

**Lexington Code, Chapter 181, Article VI**  
**STORMWATER MANAGEMENT REGULATIONS**

§ 181-69.	General Provisions .....	1
A.	Purpose & Authority .....	1
B.	Adoption & Amendment .....	1
C.	Effective Date.....	1
§ 181-70.	Definitions .....	1
§ 181-71.	Applicability .....	3
§ 181-72.	Administrative Procedures and Requirements .....	3
A.	Stormwater Management Permit Application .....	3
B.	Entry on Land.....	4
C.	Fees .....	4
D.	Permit Application Review Procedures.....	4
E.	Constructive Approval .....	5
F.	Appeals of Actions .....	5
G.	Lapse of Stormwater Management Permit .....	5
H.	Vesting of Rights.....	<b>Error! Bookmark not defined.</b>
§ 181-73.	Stormwater Management Performance Standards .....	5
A.	Minimum Performance Standards.....	5
B.	Additional Design Criteria .....	6
§ 181-74.	Stormwater Management Plan Contents .....	7
A.	Project Narrative .....	7
B.	Project Drawings and Specifications.....	10
C.	Changes to approved plan(s) .....	11
§ 181-75.	Construction Implementation & Monitoring.....	12
A.	Surety .....	12
B.	Required Inspections .....	12
C.	Inadequacy of System .....	13
§ 181-76.	Project Completion .....	13
A.	“As-Built” Plans.....	13
B.	Certificate of Completion .....	14
§ 181-77.	Perpetual Inspection and Maintenance.....	14
A.	Maintenance Responsibility .....	14
B.	Maintenance Inspections .....	14
C.	Right-of-Entry for Inspection .....	15
D.	Records of Inspections and Maintenance, Repair, Replacement and Disposal Activities.....	15
E.	Failure to Maintain .....	15
§ 181-78.	Erosion Control.....	15
§ 181-79.	Waivers .....	16
§ 181-80.	Enforcement.....	16
A.	Notices and Orders .....	17
B.	Purchase, Inheritance, or Acquisition of Property.....	17
C.	Fines .....	17
D.	Remedies Not Exclusive .....	17
§ 181-81.	Severability .....	17
B.	Erosion Control Inspection Form .....	20

Chapter 181, Article VI  
STORMWATER MANAGEMENT REGULATIONS  
[Adopted \_\_\_\_\_ by the Board of Selectmen]

**§ 181-69. General Provisions**

A. Purpose & Authority

The following Regulations are hereby adopted by the Board of Selectmen, acting as the Stormwater Authority, as provided in Chapter 114 of the Code of the Town of Lexington (the “Stormwater Management Bylaw”).

B. Adoption & Amendment

These Regulations and fee schedules may be periodically amended by the Stormwater Authority in accordance with the procedures outlined in Section 114-5 of the Stormwater Management Bylaw.

C. Effective Date

These Regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as the date of adoption, date filed with the Town Clerk and any amendments.

**§ 181-70. Definitions**

The definitions contained herein apply to the issuance of a Stormwater Management Permit established by the Town of Lexington Stormwater Management Bylaw and implemented through these Stormwater Management Regulations. Terms not defined in this section or in the Stormwater Management Bylaw shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

**ABOVE-THRESHOLD PROJECT** – Any activity governed by the Stormwater Management Bylaw that (1) results in a land disturbance greater than one acre, or (2) that is part of a larger common plan of development that eventually will disturb more than one acre of land.

**ABUTTER** — A property owner (a) directly abutting a proposed project (b) across a public or private street from a proposed project or (c) abutting an abutter if such is within 300 feet of the proposed project.

**APPLICANT** — A property owner or agent of a property owner who has filed an application for a Stormwater Management Permit.

**BEST MANAGEMENT PRACTICES (BMPS)** – Structural, nonstructural, 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.

**CERTIFICATE OF COMPLETION (COC)** — A document issued by the Stormwater Agency after all construction activities have been completed which states that all conditions of an issued Stormwater Management Permit have been met.

CONVEYANCE — Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.

DEVELOPER — A person who undertakes or proposes to undertake land disturbance activities.

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

EROSION CONTROL — The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff.

EROSION AND SEDIMENT CONTROL PLAN — A Stormwater Pollution Prevention Plan as required by the EPA Construction General Permit, or the functional equivalent if a project is not subject to the EPA Construction General Permit.

GROUNDWATER — All water beneath any land surface including water in the soil and bedrock beneath water bodies.

