



## Town of Bellingham

# PROCEDURAL RULES

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**1.0 SECTION ONE: GENERAL PROVISIONS**

- 1.1 Purpose.** These Procedural Rules are hereby adopted by the Bellingham Planning Board to establish regulations and requirements for the conduct of the Board's business.
- 1.2 Authority.** Under the authority vested in the Planning Board of the Town of Bellingham the Board hereby adopts these Procedural Rules.
- 1.3 Applicability.** Any development requiring approval by the Planning Board shall comply with the provisions of these Procedural Rules.
- 1.4 Waivers.** A waiver of strict compliance from these Procedural Rules may be granted if the Planning Board determines that such a waiver is in the public interest and not inconsistent with the intent and purpose of these Procedural Rules and the Bellingham Zoning Bylaw. All requests for waivers shall be submitted in writing to the Planning Board. All requests shall identify the provision or provisions of the regulations from which relief is sought. The request shall also include a statement explaining why the applicant thinks that granting a waiver would be in the public interest and not inconsistent with the purpose and intent of these Rules and Regulations and the Zoning Bylaw.
- 1.5 Amendments.** These Procedural Rules may be amended by a majority vote of the Planning Board at a regularly scheduled meeting after a public hearing duly advertised once in a paper of general circulation in the Town of Bellingham no less than seven days prior to the date of the public hearing.
- 1.6 Effective Date.** The effective date of any amendment to Bellingham Planning Board Procedural Rules shall be the date such amendments are filed with the Bellingham Town Clerk.
- 1.7 Planning Board Officers.**
- 1.7.1 Selection. The Planning Board shall elect a Chairman, Vice-Chairman, and Secretary annually at the first Board meeting having all members in attendance following Town elections. The Board shall at the same organization meeting elect a representative to such other committees or organizations as may call for Planning Board representation.
- 1.7.2 Duties. The Chairman shall preside at all meetings and hearings, make appointments except as provided above, and supervise the work of the Town Planner, Planning Board Coordinator and consultants. The Vice-Chairman shall serve as Chairman in the absence or disqualification of the Chairman. The Secretary shall serve as Chairman in the absence or disqualification of both the Chairman and Vice-Chairman.

- 1.8 Board Meetings.** The Planning Board normally meets on the second and fourth Thursday of the month; however, special or emergency meetings may be scheduled by vote of the Board or at the discretion of the Planning Board Chairman.
- 1.9 Meeting Agenda.** All persons wishing to meet with the Board shall request appointments through the Planning Board Office no later than noon of the Thursday preceding the meeting, providing information regarding the subject matter to be presented or discussed. Agenda times are subject to availability.
- 1.10 Quorum.** Three members qualified to vote shall constitute a quorum, except four members qualified to vote shall constitute a quorum for a hearing on a Special Permit with the consent of the applicant, or five otherwise. In the absence of a quorum, a scheduled hearing shall be continued to the next regularly scheduled meeting of the Planning Board, or to an earlier date if the Chairman so determines.
- 1.11 Votes.**
- 1.11.1 All members, including the Chairman, shall participate in all votes unless being a “party in interest” on a vote pertaining to a subdivision, endorsement that a plan is not a subdivision, a special permit, a recommendation regarding an action before the Board of Appeals, or a zoning map amendment of one or two contiguous parcels. “Party in interest” shall comprise those included in the definition in M.G.L. ch.40A §11, as well as others with financial involvement in the outcome.
  - 1.11.2 A positive vote by the majority of those voting shall be required for approval for all matters, except when otherwise specified by statute, charter, or bylaw. Four votes are required for approval of a special permit and three votes are required for approval of a definitive plan, development and site plan.
  - 1.11.3 If the application before the Planning Board is a Special Permit and any member of the Planning Board is unable to vote on the matter, the Alternate Board member shall vote.
- 1.12 Procedural Matters.** In procedural matters not covered by these rules or by Town bylaw or statute, the Board shall be guided by *Roberts Rules of Order*, as most recently revised.

