

City of New Bedford, Massachusetts
STORMWATER MANAGEMENT RULES AND REGULATIONS

Table of Contents

| | |
|--------------------------------------------------------------------|----|
| SECTION 1: GENERAL PROVISIONS | 2 |
| Sec. 1.1 - Purpose..... | 2 |
| Sec. 1.2 - Definitions | 2 |
| Sec. 1.3 - Authority | 8 |
| Sec. 1.4 - Revisions..... | 8 |
| Sec. 1.5 - Administration | 8 |
| Sec. 1.6 - Applicability of Stormwater Rules and Regulations | 9 |
| SECTION 2: SMP APPLICATION PROCEDURES | 10 |
| Sec. 2.1 - SMP Applicability | 10 |
| Sec. 2.2 - Filing SMP Application..... | 10 |
| Sec.2.3 - Right of Entry for Inspection | 11 |
| Sec.2.4 - Fees | 11 |
| Sec.2.5 - SMP Application Management Plans & Submittals..... | 12 |
| Sec.2.6 - Actions | 16 |
| SECTION 3: SMP PERFORMANCE STANDARDS..... | 17 |
| Sec. 3.1 - Construction Stormwater Management Criteria | 17 |
| Sec. 3.2 - Post-Development Stormwater Management Criteria..... | 19 |
| Sec. 3.3 - Criteria for Connections to the Storm Drain System..... | 22 |
| SECTION 4: SMP WAIVERS | 23 |
| Sec. 4.1 - SMP Waiver Applicability..... | 23 |
| Sec. 4.2 - SMP Waiver Procedure | 23 |
| SECTION 5: SMP SURETY..... | 23 |
| SECTION 6: SMP INSPECTIONS | 24 |
| Sec. 6.1 - Construction Inspections..... | 24 |
| Sec. 6.2 - Post-Development Inspection and Maintenance..... | 25 |
| SECTION 7: CERTIFICATE OF COMPLETION | 27 |
| SECTION 8: VIOLATIONS AND ENFORCEMENT | 27 |
| Sec. 8.1 - Introduction..... | 27 |
| Sec. 8.2 - Powers of the Stormwater Authority | 27 |
| Sec. 8.3 - Violations Defined..... | 27 |
| Sec. 8.4 - Enforcement..... | 27 |
| SECTION 9: SEVERABILITY..... | 28 |
| SECTION 10: EFFECTIVE DATE..... | 28 |

SECTION 1: GENERAL PROVISIONS

Sec. 1.1 - Purpose

The purpose of the City of New Bedford Stormwater Management Rules and Regulations (hereinafter the “Stormwater Rules and Regulations”) is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of land disturbance activities, increased post-development stormwater runoff, decreased groundwater recharge, nonpoint source pollution associated with new development and redevelopment, illicit connections and discharges, and erosion and sedimentation associated with construction, as more specifically addressed in these Stormwater Rules and Regulations.

Sec. 1.2 - Definitions

The definitions contained herein apply to issuance of a Stormwater Management Permit (SMP) established pursuant to Chapter 16, Article VIII of the New Bedford Code of Ordinances and implemented through these Stormwater Rules and Regulations. Terms not defined in this section shall be construed according to their customary and usual meaning, unless the context indicates a special or technical meaning.

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

APPLICANT: A property owner or duly designated agent who has filed an application for a Stormwater Management Permit with the Stormwater Authority.

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

BETTER SITE DESIGN: Site design approaches and techniques that can reduce a site’s negative impact on water quality and the natural environment through the use of non-structural stormwater management practices. “Better site design” includes conserving and protecting natural areas and green space, reducing impervious cover, disconnecting impervious cover, and using natural features for stormwater management. Disconnecting impervious cover refers to taking runoff from impervious areas and directing it to pervious areas, instead of going directly to the street drainage system.

CERTIFICATE OF COMPLETION : A document issued by the Stormwater Authority after all construction activities have been completed which states that all conditions of an issued SMP have been met and that a project has been completed in compliance with the conditions set forth in the SMP.