INCREASED DISCHARGE — A discharge of stormwater to the Lexington municipal separate storm sewer system that is the result of the creation of one or more acres of new impervious surfaces.

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

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

MASSACHUSETTS STORMWATER HANDBOOK (HANDBOOK) — The Stormwater Handbook, as amended from time to time, produced by MassDEP and the Massachusetts Office of Coastal Zone Management to be used as guidance for controlling stormwater. Implementation of the ten Stormwater Management Standards shall be in accordance with the Stormwater Handbook.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS — The requirements described in the Massachusetts Stormwater Handbook, as they may be amended from time to time, that address water quality (pollutants) and water quantity (flooding, low base flow and recharge) by establishing standards that require the implementation of a wide variety of stormwater management strategies. These strategies include environmentally sensitive site design and LID techniques to minimize impervious surface and land disturbance, source control and pollution prevention, structural Best Management Practices, construction period erosion and sedimentation control, and the long-term operation and maintenance of stormwater management systems. The Stormwater Management Standards have been incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

OPERATION AND MAINTENANCE PLAN — A plan that defines 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.

PRE-DEVELOPMENT — The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Agency with a Stormwater Management Permit Application. Where phased development or plan approval occurs

(preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish the site's pre-development conditions.

**POST-DEVELOPMENT** — The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

**RECHARGE** — The replenishment of underground water reserves.

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

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

**STOP WORK ORDER** — An order issued by the Stormwater Agency that requires that all construction activity on a site be stopped.

**STORMWATER AUTHORITY** – The entity responsible for adopting regulations pursuant to the Lexington Stormwater Bylaw. Section 5(A) of the Bylaw designates the Lexington Board of Selectmen as the Stormwater Authority.

**STORMWATER AGENCY** – The entity responsible for administering, implementing and enforcing the regulations adopted by the Stormwater Authority. Section 2 of the Bylaw designates the Lexington Department of Public Works Engineering Division as the Stormwater Agency.

### **§ 181-71. Applicability**

These Regulations apply to all activities governed by the Stormwater Management Bylaw, except that Sections 181-73 through 181-77 apply only to Above-Threshold Projects. Permit issuance is required prior to any land disturbance.

### **§ 181-72. Administrative Procedures and Requirements**

Projects requiring a Stormwater Management Permit per Section 114-4A of the Stormwater Management Bylaw shall be required to submit a permit application as described below.

#### **A. Stormwater Management Permit Application**

The Applicant shall file with the Stormwater Agency, three (3) copies of a completed application package for a Stormwater Management Permit.

For Above-Threshold Projects, the Stormwater Management Permit Application package shall include:

- (1) An Application Form with original signatures of all property owners (and the applicant if not a property owner);
- (2) Payment of the application fees;
- (3) Maintenance Agreement;
- (4) Surety bond (if required);

- (5) A list of abutters certified by the Assessor's Office, to be used by the developer to provide notice at the direction of the Agency.
- (6) A list of requested waivers, if applicable. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrate that strict application of the Bylaw or Regulations is not necessary to meet the purposes or objectives of the Bylaw.
- (7) A Stormwater Management Plan consistent with the Handbook;
- (8) An Erosion and Sediment Control Plan; and
- (9) An Operation and Maintenance Plan.

For all other projects, the Stormwater Management Permit Application package shall include:

- (1) An Application Form with original signatures of all property owners (and the applicant if not a property owner); and
- (2) Payment of the application fee.

B. Entry on Land

By filing an application for a Stormwater Management Permit, the property owner grants the Stormwater Agency permission to enter the project site to verify the information in the application and to inspect for compliance after issuance of the Stormwater Management Permit.

C. Fees

The Stormwater Agency shall obtain with each submission an Application Fee to cover expenses connected with the administration of and application review of the Stormwater Management Permit and a technical Review Fee sufficient to cover professional review. The Agency is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Agency on any or all aspects of these plans. Applicants must pay application and review fees before the review process may begin.

Application and Review Fee: \$250.00

D. Permit Application Review Procedures

All applications for a stormwater management permit shall be reviewed for completeness by the Stormwater Agency. If the Agency determines that the application is not complete, the Agency will notify the applicant in writing, within twenty-one (21) days of receipt of the application, what additional information is required.

(1) Abutter Notification (required for Above-Threshold Projects only)

At the time of application, the applicant shall provide notice to all abutters of the application's filing and invite comment to the Agency on said application for a period of seven (7) days. The Agency shall make the application available for inspection by the public during business hours at the Department of Public Works.