## **2.0 SECTION TWO: ZONING AMENDMENTS**

**2.1 Initiation.** M.G.L. ch.40A §5 provide that zoning amendments may be initiated by submittal of proposals to the Selectmen by any of the following:

- the Selectmen themselves
- the Board of Appeals
- the Planning Board
- M.A.P.C.
- an owner of land affected by the change
- registered voters in a number sufficient to place an article on the warrant, acting under, M.G.L. ch. 39 §10.

The Planning Board will submit amendment proposals to the Selectmen either on behalf of others or on their own initiation, in either case by vote of a majority of those voting.

## **2.2 Hearing.**

- 2.1** The Planning Board will hold a public hearing on all proposed zoning amendments, as provided in M.G.L. ch.40A §5.
- 2.2** Requests for zoning map amendments shall be accompanied by eight prints of a plan to scale, clearly showing the proposed change referenced for location on the Town zoning map, and Town Assessor's maps, and showing relevant district and property bounds, structures and natural features. It is advisable that a Registered Land Surveyor prepare the plan and description. A verbal description of the proposed change, suitable for legal advertisement, plus a filing fee of \$75.00 shall also accompany the request. If the zoning map is to be amended, the proposed article should reference amendment of the town's Zoning Map. All of these materials must be submitted to the Planning Board or to its Chairman not less than five weeks prior to the proposed public hearing date.
- 2.3** Notice of Hearing. Petitioners for re-zoning of land are responsible for providing notification by mail to the owner of the land for which the rezoning is sought (if not the petitioner), abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within 300 feet of the property line of the property, even if over a town line. An "abutters list" shall be certified by the Tax Assessors listing all "abutters" and their addresses as appearing on the most recent tax list. Proof of mailing shall be documented for the Planning Board through the use of the US Postal Service's "Certificate of Mailing." Said receipts shall be given to the Board prior to opening of the public hearing on the rezoning petition.

### 3.0 SECTION THREE: GENERAL APPLICATION REVIEW PROCEDURES

**3.1 Procedural Intent.** The procedures outlined below shall apply to the following Planning Board Reviews, unless otherwise noted: Definitive Subdivision Reviews, Special Permit Reviews and Development / Site Plan Reviews. Procedures specific to the above listed reviews are noted in the corresponding sections of these Procedural Rules and within the Bellingham Zoning By-laws and the Bellingham Subdivision Rules and Regulations. Applicants are urged to confer with the Town Planner regarding the materials necessary for submittal.

### 3.2 Filing.

3.2.1 All Application Submittal Packages shall be submitted at least four (4) weeks prior to the anticipated meeting date and shall include the following:

- (A) Application. An application shall be filed for specific review type and include all materials as indicated in the Bellingham Zoning By-laws, the Bellingham Subdivision Rules and Regulations, and/or the Planning Board Procedural Rules.
- (B) Form K. Prior to submission, the Town Planner must check the contents of the application to assure its completeness. The Form K is then used for distribution and is returned, fully endorsed, with all the materials for official submission to the Planning Board. The Planning Board will accept the application last and only upon delivery with the completed Form K.
- (C) Certified Abutter's List. One copy and two copies on labels (one for the Planning Board and one for the Applicant) of the list certified by the Tax Assessors listing all parties in interest and their addresses as appearing on the most recent tax list. "Parties in Interest" as defined in General Laws M.G.L. ch.40A §11, as amended, shall mean the petitioner, owner of the land for which the permit is sought (if different than the petitioner), abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within 300 feet of the property line of the petitioner, even if over a town line, and the Planning Board of each abutting municipality.
- (D) Additional Copies for Board.
  - One full size set of plans
  - One drainage analysis or report
  - Seven (7) 11x17 set of plans for Planning Board
  - Seven (7) copies of traffic studies or other relevant studies

- 3.3 Filing Fees.** Filing fees are listed in the applicable Bellingham Zoning By-laws, Bellingham Subdivision Rules and Regulations and/or applicable sections of these Procedural Rules. Such fees shall be paid at the time of the application submission.
- 3.4 Review for Application Completeness.** All project materials shall be reviewed by the Town Planner within ten days of submission to the Planning Board Office, who shall forthwith make a determination of whether those materials are complete, and if they are not, shall so notify the Applicant and Building Inspector for information or materials necessary to complete application. If the application is not complete by the close of business on the Tuesday before the scheduled hearing date, the hearing for that project will be canceled.