COMPLETE APPLICATION: A Stormwater Permit Application submitted to the Stormwater Authority with all submittals and requirements, as set forth in SECTION 2, and as deemed complete by the Stormwater Authority.

CONCEPT PLAN: An optional application that may be submitted by an Applicant during the SMP process. The Concept Plan enables the Applicant to determine the feasibility of the site design concept before detailed engineering design is performed. An approval or denial by the Department of Public Infrastructure of a Concept Plan does not preclude the Applicant from proceeding with a Final Plan.

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.

CRITICAL AREAS: Areas that may be designated by the Stormwater Authority as having sensitive resources that may be negatively impacted by stormwater discharges. Such areas may include, but are not limited to impaired waterways, vernal pools, and City of New Bedford Water Resource Protection Districts.

COMMISSIONER OF PUBLIC INFRASTRUCTURE: The Commissioner of the Department of Public Infrastructure for the City of New Bedford.

DEPARTMENT OF PUBLIC INFRASTRUCTURE: The City of New Bedford Department of Public Infrastructure.

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

DRAINAGE EASEMENT: A legal right granted by a landowner to a grantee allowing the use of private land for the conveyance or treatment of stormwater, and/or access to inspect or maintain one or more stormwater management facilities and/or drainage structures.

EMERGENCY REPAIR: A condition that poses a threat to public health and/or safety. Such conditions include, but are not limited to, a utility gas leak, electric problem, collapsed or blocked drain, water leak, etc.

EROSION AND SEDIMENT CONTROL (ESC): The prevention or reduction of the movement of soil particles or rock fragments.

EROSION AND SEDIMENT CONTROL PLAN: A plan that shows the location and construction detail(s) of the erosion and sediment reduction controls to be utilized for a construction site.

FINAL PLAN: An application for a SMP that may or may not follow the submittal of a Concept Plan. The Final Plan shall depict all relevant stormwater information and shall contain the specified elements outlined in Section 2.5.1, Stormwater Management Plan of this regulation.

FLOODING: A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

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

GROUNDWATER: Water beneath the surface of the ground.

HIGHER POTENTIAL POLLUTANT LOADS: Areas that include auto salvage yards, auto fueling facilities (gas stations), fleet storage yards, high-intensity commercial parking lots, road salt storage areas, commercial nurseries, outdoor storage and loading areas of hazardous substances, and marinas or other areas defined in the Massachusetts Stormwater Standards, Volume 1, Stormwater Policy Handbook.

HOTSPOT: A land use or activity that produces higher concentrations of trace metals, hydrocarbons or priority pollutants, than normally found in urban runoff including, but not limited to:

- Auto junk and salvage operations
- Commercial parking lots with high intensity use
- Auto fueling facilities
- Marinas and boatyards
- Confined disposal facilities and disposal sites
- Fleet storage areas
- Industrial rooftops
- Commercial landscaping/nursery
- Outdoor storage and loading area of hazardous substances
- Public works areas
- Vehicle service and maintenance
- Vehicle washing/steam cleaning

ILLICIT CONNECTION: Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the municipal storm drain system, including, but not limited to, any conveyance which allows any non-stormwater discharge including sewage, process wastewater, and wastewater to enter the municipal storm drain system, and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection has been previously allowed, permitted, or approved by an authorized enforcement agency.

ILLICIT DISCHARGE: Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Sec.1.6 – Applicability of Stormwater Rules and Regulations.

IMPERVIOUS COVER: Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious cover is defined to include, without limitation, paved parking lots, sidewalks, rooftops, driveways, patios, compacted gravel, and compacted bare soil-surfaced roads.

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.