This requirement will be considered met if abutters have been notified of the same project at other stages of project approval by other Town boards or commissions.

(2) Final Action

The Agency shall take final action within twenty-one (21) days of the receipt of a complete application unless such time is extended by agreement between the applicant and the Agency, per subsection D(3) below. The Stormwater Agency's final action, rendered in writing, shall be filed with the Department of Public Works and shall consist of either:

- (a) Approval of the Stormwater Management Permit Application based upon determination that the proposed plan will adequately protect the water resources of the community and is in compliance with the requirements set forth in these Regulations;
  - (b) Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the Stormwater Agency which will ensure that the project will adequately protect the water resources of the community and is in compliance with the requirements set forth in these Regulations; or
  - (c) Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not adequately protect water resources, as set forth in these Regulations, or the application is deemed incomplete.
- (3) Mutual Extension of Time

The required time limits for final action may be extended by written agreement between the applicant and the Stormwater Agency. A copy of such an agreement shall be filed with the Department of Public Works.

E. Constructive Approval

Failure of the Stormwater Agency to take final action upon an application within twenty-one (21) days of receipt of a complete application shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Stormwater Agency action, the activity may proceed as proposed in the Application.

F. Appeals of Actions

A decision of the Stormwater Agency shall be final. Further relief of a decision by the Stormwater Agency under the Stormwater Management Bylaw and these regulations shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.

G. Expiration of Stormwater Management Permit

A Stormwater Management Permit expires two (2) years after the date of issuance. If work has not been completed within two (2) years, the Applicant shall notify the Stormwater Agency. The Agency may renew the Stormwater Management Permit at its discretion. If the Stormwater Bylaw or Regulations have been amended during the permit term, the Agency may include conditions in the renewal to implement the amended provisions.

**§ 181-73. Stormwater Management Performance Standards**

A. Minimum Performance Standards

Except as expressly provided, stormwater runoff from all Above-Threshold Projects shall meet Standards 1 through 10 of the Massachusetts Department of Environmental Protection's

Stormwater Management Standards and Handbook using current Best Management Practices (BMP's).

B. Additional Design Criteria

(1) Landscape Design Performance Standards

Site plans and landscape plans for all proposed projects shall take appropriate steps to minimize water use for irrigation and to allow for natural recharge of groundwater. Native species and habitat creating species shall be used in all landscape plans to the maximum extent possible. Invasive species shall not be planted in the Town of Lexington.

(2) Hydrological Basis for Design

For stormwater facility sizing criteria, the basis for hydrologic and hydraulic evaluation of development and redevelopment sites are as follows:

- (a) All hydrological calculations shall be completed and certified to by a Registered Engineer licensed to practice in this field. Typically the procedures to follow will include Technical Release Number 55 (TR55) and/or TR20 (as amended); with pipe design flows calculated using the Rational Method.
- (b) The rainfall amounts shall be determined using Type III 24-hour storm precipitation as referenced in Technical Release Number 55 and 20. Precipitation amounts shall be defined by the Northeast Regional Climate Center "Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada."
- (c) The minimum time of concentration for street drainage (Rational Method) shall be five (5) minutes.
- (d) Water velocities in pipes and gutters shall be between two (2) and ten (10) feet per second, not more than five (5) feet per second on paved surfaces, and not more than four (4) feet per second in vegetated areas.
- (e) Impervious cover is measured from the site plan and includes any material or structure on or above the ground that prevents water from infiltrating through the underlying soil.
- (f) Off-site areas shall be assessed based on their "pre-developed condition" for computing the water quality volume (i.e., treatment of only onsite areas is required). However, if an offsite area drains to a proposed BMP, flow from that area must be accounted for in the sizing of a specific practice.
- (g) Off-site areas draining to a proposed facility should be modeled as "present condition" for peak-flow attenuation requirements.
- (h) The length of sheet flow used in time of concentration calculations is limited to no more than 100 feet.
- (i) Detention time is defined as the time between the center of mass of the inflow hydrograph and the center of mass of the outflow hydrograph.
- (j) For purposes of choosing a runoff Curve Number, all pervious lands in the site shall be assumed prior to development to be in "good" hydrologic condition regardless of conditions existing at the time of computation.