The Planning Board, in its discretion, may dismiss (without prejudice) any application which fails to comply with the foregoing requirements or may waive any of the submittal requirements it determines unnecessary to the determination being made.

**3.5 Peer Review Consultants and Fees.**

- 3.5.1 General.** When reviewing an application, or when conducting inspections in relation to, the Board may determine that the assistance of outside consultants is warranted. In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation. The Applicant will be required to send a complete application submission package to the Peer Review Consultants at the time of submission.
- 3.5.2 Fees.** The Applicant may be required to pay the Peer Review Fee at the time of submission or at any time deemed necessary by the Planning Board during the review process. The fee will consist of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of a proposed project. The Board will receive a contract for proposed review work from the Peer Review Consultant and will forward a copy of the contract to the Applicant for the Applicant's signature. The Applicant will return the signed contract and a check made out to the Town of Bellingham for the fees to the Board to be deposited as described below. The Board may require additional review work beyond the initial Peer Review Consultant contract, which will receive another contract to be signed by the Applicant.
- 3.5.3 Funds.** Funds received by the Board pursuant to this section shall be deposited with the town treasurer who shall establish a special account for this purpose.

Expenditures from this account may be made at the direction of the Board without further appropriation. Expenditure from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the Applicant. Failure of an Applicant to pay a project review fee shall be grounds for denial or revocation of the permit.

At the completion of the Board's review of a project, any excess amount in the account attributable to a specific project shall be repaid to the Applicant or the Applicant's successor in interest. A final report of said account shall be made available to the Applicant or the Applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be the Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

- 3.5.4 Administrative Appeals. Any Applicant may make an administrative appeal from the selection of outside consultants to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Planning Board has notified the Applicant of the selection either verbally, via mail or hand-delivery. The grounds for such an appeal shall be limited to the claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended during the administrative appeal. In the event that the Board of Selectmen does not render a decision within 30 days following the filing of an appeal, the Planning Board's selection shall stand.

### **3.6 Notice of Hearing.**

- 3.6.1 Newspaper Notification. Notice of hearing will be given by the Planning Board, *at the expense of the applicant*, by advertisement in the Milford Daily News in each of two successive weeks, the first publication not less than fourteen (14) days before the day of the hearing.

The applicant shall be billed for the cost of the notice by the Bellingham Planning Board. The cost of the notice shall be paid in full by the applicant prior to the final decision.

- 3.6.2 **Abutter Notification.** *The applicant* shall be responsible for notice, utilizing the US Postal Service's Certified Mail with return receipt, to all parties of interest as defined by M.G.L. ch.40A §11 no less than fourteen (14) days prior to the date of the public hearing. Certified Mail green cards and receipts shall be provided to the Planning Board prior to the opening of the public hearing. Additionally, notice of the project, including a description of the project, date, time and location of the public hearing shall be posted prominently on the project site by the applicant. Prominently shall mean with a sign or signs of at least two feet by two feet in size and easily visible from each roadway on which the property has frontage. The sign shall be yellow with black lettering, with large text at the top indicating "Public Hearing Notice."

### **3.7 Hearings.**

- 3.7.1 An open public hearing will be held in accordance with the appropriate sections of the Bellingham Zoning By-laws or the Bellingham Subdivision Rules and Regulations, as of the date the application was filed with the Planning Board at the time and place specified in the notice of hearing.
- 3.7.2 The hearing will proceed as follows:
- (A) The Chairman of the Planning Board will call the meeting to order and the Secretary will read the notice of hearing as published.
  - (B) The Chairman shall inform those present at the hearing of the time of the requirements under Chapter 40A, Section 17, as amended, for appealing of the decision of the Board.
  - (C) The Applicant or his representative shall present the case to the board.
  - (D) Parties in interest at the hearing shall be heard.
  - (E) Others requesting to do so may be heard.
  - (F) The hearing shall be closed, following which point no further evidence shall be heard.