LOW IMPACT DEVELOPMENT (LID): The incorporation of non-structural and natural approaches to new and redevelopment projects to reduce adverse effects on water quality and the natural environment by conserving natural areas, reducing impervious cover, and better integrating stormwater treatment.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS (MASWMS): The Standards issued by the Department of Environmental Protection (DEP), and as amended, that coordinate the requirements prescribed by State regulations promulgated under the authority of the Massachusetts WETLANDS PROTECTION ACT, M.G.L. c. 131, § 40, Massachusetts WETLAND PROTECTION REGULATIONS 310 CMR 10.00, and the Massachusetts CLEAN WATER ACT, M.G.L. c. 21, §§ 23-56. The standards address 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.

MAXIMUM EXTENT PRACTICABLE: Implementation of the highest practicable level of stormwater management when full compliance of the stormwater rules and regulations cannot be achieved. An Applicant must demonstrate that all reasonable efforts have been made to meet a standard in accordance with current local, state, and federal regulations and that a complete evaluation of all possible management measures has been performed.

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 City of New Bedford.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land, including all projects requiring Planning Board Site Plan Review, that is currently in a natural vegetated state and does not currently contain alteration by man-made activities.

NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and man-made pollutants, depositing them into water resource areas.

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

OPEN SPACE: A portion of a development site that is permanently set aside for public or private use which will not be developed, wherein the topography and vegetation remains unaltered by clearing and grading during construction and protected in perpetuity.

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 ensure that it continues to function as designed and permitted.

ORDINANCE: The City of New Bedford Code of Municipal Ordinances

OWNER: A person with a legal or equitable interest in property, including a contract purchaser with a valid purchase and sales agreement.

PERSON: Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to City ordinances, administrative agency, public or quasi-public corporation or body, the City of New Bedford, and any other legal entity, its legal representatives, agents, or assigns.

PERVIOUS: Any surface where rainwater penetrates the surface and infiltrates into the underlying soil. Pervious cover is defined to include, vegetated areas, graded aggregate or uncompacted granular material, and permeable pavements (porous asphalt, permeable pavers, and pervious concrete).

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

POST-DEVELOPMENT: The condition 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.

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 Authority. 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 pre-development conditions.

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

RECORD DRAWING: Drawings that completely record and document applicable aspects and features of the conditions of a project following construction using Stormwater Management Plans derived from a SMP.

REDEVELOPMENT: Any construction, alteration, or improvement on land that contains existing impervious cover, including all projects requiring Planning Board Site Plan Review, and provided that the activity does not involve an increase in the net amount of impervious cover.

RESOURCE AREA: Any area protected under, including without limitation, the MASSACHUSETTS WETLANDS PROTECTION ACT, the MASSACHUSETTS RIVERS ACT, or the City of New Bedford LOCAL WETLANDS PROTECTION ORDINANCE.

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

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

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

STOP WORK ORDER: An order issued by the Stormwater Authority that requires that all construction activity on a site be stopped until further notice.

STORMWATER AUTHORITY: The Commissioner of Public Infrastructure for the City of New Bedford or an employee or agent designated by the Commissioner in writing.

STORMWATER MANAGEMENT: The use of structural and/or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Stormwater Authority, after applicable fee submitted, review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the City from the deleterious effects of uncontrolled and untreated stormwater runoff.

TP: Total Phosphorus.

TSS: Total Suspended Solids.

WATER QUALITY VOLUME (WQV): The storage needed to capture a specified stormwater runoff volume for treatment. Numerically, WQV will vary as a function of the drainage area or area of impervious surface.

Sec. 1.3 - Authority

- 1.3.1 The Stormwater Rules and Regulations contained herein have been adopted in accordance with the City of New Bedford's Municipal Code of Ordinances Section 16, Article VIII.
- 1.3.2 Nothing in these Stormwater Rules and Regulations is intended to replace or be in derogation of the requirements of the City of New Bedford's Conservation Commission or any Stormwater Rules and Regulations adopted there under.
- 1.3.3 These Stormwater Rules and Regulations may be periodically amended by the Commissioner of Public Infrastructure to ensure compliance with current (and future) local, state and federal mandates and/or for ease of program logistics.