- (k) Flooding and channel erosion impacts to receiving streams due to land development projects shall be determined at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
- (l) Proposed residential, commercial, or industrial subdivisions or ANRs shall apply these Stormwater Management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.
- (3) Sensitive Areas – Additional Design Criteria  
Stormwater discharges to Critical Areas with sensitive resources as defined in the Massachusetts Stormwater Management Standard No. 6 are subject to additional criteria, and may need to utilize or restrict certain Stormwater Management practices at the discretion of the Stormwater Agency.
- (4) Discharges to Water Quality Impaired Waters  
The Applicant must determine whether stormwater discharges from the proposed site will contribute, either directly or indirectly, to the impairment of an impaired water body with or without approved total maximum daily load. Structural and non-structural stormwater BMPs shall be selected that will control the discharge of the pollutant(s) identified as causing the impairment and will ensure that the discharges will not cause an in stream exceedance of applicable water quality standards.

**§ 181-74. Stormwater Management Plan Contents**

The Stormwater Management Plan shall meet the requirements of the Massachusetts Stormwater Handbook.

**A. Project Narrative**

The project narrative shall include the following elements:

- (1) Completed Application Form
- (2) Existing Conditions Statement  
A description of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows.
- (3) Project Description  
The applicant shall document and an evaluation of alternatives for the site, including:
  - (a) Potential building envelopes avoiding environmental resource areas and appropriate buffers; and
  - (b) Methods to minimize impervious surfaces, and to protect and preserve open space.
  - (c) A description of any alternative processes or methods that were contemplated.
- (4) Stormwater Impact Statement

A brief description of the project, how and where stormwater will be controlled, including:

- (a) A recharge area analysis that calculates pre- and post-construction annual groundwater recharge rates on the parcel;
  - (b) All measures for the detention, retention or infiltration of water;
  - (c) Description of non-structural BMPs;
  - (d) All measures for the protection of water quality;
  - (e) Expected hydrology with supporting calculations;
  - (f) Hydrologic and hydraulic design calculations for the pre- and post-development conditions for the design storms specified in these Regulations. Such calculations shall include:
    - [1] Description of the design storm frequency, intensity and duration;
    - [2] Time of concentration;
    - [3] Soil Runoff Curve Number (CN) based on land use and soil hydrologic group;
    - [4] Peak runoff rates and total runoff volumes for each watershed area;
    - [5] Provisions for maintaining during construction the infiltration capacity of the soil where infiltration is proposed;
    - [6] Infiltration rates, where applicable;
    - [7] Culvert capacities, where applicable;
    - [8] Flow velocities;
    - [9] Data on the increase in rate and volume of runoff for the specified design storms;
    - [10] Increase or decrease in connected and disconnected impervious area (in square feet and %); and
    - [11] Documentation of sources for all computation methods and field test results.
  - (g) Soils information from test pits performed at the location of proposed drainage stormwater structures, including but not limited to stormwater retention, detention or infiltration systems, including but not limited to soil descriptions, depth to estimated seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Certified Soil Evaluator;
- (5) Increased Discharge Statement
- (a) For Increased Discharges to the Town's storm sewer system that could discharge to an impaired water without an approved TMDL, the applicant must:
    - [1] Identify and estimate a load for each pollutant for which the water is impaired from the Increased Discharge.
    - [2] Implement additional BMPs to assure that the Increased Discharge is not causing or contributing to a water quality standards violation.
  - (b) For Increased Discharges to the Town's storm sewer system that could discharge to an impaired water with an approved TMDL, the applicant must:
    - [1] Identify and estimate a load for each pollutant for which a TMDL exists from the Increased Discharge.

- [2] Implement additional BMPs to assure that the Increased Discharge is not causing or contributing to a water quality standards violation and supports the achievement of the approved TMDL.

(6) Erosion and Sediment Control Plan

(7) Operation and Maintenance Plan

The Operation and Maintenance Plan (the O & M Plan) shall be designed to ensure compliance with the Permit, these Regulations and the Massachusetts Surface Water Quality Standards (314 CMR 4.00) in all seasons and throughout the life of the system. The O&M Plan shall remain on file with the Stormwater Agency, and compliance with the O&M Plan shall be an ongoing requirement. When applicable, Stormwater Management easements will be required for all areas used for off-site stormwater control, unless the Stormwater Agency grants a waiver.