### **3.8 Decisions.**

- 3.8.1 All decisions of the Planning Board shall be made in writing and shall contain, but not be limited to, the following:
- (A) Date decision rendered.
  - (B) Name and address of Applicant

- (C) The place, time and date of the public hearing.
- (D) Findings of fact.
- (E) Decision of the Planning Board.

3.8.2 A copy of the decision shall be filed with the Town Clerk.

**3.9 Appeals.** See appropriate sections in these Procedural Rules, Bellingham Zoning By-laws and/or the Bellingham Subdivision Rules and Regulations for the appeal period and process.

#### **4.0 SECTION FOUR: SPECIAL PERMIT RULES AND PROCEDURES**

##### **4.1 Applications.**

- 4.1.1 General. All Applications for Special Permits to be acted upon by the Planning Board shall be made in writing on forms adopted by the Planning Board and available at the Planning Office or the offices of the Town Clerk. Applicants are required to confer with the Town Planner regarding the material necessary for submittal of a Special Permit.
- 4.1.2 Additional Required Application Materials. In addition to the information required in Section 3.2.1 of these Procedural Rules all applications at the time of filing shall be accompanied by:
  - (A) Prints of the latest recorded plan of the land which will be affected; or in cases where no such plan exists, prints of a plan of the land endorsed by a Registered Land Surveyor.
  - (B) Prints of a lot plan showing the locations of existing and proposed buildings, signs, and other structures.
  - (C) Such additional information and plans required under the Development Plan Approval provisions of the Zoning Bylaw, or any other applicable provisions of the Zoning Bylaw, as the Planning Board determines necessary for the decisions being made.

**4.2 Filing Fees.** A filing fee equal to \$350.00 plus the following:

- For Major Business Complex (Article XVII): \$0.40 per average daily trip generated.
- For Major Residential Development (Article XIV) or Back lot division (Article VII, §240-38): \$25.00 per lot created.
- For Townhouse or other multifamily (Article XV) or for Targeted housing (Article VII, §240-42): \$10.00 per housing unit.
- For Environmental controls (Article IX) or Water Resource District (Article XX): \$100.00.

**4.3 Appeals.** There is an appeal period of 20 days for a Special Permit in which a petitioner may appeal the decision rendered by the Planning Board. A decision granting a Special Permit shall be effective after the appeal period of twenty days from the date filed with the Town Clerk by the Planning Board has expired and an appropriate notice has been filed by the Applicant with the Registry of Deeds, provided no appeals have been made.**4.4 Copies.** Duplicate copies of the decision shall be mailed or delivered to the Applicant or his agent or attorney, the owner of the property, the Building Inspector, the Selectmen, Board of Health, and all parties in interest who at the time of the hearing request a copy.**5.0 SECTION FIVE: DEVELOPMENT PLAN AND SITE PLAN REVIEW****5.1 Applications.** All Applications for Development and Site Plan Reviews to be acted upon by the Planning Board shall be made in writing on forms adopted by the Planning Board and available at the Planning Office or the offices of the Town Clerk. All Applications shall follow the procedures set forth in Section Three of these Procedural Rules and with the requirements set forth in the Bellingham Zoning By-laws Article III.**5.2 Filing Fees.** Plans determined by the Building Commissioner to require site or development plan review must be accompanied by a filing fee of \$350.00 for Development Plan Approval, or \$150.00 for Site Plan Review, plus a review fee equal to \$3.00 per new or altered parking space as submitted or as required, whichever is higher. In addition, a deposit may be required to cover the reasonable cost of plan review by an outside consultant (see Section 3.5 of these regulations).**6.0 SECTION SIX: OTHER ISSUES****6.1 Street Acceptances.** Plan submissions. In order for them to be referred to the Planning Board in time for field inspection without snow, street layout plans should be submitted to the Selectmen for acceptance procedure not later for December 1 for action at the Annual Town Meeting. A public hearing will be called by the Selectmen, with notice to all abutters. Petitioners prior to that hearing shall have obtained a report from the DPW Director relative to the condition of the road.