Sec. 1.4 - Revisions

The Commissioner may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of these Stormwater Rules and Regulations, after providing notice and public hearing, in accordance with Section 2-10 of the New Bedford Code of Ordinances. At least 45 days prior to said public hearing, the Commissioner shall provide a draft copy of the proposed regulations or revisions to the Conservation Commission, Department of Inspectional Services, the Office of the City Solicitor, and the Planning Board whom will provide written comment or verbal testimony during the aforementioned public hearing.

Sec. 1.5 - Administration

The Stormwater Authority shall administer, implement and enforce these rules and regulations. The Stormwater Authority may, with the concurrence of the Applicant, designate another City Board, including the Planning Board, Conservation Commission, or Board of Health, as its authorized agent for the purposes of reviewing SMP submittals, on behalf of the Stormwater Authority, for any project within that particular Board's (the "Reviewing Board") jurisdiction. The designation to a Reviewing Board shall only occur upon acceptance of the designation by said Reviewing Board.

Sec. 1.6 - Applicability of Stormwater Rules and Regulations

These Stormwater Rules and Regulations apply to all activities described herein. Projects and/or activities within the jurisdiction of these Stormwater Rules and Regulations must obtain a SMP from the Stormwater Authority in accordance with the permit procedures and requirements defined in these Stormwater Rules and Regulations.

1.6.1 New Development:

- A. Except as expressly provided herein, stormwater runoff from all industrial, commercial, institutional, office, residential, roadway, and transportation projects, including site preparation, construction, and additions/expansions, and all point source and nonpoint source stormwater discharges from said projects shall be managed according to these Stormwater Rules and Regulations and, as such, require a SMP.
- B. Linear projects including those not more than 10-feet in width, including footpaths, bike paths, and other paths for pedestrian and/or non-motorized vehicle access, shall also meet these Stormwater Rules and Regulations and shall require a SMP.

1.6.2 Redevelopment:

- A. Except as expressly provided herein, stormwater from all redevelopment projects as defined in Sec. 1.2 - Definitions of these Stormwater Rules and Regulations shall be managed according to the Stormwater Rules and Regulations and shall require a SMP.
- B. In the instance of a redevelopment project involving a structure with an existing connection to the stormwater system, the Stormwater Authority, at its discretion, may waive or eliminate the need to disconnect the stormwater connection in favor of recharging based on the local conditions and circumstances.
- C. The uses and activities listed below are exempt from these Rules and Regulations:
 - a. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A Section 3;
 - b. Maintenance of existing landscaping, gardens or lawn areas;
 - c. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Ordinance;
 - d. Repair or replacement of an existing roof, if said roof contains 4,000 square feet or less;
 - e. The construction or repair of any fence or wall that will not alter the existing terrain or drainage patterns;
 - f. Construction of a garage, addition, pool, existing residential driveway or accessory building/structure (e.g. shed) with a combined area of 500 sf or less on parcels that contain up to six-family dwelling units;
 - g. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not permanently alter terrain, ground cover, or drainage patterns;
 - h. Emergency repairs (as defined in Sec. 1.2 - Definitions) that pose a threat to public health, safety, the environment, provided notification is given to the Stormwater

Authority within 24 hours of said repair and all required environmental protection, while performing said repair, is followed; or as deemed necessary by the City of New Bedford; provided that the original design location, size, and technology of such facility remain the same. Any work conducted beyond that necessary to abate the emergency shall require the filing of a SMP. No work may be authorized beyond 30 business days from the date of notification to the Stormwater Authority without written approval from the Stormwater Authority;

- i. Work performed by the City of New Bedford;
- j. New residential driveways that are constructed with porous asphalt, permeable pavers, and pervious concrete or existing residential driveways that are repaved within the same footprint.

SECTION 2: SMP APPLICATION PROCEDURES

Projects requiring a SMP shall be required to submit the materials as specified in this Section, and are required to meet the stormwater management performance criteria as specified in Section 3: SMP PERFORMANCE STANDARDS. The following summarizes the application procedures.