(a) The O&M Plan shall specify:

- [1] The names, addresses and contact information of the property owner;
- [2] The names, addresses and contact information of the person(s) responsible for site operation and maintenance;
- [3] The person(s) responsible for financing maintenance and emergency repairs;
- [4] A list of easements with the purpose of each; and
- [5] An Inspection and Maintenance Schedule for all stormwater management facilities, including what routine and non-routine maintenance tasks are to be performed, when they are to be conducted, who is to perform them, and to whom to report results.

(b) Maintenance Inspections

- [1] Stormwater management facilities and practices included in an O & M Plan shall undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the Plan and these Regulations. At a minimum, inspections shall occur once every year.

(c) Records of Maintenance and Repair Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Stormwater Agency upon request. Parties responsible for the operation and maintenance of a stormwater management facility shall prepare records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the Stormwater Agency during inspection of the facility and at other reasonable times upon request.

(d) The O&M Plan shall include a Maintenance Agreement signed by the property owner(s), the person(s) responsible for site operation and maintenance if not the property owner; and the person(s) responsible for financing maintenance and emergency repairs if not the property owner.

(e) The O&M Plan may only be amended with the approval of the Stormwater Agency.

## B. Project Drawings and Specifications

The project drawings shall include the following sheets:

(1) Cover, including:

- (a) Project Name
- (b) Names and addresses of owners and applicants;
- (c) USGS quad map highlighting project site and watershed boundaries;
- (d) Index to plan sheets;
- (e) Legend, North Arrow and Scale (include both a scale bar and scale text);
- (f) Benchmark data, including reference to the starting benchmark;
- (g) Date of submission and, if applicable, any revision date(s);
- (h) Names and addresses of the professional engineer or land surveyor who prepared the plans.

(2) Existing Drainage Area, showing:

- (a) Pre-construction drainage areas;
- (b) The delineation of all existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches and critical environmental resource areas on, or adjacent to, the site into which stormwater flows;
- (c) Vegetation and ground surfaces (include all impervious cover);
- (d) Time of concentration ( $t_c$ );
- (e) Stormwater flow paths, including municipal drainage system flows; and

(3) Proposed Drainage Area, showing:

- (a) Post-construction drainage area(s);
- (b) The delineation of any existing stormwater conveyances to be retained and any proposed stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches and critical environmental resource areas on, or adjacent to, the site into which stormwater flows;
- (c) Vegetation and ground surfaces (include all impervious cover);
- (d) Time of concentration ( $t_c$ );
- (e) Stormwater flow paths, including municipal drainage system flows; and
- (f) Location(s) of any test pit(s).

Test pits should coincide with the location(s) of any proposed stormwater practice(s), including non-structural practices and foundation or perimeter drains.

(4) Existing Conditions, containing:

- (a) Existing topography at 2-foot intervals;
- (b) Existing site hydrology and soil types;
- (c) Delineation of any flood plains, if applicable;
- (d) Location(s) of existing easements;
- (e) Location(s) of existing utilities;

(5) Proposed Conditions, containing:

- (a) Existing and proposed topography (finished grading) at 2-foot intervals;
  - (b) Proposed vegetation and ground surfaces (include all impervious cover);
  - (c) Delineation of any flood plains, if applicable;
  - (d) Location(s) of any existing easements to be retained and any proposed easements;
  - (e) Final location(s) of utilities;
  - (f) All structural and non-structural stormwater utilities and/or facilities; and
  - (g) As necessary, the details of the drainage system components, including stabilization and management techniques to be used within and/or adjacent to any stormwater practice.
- (6) Erosion and Sediment Control, containing:
- (a) Locations of all bodies of waters (including wetlands);
  - (b) Direction(s) of stormwater flow and approximate slopes anticipated after major grading activities;
  - (c) Areas of soil disturbance and areas that will not be disturbed (limit of work line);
  - (d) Locations of site access/egress, including applicable sediment control measures;
  - (e) Locations where stabilization practices are expected to occur;
  - (f) Locations where stormwater discharges to a surface water (include all roads, drains and other structures that could carry stormwater to a wetland or other water body, on or offsite); and
  - (g) The on-site location(s) to be used for storage of materials, wastes, vehicles, equipment, soil, snow and other potential pollutants. If off-site, note location(s) of storage area(s) and detail applicable sediment control measures;
- (7) Operation and Maintenance, showing:
- (a) The location of the systems and facilities including all stormwater and low-impact development best management practices, catch basins, manholes/access lids, pipes, and other stormwater devices;
  - (b) The location(s) of Stormwater Management easements provided by the property owner(s) as necessary for:
    - [1] Access for facility inspections and maintenance;
    - [2] Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;
    - [3] Direct maintenance access by heavy equipment to structures requiring regular maintenance.
- C. Changes to approved plan(s)

The applicant shall notify the Stormwater Agency in writing of any changes in the Stormwater Management Plan approved by the Stormwater Management Permit before any change or alteration is made, including but not limited to drainage practices, change of ownership or responsible parties. If the Stormwater Agency determines that the change or alteration is significant, based on the Stormwater Management Standards and accepted construction practices, the Stormwater Agency may require that an amended application be filed.

