



Watertown Town Council

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**ELECTED
OFFICIALS:**

Mark S. Sideris,
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Vincent J. Piccirilli,
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Vice President

Michael F. Dattoli,
Councilor At Large

Aaron P. Dushku,
Councilor At Large

Susan G. Falkoff,
Councilor At Large

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Angeline B.
Kounelis,
District A Councilor

Lisa J. Feltner,
District B Councilor

Kenneth M.
Woodland,
District D Councilor

ORDINANCE #

O - 2016 - 17

AN ORDINANCE ESTABLISHING REQUIREMENTS FOR STORMWATER MANAGEMENT AND EROSION CONTROL

Whereas, the establishment of minimum requirements and procedures to regulate land disturbance associated with construction activities serves the public interest by reducing the adverse impacts of soil erosion and sedimentation from stormwater runoff; and

Whereas, such regulation serves the objective of preventing pollutants from entering into, and discharging from, the Town of Watertown's storm drainage system; and

Whereas, the Town wishes to ensure that best management practices for stormwater controls, including long-term operation and maintenance practices for stormwater facilities, are incorporated into land development and redevelopment; and

Whereas, regulations adopted by the United States Environmental Protection Agency under the Federal Clean Water Act require the Town to regulate stormwater runoff related to construction and post-construction activities, as a condition of the federal General Permit for Municipal Separate Storm Sewer Systems.

NOW THEREFORE BE IT ORDAINED by the Town Council of the City Known as the Town of Watertown that Title IX of the Watertown Code of Ordinances, "Business Regulations," is hereby amended by the insertion of a new Chapter 98 as follows:

CHAPTER 98: STORMWATER MANAGEMENT AND EROSION CONTROL

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§98.01 GENERAL PROVISIONS

(A) Purpose

The purpose of this Ordinance is to control stormwater runoff into the Town of Watertown's Municipal Separate Storm Sewer System (MS4) and local water bodies to minimize stormwater runoff and prevent pollution. Specifically, the objectives are:

- (1) To protect, maintain, and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to reduce the adverse impacts of soil erosion and sedimentation and manage stormwater runoff;
- (2) To control and prevent soil erosion and sedimentation resulting from construction site stormwater runoff;
- (3) To promote infiltration and the recharge of groundwater in order to minimize flooding;
- (4) To prevent pollutants from entering the Town's MS4 and to minimize discharge of pollutants from the MS4;
- (5) To ensure that stormwater management techniques, including Best Management Practices, are incorporated into the land disturbance, development, and redevelopment planning and design process in order to control soil erosion and sedimentation and stormwater runoff;
- (6) To ensure that the adequate long-term Operation and Maintenance of Best Management Practices (BMPs) is incorporated into the land disturbance, development, and redevelopment process and implemented in the future so that they work as designed; and
- (7) To comply with state and federal statutes and regulations relating to stormwater runoff discharges.

This Ordinance establishes the Town's legal authority to ensure compliance with the provisions of this Ordinance through permitting, inspection, maintenance, and enforcement.

(B) Applicability

A Stormwater Management and Erosion Control Permit shall be required prior to undertaking any alteration or land disturbance activity that:

- (1) Will result in land disturbances of 5,000 square feet of total area or more, or smaller activities that are part of a larger common development plan that will disturb 5,000 square feet or more;
- (2) Will cause a net increase in site impervious surface area by more than 500 square feet;
- (3) Proposes to create or modify a direct connection to the MS4; or
- (4) In the opinion of the Department of Public Works, may result in an adverse impact on the MS4 or water resources of the Town of Watertown.

(C) Exemptions

The following activities are exempt from the requirements of this Ordinance, provided that such work must utilize the best practical measures to avoid any negative impacts on stormwater quality or runoff rate or volume:

- (1) Repairs to any stormwater treatment practice that are deemed necessary by the Department of Public Works.
- (2) Normal maintenance and improvement of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, to the extent protected under the Zoning Act, M.G.L Chapter 40A, Section 3.
- (3) Normal maintenance of landscaping, gardens, or lawn areas.
- (4) Reclamation and replacement of lawfully located, existing pavement at single-family or two-family residences, as well as reclamation and replacement of lawfully located, existing pavement at any parking lot containing fewer than 10 spaces.
- (5) Overlaying of existing pavement, with no increase in impervious area.
- (6) Construction of a fence or wall that does not alter the existing terrain or drainage patterns.
- (7) Emergency activities necessary for the protection of the health and safety of the public, provided that (a) the work is to be performed by or has been ordered by an agency of the Commonwealth of Massachusetts or a political subdivision thereof, (b) advance notice, oral or written, has been given to the Department of Public Works prior to commencement of work or within 24 hours after commencement, (c) the Department of Public Works or its duly authorized designee certifies the work as an emergency activity, and (d) the work is performed only for the time and place

certified by the Department of Public Works for the limited purposes necessary to abate the emergency.