- 6.2 Adequacy Determination.** In recommending acceptance or not, the Planning Board will be guided by whether ways created subsequent to April 13, 1956 meet the Subdivision Regulation requirements relative to width, grade, and construction in effect when the way was created, and for older ways by whether the right-of-way is functionally adequate, and by whether equitable means are available for providing any necessary improvements.
- 6.3 Miscellaneous Fees.** The Planning Board shall charge a fee for all procedural efforts of the Board involving Town expense for advertising, clerical effort, or consulting in response to private initiative. That fee shall be as specified in the Subdivision Regulations, or elsewhere in these Procedural Rules, or in other cases, shall be an amount sufficient to compensate all costs, as determined and stated to the applicant at the time of application request. No hearing shall be held prior to receipt of any required fee.

## **7.0 SECTION SEVEN: POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN FOR NEW DEVELOPMENTS AND REDEVELOPMENTS**

- 7.1 Purpose.** Regulation of discharges to the municipal separate storm sewer system (hereinafter MS4) is necessary for the protection of the water bodies and groundwater located in Bellingham, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surfaces are major causes of impairment of water quality in lakes, ponds, streams, rivers, wetlands and groundwater, contamination of drinking water supplies, erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; and flooding.

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

The objectives of these regulations are:

- To require practices to control the flow of stormwater from new and redeveloped sites into the town storm drainage system in order to prevent flooding and erosion;
- To protect groundwater and surface water from degradation;
- To promote groundwater recharge;
- To prevent pollutants from entering the Bellingham municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
- To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed;

- To comply with state and federal statutes and regulations relating to stormwater discharges; and
- To establish the town's legal authority to ensure compliance with the provisions of these regulations through inspection, monitoring, and enforcement.

## 7.2 Definitions

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

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

**THE BOARD:** Shall be the Bellingham Planning Board.

**CLEARING:** Any activity that removes the vegetative surface cover.

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

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

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a public land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction related land disturbance activities.

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

**GRUBBING:** The act of clearing land surface by digging 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 and driveway, sidewalks, and rooftops.

**LOW IMPACT SITE DESIGN:** Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural Stormwater Management practices. Low impact site design includes conserving and protecting natural areas and

greenspace, reducing impervious cover, and using natural features for Stormwater Management.

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road 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 Bellingham.

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

**OUTFALL:** The point at which stormwater flows out from any discernible, confined and discrete conveyance including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged into any Water Resource.

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

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

**PERSON:** A person, firm, or corporation

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

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

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

**STORMWATER MANAGEMENT PLAN:** A plan required as part of the application for a Stormwater Management Permit.

**STORMWATER:** Storm water runoff, snowmelt runoff, and surface water runoff and drainage.

**TSS:** Total Suspended Solids.

**WATER RESOURCE:** The MS4 and all public and private receiving surface and ground waters including: all waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

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

**7.4 Applicability.**

7.4.1 No person may cause an Alteration of Drainage Characteristics or undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb an area equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or redevelopment that will ultimately disturb an area equal to or greater than one acre of land draining to the Bellingham MS4 without a permit from the Board. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.

7.4.2 Exemptions

- (A) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
- (B) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
- (C) The construction of fencing that will not substantially alter existing terrain or drainage patterns;

- (D) Construction of utilities other than drainage (gas, water, wastewater, electric, telephone, etc.), which will not alter terrain or drainage patterns.