## § 181-75. Construction Implementation & Monitoring

### A. Surety

As a condition of the Stormwater Management Permit, before the start of any land disturbance or construction activity, the Stormwater Agency may require the applicant to post a surety bond, irrevocable letter of credit, cash, or other acceptable security in an amount sufficient to cover the approved Estimated Cost of Construction.

The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Stormwater Agency to ensure that the work will be completed in accordance with the permit. The Stormwater Agency may release part of the bond as each phase is completed in compliance with the permit but the bond may not be released to an amount less than 15% of the original amount until the Stormwater Agency has received the final inspection report as required by Section 11 of these Regulations and issued a Certificate of Completion.

### B. Required Inspections

The Stormwater Agency or the applicant (as specified below) shall inspect the project site at the following stages:

- (1) Pre-construction Meeting. The applicant shall notify the Stormwater Agency seven (7) days before the commencement of construction to arrange for an on-site, pre-construction meeting.
- (2) Stormwater Management System Installation. The applicant shall notify the Stormwater Agency two (2) workdays before the backfilling of any underground drainage or stormwater conveyance structures to arrange for an on-site inspection.
- (3) Erosion Control Inspection(s). To ensure erosion control practices are in accord with the filed Erosion and Sediment Control Plan, Erosion Control Inspections will be conducted by the applicant or an authorized representative at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater, from the start of construction until the site is permanently stabilized. Inspection frequency may be reduced to once a month if the site is temporarily stabilized, runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or, if construction is occurring during seasonal dry periods. The applicant is required to notify the Stormwater Agency of any change in inspection frequency, including termination of inspections due to site stabilization using the Erosion Control Inspection Form.
- (4) The Erosion Control Inspection Form shall include:
  - (a) Name, date, and signature of qualified inspector.
  - (b) Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
  - (c) Location(s) of discharges of sediment or other pollutants from the site;
  - (d) Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location, and/or location(s) where additional BMPs are needed that did not exist at prior inspection; and

- (e) Corrective action required including any changes to the Stormwater Management Plan necessary and implementation dates.

If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities (Construction General Permit), then the applicant is required to submit all inspection reports completed under that SWPPP to the Stormwater Agency. If the inspection reports meet the requirements of the Construction General Permit, they will be considered equivalent to the Erosion Control Inspection Form as described above.

- (5) Final Inspection, upon receipt of final As-Built.
- (6) Other inspections may be required as deemed necessary by the Stormwater Agency.
- (7) All inspections conducted by the Stormwater Agency or its designee shall be documented and written reports prepared that contain the following information:
  - (a) The date and location of the inspection;
  - (b) Names, titles, and qualifications of personnel making the inspection;
  - (c) Whether construction is in compliance with the approved Stormwater Management Plan;
  - (d) Variations from the approved construction specifications; and
  - (e) Any other variations or violations of the conditions of the approved Stormwater Management Plan.

#### C. Inadequacy of System

- (1) If the stormwater management system is found by the Stormwater Agency to be inadequate by virtue of physical evidence of operational failure, even though it was built in accordance with the Stormwater Management Plan, it shall be corrected by the applicant before the Certificate of Completion is released. If the applicant fails to act, the Stormwater Agency may use the surety bond to complete the work.
- (2) If the Stormwater Agency determines that there is a failure to comply with the plan, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. A Stop Work Order shall be issued until any violations are corrected and all work previously completed has received approval by the Stormwater Agency.

### § 181-76. Project Completion

#### A. "As-Built" Plans

Within 90 days of completion of the project, the applicant shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required in Section 181-73. A Registered Professional Engineer must prepare As-built Plans that show the "as built" conditions, including all final grades. All changes to project design shall be indicated in red on plans (or otherwise noted). All work deleted, corrections in elevations, and changes in materials, shall be shown on the as-built drawings and explained in writing. A Registered Professional Engineer shall certify deviations, if any, from the plans approved by the Stormwater Management Permit.