Sec. 2.1 - SMP Applicability

- 2.1.1 Any landowner or land operator who is not exempt according to Section 1.6.2 C shall not commence any building, grading, or other land development or disturbance activities without first obtaining a SMP prior to commencing the proposed activity.
- 2.1.2 All SMP applications shall be initially submitted to the Stormwater Authority for entry into the City's database tracking system.
- 2.1.3 A permit shall expire one-year from the date of issuance. The Applicant has the right to request up to a three-year extension of time for the SMP, provided that the request is submitted in writing at least 30 business days prior to the expiration date. The evaluation shall be conducted within 30 business days of the request for an extension. When an extension of time is requested, the Stormwater Authority reserves the right to evaluate the existing SMP to determine whether the plan still satisfies the regulatory requirements and to verify that all design factors are still valid. If the previously filed plan is found to be inadequate, a modified plan shall be submitted and approved prior to commencement of land-disturbing activities. The modified plan shall be evaluated within 30 business days of submission.

Sec. 2.2 - Filing SMP Application

The Applicant shall file with the Stormwater Authority an original and two copies of a completed application for a SMP. While the Applicant can be a representative, the application must be signed by the property owner(s) and the permittee must be the property owner(s). The Applicant must certify that the application is complete. If a submitted application does not include all the required information as listed in the "SMP Plan Checklist", the application will be deemed incomplete and will not be processed. For permit issuance the following must be provided:

- A completed current SMP Application Form (available from the DPI office or the City of New Bedford website) with original signatures of all owners;
- Operation and Maintenance Plan, including a Maintenance Agreement;
- Payment of the application fee and technical review fee(s);
- Erosion and Sediment Control Plan;
- In the event that the storm water work is the only related project work and is not covered under the surety of an encompassing larger project, a surety bond in an amount to be determined by the Commissioner, which shall not exceed the cost of the proposed storm water work.

Sec.2.3 - Right of Entry for Inspection

Filing an application for a SMP grants the Stormwater Authority, or its delegated agent, permission to enter the site to verify the information in the application prior to issuance of a SMP and to inspect for compliance with the SMP.

Sec.2.4 - Fees

The Stormwater Authority shall obtain with each submission an application fee, established by the Commissioner, to cover expenses connected with the review of the **SMP application and site inspections related to the proposed work under the SMP**. The Stormwater Authority is authorized to retain a Massachusetts Registered Professional Engineer or other professional consultant to advise the Stormwater Authority on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

2.4.1 General SMP Application Fee Guidelines:

- A. Application fees are payable at the time of application and are non-refundable.
- B. These application fees are in addition to any other local or state fees that may be charged under any other law, or local ordinance.
- C. The fees may be revised from time to time. Any such change shall be made in accordance with the provisions of Section 1.4 - Revisions of these Rules and Regulations and Section 2-9 of the New Bedford Code of Ordinances.

2.4.2 SMP Application Fee:

A non-refundable fee of \$300.00 shall be due and payable to the City of New Bedford at the time an application is filed.

2.4.3 Consultant Services Fees:

- A. As provided by M.G.L. c. 44, sec. 53G, and herein, the Stormwater Authority may charge reasonable fees for consulting services engaged by the Stormwater Authority in the review of SMP applications and for inspections of stormwater management systems during construction and post-construction.
- B. Funds received by the Stormwater Authority pursuant to these Stormwater Rules and Regulations shall be deposited in a special account for this purpose. Expenditures from

this special account may be made at the direction of the Stormwater Authority without further appropriation.