- (8) Maintenance, repair or replacement of an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that (a) there is no alteration in the terrain, ground cover or drainage patterns; and (b) written notice has been given to the Department of Public Works prior to commencement of work.
- (9) Maintenance, repair or replacement of existing drainage infrastructure, provided that (a) there is no alteration of the existing terrain or drainage patterns; (b) there is no increase in the size or capacity of the pipe; (c) there is no change in the drainage area contributing to the pipe; and (d) best practical measures are utilized to avoid any negative impacts on stormwater quality or runoff rate or volume.
- (10) Operation and maintenance of stormwater Best Management Practices, in accordance with an approved Operations and Maintenance Plan.
- (11) Normal maintenance of Town-owned public land, right-of-ways, public utilities, and appurtenances, including roadway reconstruction.

(D) Simplified Permit

The Department of Public Works shall have the authority to develop a Simplified Permit for specific types of projects.

- (1) The purpose of the Simplified Permit is to streamline the permitting process under this Ordinance by waiving certain submission requirements, provided a set of predetermined design standards are met.
- (2) The predetermined design standards shall be outlined in the Rules and Regulations authorized in accordance with Section 3.3 of this Ordinance.
- (3) By meeting the predetermined requirements and performance standards, the proposed project will be presumed to meet the requirements and intent of this Ordinance.

(E) Compatibility with Other Permit and Ordinance Requirements

This Ordinance is not intended to interfere with, abrogate, or annul any other Ordinance, Rule or Regulation, Statute, or other provision of law in whole or in part. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other Ordinance, Rule or Regulation, Statute or other provision of law, whichever

provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

§98.02 DEFINITIONS

Alter or Alteration: Any activity, which will change the ability of a ground surface to absorb water or will change existing surface drainage patterns. Alter may also be referred to as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

Applicant: Any person, as defined in this Ordinance, who has filed an application for a Stormwater Management and Erosion Control Permit.

Best Management Practice (BMP): A structural or nonstructural technique for managing stormwater to prevent or reduce nonpoint source pollutants from entering surface waters or ground waters. A structural stormwater Best Management Practice includes a basin, discharge outlet, swale, rain garden, filter, or other stormwater treatment practice or measure either alone or in combination, including without limitation any overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging, or treating stormwater. Nonstructural stormwater Best Management Practices include source control and pollution prevention measures.

Conveyance: Any structure or device, including pipes, drains, culverts, curb breaks, paved swales and man-made swales, natural and man-made channels, and ditches designed or utilized to move or direct stormwater runoff or existing water flow; any impervious surface/sheet flow utilized to remove rainfall (for example, a parking lot) which drains directly onto a vegetated surface or public road without any curbing or drainage system to intercept the flow.

Erosion Control: The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff.

Impervious Surface or Area: Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved surfaces (parking lots, sidewalks, driveways, etc.), roof tops, swimming pools, and patios, as well as paved, gravel, and compacted dirt surfaced roads.

Infiltration: Percolation of water into the subsurface. Also referred to as “Recharge.”

Land Disturbance Activity: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

Low Impact Development (LID): A site design strategy for managing stormwater by

maintaining or replicating the predevelopment hydrologic functions through the use of design techniques to create a functionally equivalent hydrologic landscape.

Maintenance: Maintenance of a stormwater management system means the work necessary to keep a stormwater management system functional and in good repair so that it may continue to operate as originally designed. Maintenance of a stormwater management system does not include work that (a) reduces the capacity of the system to treat stormwater, provide recharge, or attenuate peak flow; (b) increases the total or peak rate or volume of the stormwater managed by the system; (c) directs additional stormwater discharges to the system; or (d) results in reduced use of above ground stormwater Best Management Practices.

Massachusetts Stormwater Management Standards: The Standards issued by the Massachusetts Department of Environmental Protection (DEP), codified in regulations at 310 CMR 10.05(6)(k)-(q) and further defined and specified in the Massachusetts Stormwater Handbook, Volumes 1 through 3, issued by the DEP. The Standards address stormwater impacts through implementation of performance standards that reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

Municipal Separate Storm Sewer System (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structures that together comprise the storm drainage system owned or operated by the Town of Watertown.

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 ensure that it continues to function as designed.

Overlay of Pavement: The placement of pavement on top of an existing impervious surface. The underlying surface is sometimes milled (partially ground down in thickness) before the overlay is placed.

Owner: A person with a legal or equitable interest in land, structures, or equipment.

Permittee: The person who is issued a permit by the Watertown Department of Public Works pursuant to this Ordinance.

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

Pollutant: Any substance, either man-made or man-induced, that alters the chemical, physical, biological, or radiological integrity of water.

Reclamation of Pavement: A procedure whereby existing pavement is broken and pounded into small fragments.

Redevelopment: Development, replacement, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface on previously developed sites.

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

Sedimentation: The process or act of depositing sediment.

Simplified Permit: A permit issued for an application that meets a set of predetermined standards adopted by the Department of Public Works in accordance with Section 98.01(B) of this Ordinance.