As-builts shall be submitted electronically to the Town consistent with the current Standard for Digital Plan Submission to Municipalities, published by the Commonwealth's Office of Environmental Information (MassGIS).

**B. Certificate of Completion**

Upon completion, the Applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications by submitting As-built Plans to the Stormwater Agency as described in Section 181-76 A. The certification statement shall be based on regular inspections that occurred during construction sufficient to adequately document compliance.

Easements shall be properly recorded and/or registered before the Stormwater Agency can issue a Certificate of Completion.

The Stormwater Agency will issue a letter to the Applicant and the Town Clerk, certifying completion upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with the Stormwater Management Bylaw and these Regulations.

**§ 181-77. Perpetual Inspection and Maintenance**

The owner of the property on which work has been done pursuant to these Regulations for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

**A. Maintenance Responsibility**

The Town of Lexington will not accept ownership of stormwater BMPs located outside of street rights of way, and the maintenance of such facilities shall remain the permanent responsibility of the applicant or his successors and/or assigns. The owner of the property on which work has been done pursuant to these Regulations for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans, including the O&M Plan, if applicable.

**B. Maintenance Inspections**

Inspection reports required by an O&M Plan shall be submitted to the Stormwater Agency. These inspection reports shall include at a minimum:

- (1) The date of inspection;
- (2) Name and signature of inspector;
- (3) The condition of:
  - (a) Pretreatment devices
  - (b) Vegetation or filter media
  - (c) Fences or other safety devices

- (d) Spillways, valves, or other control structures
- (e) Embankments, slopes, and safety benches
- (f) Reservoir or treatment areas
- (g) Inlet and outlet channels and structures
- (h) Underground drainage
- (i) Sediment and debris accumulation in storage and fore bay areas (including catch basins)
- (j) Any nonstructural practices
- (k) Any other item that could affect the proper function of the stormwater management system

(4) Description of the need for maintenance.

#### C. Right-of-Entry for Inspection

The terms of the O&M Plan and the Maintenance Agreement shall provide for the Stormwater Agency or its designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The Stormwater Agency, its agents, officers, and employees shall have authority to enter upon privately owned land 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 Stormwater Agency deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

#### D. Records of Inspections and Maintenance, Repair, Replacement and Disposal Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall prepare records of the installation and of all inspections, maintenance, repairs, replacement, and disposal activities, and shall retain the records for at least five years. These records shall be made available to the Stormwater Agency during inspection of the facility and upon request. For disposal, the record must indicate the type of material, quantity of material, and disposal location.

#### E. Failure to Maintain

After notification is provided to the signatories to the Maintenance Agreement of any deficiencies discovered from an inspection of a stormwater management system, the signatories shall have 30 days (which time may be extended by the Stormwater Agency) to correct the deficiencies. The Stormwater Agency shall then conduct a subsequent inspection to ensure completion of repairs.

### **§ 181-78. Erosion Control**

- (1) Reasonable measures must be employed to minimize adverse off-site impact from land disturbance due to construction.

The following performance standards must be met.

- (a) The duration of the exposure of disturbed areas due to removal of vegetation and/or re-grading shall be stated in writing in a schedule that will be prepared at the time of application for permit and maintained as part of the project records.

- (b) Dust control shall be used during grading operations. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.
- (c) During construction, all disturbed areas shall be enclosed with straw wattles or hay bales and siltation control fence in the down gradient direction or in any direction to which erosion can occur.
- (d) During construction, any site entrance from a paved public way shall be improved with a gravel apron of 15 feet wide and at least 24 feet long to prevent soil from being transported onto the street.
- (e) If the work tracks soil onto public or private ways, the soil shall be cleaned up by the responsible party within 24 hours.
- (f) If the work causes the discharge of soil to town drainage structures, silt sacks shall be installed and all affected downstream pipe shall be cleaned by the responsible party within 3 days.
- (g) Permanent erosion control and vegetative measures must be installed in less than 15 days after completion of construction or, when not practical due to the season, on a schedule acceptable to the Stormwater Agency.