- C. Expenditures from this account shall be made only in connection with the review and inspections of a specific project or projects for which a Consultant Services Fee has been collected from an Applicant. Specific consultant services may include, but are not limited to, resource area, hydrogeologic and drainage analysis, analysis of impacts on regulated resource areas, general compliance with the stormwater management requirements of these Stormwater Rules and Regulations, and construction and post-construction inspection services.
- D. Any consultant chosen must be approved by the Stormwater Authority and/or its agent. The Stormwater Authority - shall give written notice to the Applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the Applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the Applicant if the application or request is withdrawn within five business days of the date notice is given. The Consultant Services Fee must be received in its entirety prior to the initiation of consulting services.
- E. The Stormwater Authority may request additional Consultant Services Fees if the necessary review or inspection requires a larger expenditure than originally anticipated, or if new information requires additional consultant services. Failure by the Applicant to pay the Consultant Services Fee specified by the Stormwater Authority within 10 business days of the request for payment shall be cause for the Stormwater Authority to determine that the application is administratively incomplete.
- F. Subject to applicable law, the Stormwater Authority shall return any unused portion of any fees collected to the Applicant within 45 calendar days of a written request by the Applicant, unless the Stormwater Authority decides in a public meeting that other action is necessary.

Sec.2.5 - SMP Application Management Plans & Submittals

2.5.1 Stormwater Management Plan:

The application for a SMP shall include the submittal of a Stormwater Management Plan to the Stormwater Authority.

- A. The Stormwater Management Plan shall contain sufficient information for the Stormwater Authority to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the Applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in SECTION 3: SMP PERFORMANCE STANDARDS of these Stormwater Rules and Regulations and must be submitted with the stamp and signature of a Massachusetts Registered Professional Engineer.
- B. The Stormwater Management Plan shall fully describe the project in drawings, narrative, and calculations. It shall include:

- a. Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;
- b. A locus map;
- c. Existing site plan;
- d. The existing zoning, and land use at the site;
- e. The proposed land use;
- f. The location(s) of existing and proposed easements;
- g. The location of existing and proposed utilities;
- h. The site's existing and proposed topography with contours at two-foot intervals;
- i. The existing site hydrology;
- j. A description and delineation of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, shell-fishing areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows;
- k. A delineation of 100-year floodplains, if applicable;
- l. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
- m. The existing and proposed vegetation and ground surfaces with runoff coefficients for each;
- n. A drainage area map showing pre- and post-development drainage area boundaries and stormwater flow paths, including municipal drainage system flows;
- o. A recharge area analysis as described in Section 3.2 – Post-Development Stormwater Management Criteria that calculates pre-and post-project annual groundwater recharge rates on the parcel;
- p. A description and drawings of all components of the proposed stormwater management system including:
 - i. Locations, cross sections (at intervals of no more than every 50 feet), and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - ii. All measures being used for the detention, retention or infiltration of water;
 - iii. Description of non-structural BMPs;
 - iv. All measures being used for the protection of water quality and wetland resource areas;
 - v. The structural details for all components of the proposed drainage systems and stormwater management facilities;

- vi. Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations;
 - vii. Proposed site plan including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
 - viii. Any other information requested by the Stormwater Authority.
- q. Hydrologic and hydraulic design calculations using the Soil Conservation Service (SCS) Method for the pre-development and post-development conditions for the two year, 10-year, and 100-year design storms, as described in Section 3.2 – Post-Development Stormwater Management Criteria. Such calculations shall include:
- i. Description of the design storm frequency, intensity and duration;
 - ii. Time of concentration;
 - iii. Soil Runoff Curve Number (RCN) based on land use and soil hydrologic group;
 - iv. Peak runoff rates and total runoff volumes for each watershed area;
 - v. Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed;
 - vi. Infiltration rates, where applicable;
 - vii. Culvert capacities, where applicable;
 - viii. Flow velocities;
 - ix. Data on the increase in rate and volume of runoff for the specified design storms; and,
 - x. Documentation of sources for all computation methods and field test results.
- r. Post-development downstream analysis if deemed necessary by the Stormwater Authority;
- s. Soils information from test pits performed at the location of proposed stormwater management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and infiltration rates. Soils information will be based on site test pits logged by a Massachusetts Registered Soil Evaluator, or a Massachusetts Registered Professional Engineer;
- t. Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice.
- C. The “Checklist for Stormwater Management Plan ” as provided herein shall be submitted with the Stormwater Management Plan at the time of filing to ensure a complete application.