Stormwater Management and Erosion Control Permit: A permit issued by the Department of Public Works, after review of an application, plans, calculations, and other supporting documents, in accordance with the provisions of this Ordinance.

Stormwater Management Plan: A plan submitted as part of an application for a Stormwater Management and Erosion Control Permit, as required by Section 98.04(A) of this Ordinance.

Stormwater Management System: the collective system for conveying, collecting, storing, discharging, recharging, or treating stormwater on-site, including stormwater Best Management Practices and any pipes and outlets intended to transport and discharge stormwater to the groundwater, a surface water, or a municipal separate storm sewer system. Also referred to as "drainage."

Stormwater Runoff: Flow over the ground surface resulting from precipitation or snow and ice melt or through a drainage system.

§98.03 AUTHORITY AND ADMINISTRATION

(A) Authority

This Ordinance is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, and the Home Rule Statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

(B) Administration

The Watertown Department of Public Works shall administer, implement, and enforce this Ordinance. Any powers granted to or duties imposed upon the Department of Public Works may be delegated to the Department's employees or agents.

(C) Rules and Regulations

The Town Manager may adopt, and periodically amend, Rules and Regulations relating to the detailed requirements, procedures, and administration of this Ordinance, including application and inspection fees. Failure by the Town Manager to promulgate such Rules and Regulations, or a declaration of their invalidity by a court of law, shall not have the effect of suspending or invalidating the provisions of this Ordinance or any permit issued hereunder. Such Rules and Regulations (or amendments thereto) shall become effective five days after being filed with the Town Clerk.

(D) Appeals

A decision of the Department of Public Works shall be final. A request for relief of a decision of the Department of Public Works shall be reviewable in the Superior Court in an action filed within 60 days thereof.

§98.04 PERMIT PROCEDURES

(A) Permit Required

No land disturbance activity that meets the criteria specified in Section 98.01(B) may commence prior to issuance of a Stormwater Management and Erosion Control Permit subject to this Ordinance.

(B) Procedures and Requirements

Permit procedures and requirements — including but not limited to application, fee schedules, actions, right-of-entry, Stormwater Management Plan contents, technical requirements, inspections, and project closeout — shall be included as part of the Rules and Regulations promulgated under Section 98.03(C) of this Ordinance.

§98.05 PERFORMANCE STANDARDS

Criteria for Stormwater Management and Erosion Control Performance Standards shall be defined and included as part of the Rules and Regulations promulgated under Section 3.3 of this Ordinance.

§98.06 ENFORCEMENT

The Department of Public Works shall have authority to enforce this Ordinance and resulting Rules and Regulations, and shall issue orders, violation notices, and enforcement orders, and may pursue all available civil and criminal remedies for such

violations.

(A) Notices and Orders

(1) The Department of Public Works may issue a written order to enforce the provisions of the Stormwater Management and Erosion Control Ordinance or the Rules and Regulations, which may include requirements to:

- (a) Cease and desist from construction or land disturbance activity until there is compliance with the Stormwater Management and Erosion Control Ordinance and the Stormwater Management and Erosion Control Permit;
- (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the approved Operation and Maintenance Plan;
- (c) Perform monitoring, analyses, and reporting; and/or
- (d) Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management system.

(2) If the Department of Public Works 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.

(3) If a person violates the provisions of this Ordinance, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(B) Penalties

Pursuant to Section 10.99 of the Town Code, any person who violates any provision of the Stormwater Management and Erosion Control Ordinance, or order or permit issued thereunder, may be ordered to correct the violation and/or shall be punished by a fine of not more than \$300.00 per violation, excluding the cost of damages. Each day or part thereof that such violation occurs or continues shall constitute a separate violation.

(C) Non-Criminal Disposition

As an alternative to criminal prosecution, the Department of Public Works may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, § 21D, which has been adopted by the Town in § 35.05 of the Town Code, for which purpose the Director of the Department of Public Works and the Department's employees shall be enforcing persons. The specific penalties under this provision shall be (a) \$25 for the first offense, (b) \$50 for the second offense, and (c) \$100 for the third and any subsequent offense.

Notwithstanding the foregoing, the enforcing person shall have the discretion to issue a warning in lieu of the citation for \$25 for the first offense.

(D) Appeals

The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

(E) Remedies Not Exclusive

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law.

§98.07 SEVERABILITY

Any finding of the invalidity of any section, provision, paragraph, sentence, or clause of this Ordinance shall not invalidate any other section, provision, sentence, or clause thereof, nor shall it invalidate any permit or determination that has been previously issued under this Ordinance.

AND FURTHER BE IT ORDAINED that the Watertown Code of Ordinances, Title IX, Chapter 97, is hereby amended by changing the title of said Chapter 97 from "Stormwater Regulations" to "Regulation of Discharges to the Municipal Storm Sewer System".



Council Member

I hereby certify that at a regular meeting of the Town Council for which a quorum was present, the above Ordinance was adopted by a roll call vote of 9 for, 0 against, 0 present on February 23, 2016.



Marilyn W. Pronovost, Council Clerk



Mark S. Sideris, Council President