**§ 181-79. Waivers**

- (1) The Stormwater Agency may, at its sole discretion, decide to waive strict compliance with any requirement of the Stormwater Management Bylaw and these Regulations, where it makes a written finding that such action is:
  - (a) Allowed by federal, state and local statutes and/or regulations;
  - (b) In the public interest; and
  - (c) Consistent with the purpose and intent of the Town of Lexington Stormwater Management Bylaw and these Regulations.
- (2) Any applicant shall 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 the Bylaw does not further the purposes or objectives of the Bylaw.
- (3) If in the Stormwater Agency's opinion, additional time or information is required for review of a waiver request, the Stormwater Agency may request consent of the applicant in extending the time for collection of additional information. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.
- (4) Waivers described herein shall not constitute an exemption from any applicable Federal or State permitting requirements.

**§ 181-80. Enforcement**

Enforcement powers of the Stormwater Agency are granted in the Stormwater Management Bylaw, Section 114.1.D.

A. Notices and Orders

- (1) The Stormwater Agency may issue a written notice of violation or an enforcement order to enforce the provisions of the Stormwater Management Bylaw and the Regulations, which may include requirements to:
  - (a) Suspend or revoke any Stormwater Management Permit.
  - (b) Cease and desist construction or land disturbing activity until there is compliance with the Bylaw and the Stormwater Management Permit;
  - (c) Repair, maintain, or replace the Stormwater Management system or portions thereof in accordance with the O&M Plan;
  - (d) Perform monitoring, analyses, and reporting; and/or
  - (e) Fix adverse impact resulting directly or indirectly from malfunction of the Stormwater Management system.

The suspension or revocation of the Permit shall not relieve the Applicant of his obligation there under except at the discretion of the Agency.

- (2) If the Stormwater Agency determines that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation shall be completed.

B. Purchase, Inheritance, or Acquisition of Property

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of the Stormwater Management Bylaw and these Regulations, or in violation of the approved Plans under this Section shall forthwith comply with any such Order, and restore such real estate to its condition prior to such violation, as the Stormwater Agent deems necessary to remedy such violation.

C. Fines

Any person who violates any provision of the Town of Lexington Stormwater Management Bylaw, these regulations, or order or permit issued there under, may be fined up to \$300 per offense. Each day that such violation occurs or continues shall constitute a separate offense. As an alternative to criminal prosecution or civil action, the Stormwater Agency may choose to use the non-criminal disposition procedure set forth in G.L. c. 40, § 21D and § 1-6 of the Code of the Town of Lexington.

D. 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.

**§ 181-81. Severability**

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

**APPLICATION FOR STORMWATER MANAGEMENT PERMIT**

TOWN OF LEXINGTON, MASSACHUSETTS

The undersigned hereby submits this Application and supporting documents in accordance with the Town Stormwater Management Bylaw and Regulations.

Name, address and contact information of all persons having a legal interest in the property:

Name:

Signature:

Address:

Telephone Number

Email

Use additional sheets if needed.

Contact information for responsible party including emergency off-hours telephone number.

Name

Phone

Address of Proposed Project (“Project”)

Assessor’s Map Sheet

Parcel

Other Permits Requested or Received:

Conservation Commission Notice of Intent: Yes [ ] No [ ]

Status of Application \_\_\_\_\_

Planning Review: Yes [ ] No [ ]

Type of review or permit request:

Status of Application \_\_\_\_\_

Zoning Classification

Groundwater Protection district Yes [ ] No [ ]

Project description:

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Estimated area of disturbance: \_\_\_\_\_ square feet

Description of methods of stormwater control (for Above-Threshold Projects, please instead attach the Stormwater Management Plan):

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### **Stormwater Management Systems Inspection Report**

- (a) The date of inspection;
- (b) Name of inspector;
- (c) The condition of:
  - [1] Pretreatment devices
  - [2] Vegetation or filter media
  - [3] Fences or other safety devices
  - [4] Spillways, valves, or other control structures
  - [5] Embankments, slopes, and safety benches
  - [6] Reservoir or treatment areas
  - [7] Inlet and outlet channels and structures
  - [8] Underground drainage
  - [9] Sediment and debris accumulation in storage and forebay areas (including catch basins)
  - [10] Any nonstructural practices
  - [11] Any other item that could affect the proper function of the stormwater management system
- (d) Description of the need for maintenance.

#### **B. Erosion Control Inspection Form**

- (1) Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
- (2) Location(s) of discharges of sediment or other pollutants from the site;
- (3) Location(s) of BMP's that failed to operate as designed or proved inadequate for a particular location, and/or location(s) where additional BMP's are needed that did not exist at prior inspection; and
- (4) Corrective action required including any changes to the Erosion and Sediment Control Plan necessary and implementation dates.