## **7.5 Administration**

- 7.5.1 The Board, shall administer, implement and enforce these regulations. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its employees, representatives, or agents.
- 7.5.2 Rules and Regulations. The Board may adopt, and periodically amend, these rules and regulations relating to the procedures and administration of these Stormwater Management regulations, by majority vote of the Board, but no less than three members voting in the affirmative. Vote to be taken after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date.

## **7.6 Permits and Procedures**

- 7.6.1 Filing Application. The site owner or his agent shall file with the Board, a completed application package for a Stormwater Management Permit (hereinafter SM Permit) as part of the Development Plan Review, Definitive Subdivision, or any application that is submitted to the Board, which includes the disturbance of one acre of earth. SM Permit issuance is required prior to commencement of any site altering activity. The applicant for a SM Permit must be either the site owner or a representative of the site owner. All projects requiring a Stormwater Permit shall submit a Stormwater Management Plan as specified in this section, and shall meet the Performance Standards in Section 7.7 of these regulations. A Stormwater Management Plan shall include Erosion and Sediment Control Plan and an Operation and Maintenance Plan as specified in this section.
- 7.6.2 Entry. Filing an application for a permit grants the Board, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.
- 7.6.3 Fee Structure. Section 3.5 of these Procedural Rules explains the fees and charges.
- 7.6.4 Public Hearing. The Board shall hold a public hearing for the SW Permit concurrent with the required hearing for a Development Plan Review, Definitive Subdivision, or any application that is submitted to the Board, which includes the disturbance of one acre of earth.

- 7.6.5 Actions. The Board's action, rendered in writing, shall consist of either:
- (A) Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the Standards in Section 7.7 and 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 Board which will ensure that the project meets the Standards in Section 7.7 and adequately protect water resources, set forth in these regulations;
  - (C) Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Stormwater Management Plan Standards in Section 7.7 of these regulations or adequately protect water resources, as set forth in these regulations.
- 7.6.6 Plan Changes. The Applicant must notify the Board in writing of any drainage change or alteration in the system authorized in a SM Permit before any change or alteration is made. If the Board determines that the change or alteration is significant, based on the Stormwater Management Standards in Section 7.7.2. of these regulations and accepted construction practices, the Board may require that an amended application be filed and a public hearing held.
- 7.6.7 Project Completion. At completion of the project, the Applicant shall submit to the Board as-built record drawings of all structural stormwater controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

## **7.7 Stormwater Management Plan**

- 7.7.1 Erosion and Sediment Control Plan Standards. The Erosion and Sediment Control Plan shall be designed to ensure compliance with the SM Permit, these Regulations. The Board shall make the final decision of what erosion and sediment control option(s) are appropriate in a given situation. The Board will consider natural features, proximity of site to water bodies and wetlands.
- 7.7.2 Stormwater Management Plan Standards. The Stormwater Management Plan shall be designed to ensure compliance with the SM Permit, and these Regulations. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces proposed, size of the site, and the types of stormwater management structures proposed.

- 7.7.3 Operation and Maintenance Plan Standards. The Operation and Maintenance Plan shall be designed to ensure compliance with the SM Permit, these regulations. The Board shall make the final decision of what maintenance option is appropriate in a given situation. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision.

## **7.8 Plan Specific Requirements and Contents**

- 7.8.1 Erosion and Sediment Control Plan. An Erosion and Sediment Control Plan is required at the time of application for all projects. Plan Approval by the Board is required prior to any site altering activity. The Erosion and Sediment Control Plan shall remain on file with the Board.

If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities, then the applicant is required to submit a complete copy of the SWPPP (including the signed Notice of Intent and approval letter). If the SWPPP meets the requirements of Section 3 of the General Permit, it will be considered equivalent to the Erosion and Sediment Control Plan described in this section.

The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the information listed below.

