**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 or area of property where land-disturbing activities are, were, or will be performed.

**SLOPE:** The vertical rise divided by the horizontal distance and expressed as a fraction or percentage, e.g. one-fifth (1/5) or twenty (20) percent.

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

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

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

**STORMWATER AUTHORITY:** The Town of Rowley Conservation Commission or its authorized agent(s). The Rowley Conservation Commission or its authorized agent(s) are responsible for coordinating the review, approval and permit process as defined in this Bylaw.

**STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the Conservation Commission, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

**STORMWATER MANAGEMENT PLAN:** A document containing narrative, drawings and details prepared by a registered professional engineer (PE) or a professional land surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

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

**TOTAL SUSPENDED SOLIDS (TSS):** Material, including but not limited to trash, debris, and sand suspended in stormwater runoff.

**VERNAL POOL:** A confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations. These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (*Rana sylvatica*) and the spotted salamander (*Ambystoma maculatum*), and are important habitat for other wildlife species.

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

**WATER QUALITY:** Systematic application of standards to describe water pursuant to the Massachusetts Surface Water Quality Standards (314 CMR 4.00).

**WETLAND RESOURCE AREA:** Area specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and in the Town of Rowley Wetlands Protection Bylaw.

**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. Wetlands are defined in M.G.L. c. 131, § 40, and are collectively known as vegetated wetlands.



## SECTION 5. ADMINISTRATION

- A. The Conservation Commission shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Conservation Commission through this Bylaw may be delegated in writing by the Conservation Commission to its employees or agents.
- B. Stormwater Management Policy. The Conservation Commission will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy, for execution of the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts's water quality standards.

## SECTION 6. REGULATIONS

The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or professional review fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Conservation Commission, after conducting a public hearing to receive comments on any proposed rules and regulations, or revisions thereto. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. The Conservation Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

## SECTION 7. PERMITS

Stormwater Management Permit (SMP) issuance is required prior to any activity disturbing 20,000 or more square feet of land or a land disturbance that will alter an area of 10,000 square feet or more on existing or proposed slopes steeper than 15 %. The site owner or his or her agent shall apply to the Conservation Commission for the SMP. While application may be made by a representative, the permittee must be the owner of the site or legal successor.

A. Applications: An application shall be made to the Conservation Commission in a form and containing information as specified in this Bylaw and in the Regulations adopted by the Conservation Commission and shall be accompanied by payment of the appropriate application and review fees. Projects within the jurisdiction of the Conservation Commission and requiring an Order of Conditions need not submit a separate SMP application.

B. Fees: Fees shall be established by Conservation Commission to cover expenses connected with administration, for application review, and monitoring permit compliance. An additional fee shall be paid to cover professional review. The Conservation Commission is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The applicant for a Stormwater Management Permit may be required to cover the costs of said consultant through an account established pursuant to GL. c. 44 § 53G.

C. Information Requests: The Conservation Commission may request such additional information as is necessary to enable the Conservation Commission to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this Bylaw.

D. Determination of Completeness: The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

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E. Coordination with Other Boards: On receipt of a complete application for a Stormwater Management Permit the Conservation Commission shall distribute one copy each to the Planning Board, Highway Department, and other appropriate Board(s) for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission.

F. Entry: Filing an application for a Stormwater Management Permit grants the Conservation Commission or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. Hearing: Within twenty-one (21) days of receipt of a complete application for a Stormwater Management Permit, the Conservation Commission shall hold a public hearing and shall take final action within thirty (30) days from the close of the hearing unless such time is extended by agreement between the applicant and the Conservation Commission. Notice of the public hearing shall, at least seven (7) days prior to said hearing, be given by publication in a local paper of general circulation, at the applicant's expense and by posting. The Conservation Commission shall prepare the notice for publishing in the local newspaper and posting the notice at the Town Hall. The Conservation Commission shall make the application available for inspection by the public during business hours at the Town of Rowley Conservation Office.

H. Abutter Notification: Concurrent with the filing of an application for a Stormwater Management Permit, the applicant also shall provide notification to all abutters and any property owner within 100 feet of the property line of the land where the activity is proposed including if separated from that land by a public or private street or a body of water and not unreasonably distant from the project site. The applicant shall provide notification at the mailing addresses shown on the most recent applicable tax list from the municipal assessor. Notification shall be at the applicant's expense. The notification shall state where copies of the application for a Stormwater Management Permit may be examined or obtained and where information on the date, time, and location of the public hearing may be obtained. To ensure compatibility with local procedures, applicants must comply with any rules of the Conservation Commission on the location for examining or obtaining the application for a Stormwater Management Permit and information about the hearing. The applicant shall notify abutters by certified mail, return receipt requested, or by certificates of mailing. Mailing at least seven days prior to the public hearing shall constitute timely notice. The applicant shall present either the certified mail receipts or certificate of mailing receipts for all abutters at the beginning of the public hearing. The presentation of the receipts for all abutters identified on the tax list shall constitute compliance with abutter notification requirements. The Conservation Commission shall determine whether the applicant has complied with abutter notification requirements.

I. Action: The Conservation Commission may:

1. Approve the Application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this Bylaw;
2. Approve the Application and issue a permit with conditions, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and complies with the requirements of this Bylaw; or
3. Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this Bylaw. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit. A denial shall be provided in written form.