The Erosion and Sediment Control Plan shall contain the following information:

- (A) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan.
- (B) Title, date, north arrow, names of abutters, scale (1"=20' or 1"=40'), legend, and locus map (1"=800').
- (C) Location and description of natural features including:
  - 1. Watercourses and water bodies, wetland resource areas, riparian zones and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
  - 2. Existing vegetation of various kinds including tree lines, shrub layer, ground cover and herbaceous vegetation, and trees with a caliper

- twelve (12) inches or larger, noting specimen trees and forest communities;
3. Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, Potential Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.
- (D) Lines of existing abutting streets showing drainage and driveway locations and curb cuts.
- (E) Existing soils (type, hydrologic group, potential for soil to erode (i.e. Erodibility)) and the volume and nature of imported soil materials.
- (F) Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed.
- (G) Steep slopes for pre-development and post-development conditions, delineated by 0%-15%, 15%-25%, and over 25%.
- (H) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed.
- (I) Drainage patterns, watersheds and sub-watersheds, with calculations of proposed land disturbance within each sub-watershed and areas of soil to be disturbed in each watershed throughout the duration of the proposed land disturbance activity.
- (J) Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas.
- (K) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable.
- (L) Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other temporary and final stabilization measures.
- (M) A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (N) A description of provisions for phasing the project where 40,000 square feet of contiguous area or greater is to be altered or disturbed.

- (O) Plans, reports, and calculations must be stamped and certified by a qualified professional engineer (PE) or a professional public land surveyor (PLS).
- (P) Such other information as is required by the Board.

7.8.2 Stormwater Management Plan. The application for a SM Permit shall consist of submittal of a Stormwater Management Plan to the Board. This Stormwater Management Plan shall contain sufficient information for the Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from stormwater.

The Stormwater Management Plan shall fully describe the project in drawings, and narrative. It shall include:

- (A) The name, address, and telephone number of the proposed SM System Manager;
- (B) A locus map;
- (C) The existing zoning, and land use at the site;
- (D) The proposed land use;
- (E) The location(s) of existing and proposed easements;
- (F) The location of existing and proposed utilities;
- (G) The site's existing & proposed topography with contours at 2 foot intervals;
- (H) The existing site hydrology;
- (I) A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
- (J) A delineation of 100-year flood plains, if applicable;
- (K) Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
- (L) The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
- (M) A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths;

- (N) A description and drawings of all components of the proposed drainage system including:
  - 1. locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
  - 2. all measures for the detention, retention or infiltration of water,
  - 3. all measures for the protection of water quality,
  - 4. the structural details for all components of the proposed drainage systems and stormwater management facilities,
  - 5. notes on drawings specifying materials to be used, construction specifications, and
  - 6. expected hydrology with supporting calculations.
- (O) Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
- (P) Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization,
- (Q) A maintenance schedule for the period of construction, and
- (R) Any other information requested by the Board.

7.8.3 Operation and Maintenance Plans. An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The O&M Plan shall remain on file with the Board and shall be an ongoing requirement.

The O&M Plan shall include:

- (A) The name(s) of the owner(s) for all components of the system;
- (B) Maintenance agreements that specify:
  - 1. The name, address, and phone number of the Stormwater Management System Manager;
  - 2. The person(s) responsible for financing maintenance and emergency repairs;
  - 3. A Maintenance Schedule for all drainage structures, including swales and ponds;
  - 4. A list of easements with the purpose and location of each;
  - 5. The signature(s) of the owner(s).
- (C) Stormwater Management Easement(s) – (The purpose of each easement shall be specified in the maintenance agreement signed by the property

owner.) Stormwater management easements shall be 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 cleanout.
- (D) Stormwater management easements granting the Town or the Stormwater Management System Manager sufficient access are required for all areas used for off-site stormwater control, unless the Board grants a waiver.
- (E) Prior to issuance of a Certificate of Completion the Board, easements shall be recorded with the Norfolk County Registry of Deeds.

#### 7.8.4 Changes to Operation and Maintenance Plans.

- (A) The Stormwater Management System Manager must notify the Board of changes in ownership or assignment of financial responsibility;
- (B) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of these regulations by mutual agreement of the Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and Stormwater Management System Manager.