J. Duration of Permit: Except at the discretion of the Commission, no activity governed by a Stormwater Management Permit shall be performed unless such Stormwater Management Permit has been recorded

or registered at the Essex South District Registry of Deeds or in the Land Court, within the chain of title of the affected property and all applicable appeal periods have expired. Proof of recording shall be submitted to the Commission in written form bearing the stamp of the Registry of Deeds, prior to the commencement of work. The Commission shall have the right to record or register its Stormwater Management Permit with said Registry or Land Court at the expense of the applicant. All Stormwater Management Permits shall expire three (3) years after the date of issuance. At the discretion of the Commission a Stormwater Management Permit may be extended for one (1) year at a time upon the request of the applicant in writing. The request for an extension of a Stormwater Management Permit shall be made to the Commission at least 30 days prior to expiration of the Stormwater Management Permit.

K. Project Changes: The permittee, or his or her agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a planned land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in the Regulations adopted by the Conservation Commission under this bylaw, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Stormwater Management Permit occurs during land disturbing activities, the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

L. Revocations: The Commission shall have the power (on its own motion or upon petition of any abutter) to initiate a revocation of a Stormwater Management Permit, for causes specified. The Commission shall notify the applicant or owners and abutters by certified mail of its intent to consider revocation and shall hold a public hearing within 21 days of the notification date.

## SECTION 8. STORMWATER MANAGEMENT PLAN

The Stormwater Management 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 best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this Bylaw.

### A. Erosion and Sedimentation Control Plan

The Erosion and Sedimentation 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 standards and contain the information listed in the Regulations adopted by the Conservation Commission for administration of this Bylaw.

### B. Operation and Maintenance Plan

1. An Operation and Maintenance Plan (O&M Plan) for the permanent stormwater management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this Bylaw and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance plan shall include any requirements deemed necessary by the Conservation Commission to insure compliance with said plan, including without limitation, a covenant. The Conservation Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of

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impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. Once approved by the Conservation Commission the Operation and Maintenance Plan shall be recorded at the Registry of Deeds by the permittee, shall run with the land, shall remain on file with the Conservation Commission and shall be an ongoing requirement. The Operation and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this Bylaw. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

### 2. Changes to Operation and Maintenance Plans

- a. The owner(s) of the stormwater management system must notify the Conservation Commission or its agent 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 this Bylaw by mutual agreement of the Conservation 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, persons with operational responsibility, and persons with administrative responsibility. Once the amended Plan is signed the owner(s) shall file it at the Registry of Deeds at their expense and provide written proof of recording to the Commission.

## SECTION 9. INSPECTION AND SITE SUPERVISION

A. Preconstruction Meeting. Prior to clearing, excavation, construction, or any land disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with the Conservation Commission or its designated agent to review the permitted plans and proposed implementation.

B. Commission Inspection. The Conservation Commission or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the agent of the Conservation Commission at least three (3) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Rough Grading has been substantially completed;
3. Final Grading has been substantially completed;
4. Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures;
5. Close of the Construction Season; and
6. Final landscaping (permanent stabilization) and project final completion.

C. Permittee Inspections. The permittee or his or her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his or her agent shall prepare and may be required to submit monthly reports to the Conservation Commission or designated agent in a format approved by the Conservation Commission. The Conservation Commission may

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require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its designated agent.

D. Access Permission. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Conservation Commission, 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 Conservation Commission deems reasonably necessary to determine compliance with the permit.

### SECTION 10. SURETY

The Conservation Commission may require before the start of land disturbance activity the permittee to post a surety bond, 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 Conservation Commission to insure that the work will be completed in accordance with the permit. If the project is phased, the Conservation 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 Conservation Commission has received the final report as required by Section 11 and issued a Certificate of Completion.

### SECTION 11. FINAL REPORTS

Upon completion of the work, the permittee shall submit a report (including certified as-built plan prepared and signed by a registered professional engineer (PE) or professional land surveyor (PLS), showing grading, stormwater facilities, and structures in areas subject to this Stormwater Management Permit. This as-built may be the originally submitted site plan with changes highlighted and explained.) from a registered professional engineer (PE) or registered professional land surveyor (PLS) certifying that all erosion and sedimentation 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.

### SECTION 12. ENFORCEMENT

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

#### B. Orders.

1. The Conservation Commission or an authorized agent of the Conservation Commission may issue a written order to enforce the provisions of this Bylaw or the regulations hereunder, which may include:

- a. A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw and provisions of the land-disturbance permit;
- b. Maintenance, installation or performance of additional erosion and sedimentation control measures;
- c. Monitoring, analyses, and reporting; and
- d. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Rowley may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

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a. 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 Rowley, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation 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 Conservation 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, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

C. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Rowley may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in which case the Conservation Commission or authorized agent shall be the enforcing person. The penalty for the first violation shall be \$75.00, the second violation shall be \$150.00, and for the third and all subsequent violations shall be \$300.00 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Appeals. All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

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.

### SECTION 13. CERTIFICATE OF COMPLETION

The Conservation Commission will issue a Certificate of 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. The Certificate of Completion shall be recorded at the Registry of Deeds by the owner(s). Proof of such recording shall be provided to the Commission in written form bearing the stamp of the Registry.

### SECTION 14. SEVERABILITY

If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law.

*This bylaw was passed at the Special Town Meeting of November 5, 2007 (Article 20), unanimously by voice vote without amendment. It was approved by the Attorney General on November 20, 2007, and posted in accordance with the law on November 28, 2007.*