**7.9 Guaranty.** The Board shall utilize whatever means necessary to insure that all construction, maintenance, and operations measures, hereinafter call SW Permit Requirements, approved as part of the SW Permit are fully implemented. In general the guaranty shall be in the following form for various types of projects:

- **Subdivision of Land.** The value of the any SW Permit Requirements shall be included in the routine security and Form J Price Guaranty utilized for subdivision security. The security, and any related covenants, shall be in place prior to the release of lots for construction within a phase of the subdivisions. The Board shall be the sole judge as to what portions of any SW Permit tasks are part of any phase.
- **Site Development.** It is required as a condition of the issuance certificates of occupancy that all SW Permit Requirements be completed. No certificate of occupancy for any building in the project will be issued until a SM Permit Final Acceptance letter is issued to the SW System Manager.

- **Other Project or Redevelopment.** The Board will required the Applicant for any redevelopment project, or other such project for which certificates of occupancy will not be required, to post a surety bond, irrevocable letter of credit, cash, or other acceptable security, before the start of land disturbance or construction activity. Said security shall ensure that the work will be completed in accordance with the SM Permit Requirements. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Board.
- **Surety Release.** If the project is phased, the Board may release buildings for occupancy or part of the bond as each phase is completed in compliance with the SW Permit but the bond may not be fully released until the Board has received the final inspection report as required by Section 7.10 of these regulations and issued a SM Permit final acceptance letter.

**7.10 Inspections.** The Board or its authorized agent(s) shall inspect the project site at the following stages:

- **Initial Site Inspection.** Prior to approval of any plan.
- **Erosion Control Inspection.** Shall be continuously performed during construction operations and to ensure erosion control practices are in accord with the filed plan until construction work is complete to the point that the Stormwater Management and Operations and Maintenance Plans go into effect.
- **Bury Inspection.** Prior to backfilling of any underground drainage or stormwater conveyance structures.
- **Final Inspection.** After the stormwater management system has been constructed and before the surety has been released, the Applicant must submit a record plan detailing the actual stormwater management system as installed. The Board shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the Board. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the SM Permit, the Applicant shall correct it before the performance guarantee is released. If the Applicant fails to act the Board may use the surety bond to complete the work.

Examples of inadequacy shall be limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

**7.11 Waivers.** The Board may waive strict compliance with any requirement of their rules and regulations promulgated hereunder, where:

- Such action is allowed by federal, state and local statutes and/or regulations;;
- Is in the public interest, and;
- Is not inconsistent with the purpose and intent of these regulations.

Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of these regulations does not further the purposes or objectives of these regulations.

All waiver requests shall be discussed and voted on at the public hearing for the project.

If in the Board opinion, additional time or information is required for review of a waiver request, the Board may continue a hearing to a date certain announced at the meeting. In the event the Applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

**7.12 Construction Completion and Final Acceptance of Stormwater Plan.** The Board will issue a SM Permit Final Acceptance letter to the SM System Manager upon completion of the construction, and approval of the final inspection reports and/or upon otherwise determining that all work has been satisfactorily completed in conformance with the SM Permit. SM Permit Final Acceptance letter shall signify acceptance of the O&M Plan. Security noted in Section 7.9 of these regulations, shall not be released until the SM Permit Final Acceptance letter has been issued.

**7.13 Enforcement.** The Board or an authorized agent of the Board shall enforce these regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

#### **7.13.1 Orders**

(A) The Board may issue a written order to enforce the provisions of these regulations or the regulations there under, which may include requirements to:

1. cease and desist from construction or land disturbing activity until there is compliance with these regulations and the stormwater management permit;

2. repair, maintain; or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
3. perform monitoring, analyses, and reporting;
4. remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system.

- (B) If the Board determines that abatement or remediation of adverse impacts 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 Board may, at its option, undertake such work, and the property owner shall reimburse the Board expenses.
- (C) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Board, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board 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 Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. ch.59 § 57, as it exists at the time these regulations were accepted, after the thirty-first day at which the costs first become due.

**7.14 APPEALS.** The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

**7.15 REMEDIES NOT EXCLUSIVE.** The remedies listed in these regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

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