D. Stormwater Management Plan Modifications:

- a. The Applicant must notify the Stormwater Authority in writing of any drainage change or alteration in the system authorized in a SMP before any change or alteration is made. If the Stormwater Authority determines that the proposed change

or alteration is significant, the Stormwater Authority may require that a new SMP application be filed. No work associated with the proposed change or alteration shall be performed until the Stormwater Authority approves the change or alteration.

- b. The Stormwater Authority shall review all requests for a change or alteration within 30 business days from the date of receipt.

2.5.2 Erosion and Sediment Control Plan:

The Erosion and Sediment Control (ESC) Plan shall be designed to ensure compliance with the SMP and these Stormwater Rules and Regulations and to ensure that the City's MS4 Permit with EPA and the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met during construction. The ESC Plan shall show the location of and describe the structural and non-structural BMPs to be used on the site to stabilize and contain runoff from exposed areas and to minimize or eliminate onsite erosion and sedimentation during construction. It also shall include controls for other wastes on construction sites such as demolition debris, litter, vehicle wash out, chemicals, and sanitary wastes. The ESC Plan shall describe the routine inspection and maintenance procedures for these BMPs. The procedures shall clearly define who is responsible for site inspections as well as who has authority to implement enforcement procedures.

2.5.3 Operation and Maintenance Plan Contents:

An Operation and Maintenance Plan (O&M Plan) is required at the time of application for Final Plan approval. The O&M Plan shall be designed to ensure compliance with the SMP and these Stormwater Rules and Regulations and to ensure that the Massachusetts Surface Water Quality Standards are met in all seasons and throughout the life of the system. The O&M Plan shall remain on file with the Stormwater Authority. The contents of the O&M Plan 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. A map showing the location of the systems and facilities including, but not limited to, catch basins, manholes/access lids, drain pipes, and stormwater devices;
- C. Maintenance Agreement that specifies:
 - a. The names and addresses of the person(s) responsible for operation and maintenance;
 - b. The person(s) responsible for financing maintenance and emergency repairs;
 - c. An inspection and maintenance schedule for all temporary erosion and sediment control practices and permanent stormwater management facilities, including routine and non-routine maintenance tasks to be performed;
 - d. A list of easements with the purpose and location of each;
 - e. A copy of the most recent deed for all properties on which a drainage easement will be necessary;
 - f. The signature(s) of the owner(s).
- D. Drainage Easement(s):
 - a. Executed drainage easements shall be provided by the property owner(s) as necessary for:

- i. Access for facility inspections and maintenance;
 - ii. Preservation of stormwater runoff conveyance, infiltration, and treatment areas and facilities, including flood routes for the 100-year storm event;
 - iii. Direct maintenance access by heavy equipment to structures requiring regular maintenance.
 - b. The purpose of each easement shall be specified in the Maintenance Agreement signed by the property owner;
 - c. Drainage easements are required for all areas used for off-site stormwater control;
 - d. The owner of record shall record drainage easements with the Bristol County Registry of Deeds and supply such recorded copy to Stormwater Authority prior to issuance of a Certificate of Completion.
- E. Changes to Operation and Maintenance Plans:
- a. The owner(s) of the stormwater management system must notify the Stormwater Authority in writing 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 Stormwater Rules and Regulations by mutual agreement of the Stormwater Authority and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

Sec.2.6 - Actions

The Stormwater Authority's action on an application for the issuance of a SMP, rendered in writing, shall consist of either:

- A. Approval of the SMP application based upon determination that the proposed plan meets the required standards and will adequately protect the water resources of the community and complies with the requirements set forth in these Stormwater Rules and Regulations. Any SMP issued pursuant to these Rules and Regulations shall be binding upon the original owner and any successors and assigns.
- B. Approval of the SMP application subject to any conditions, modifications or restrictions required by the Stormwater Authority which will ensure that the project meets the Standards in SECTION 3: SMP PERFORMANCE STANDARDS and adequately protects water resources, set forth in these Regulations;
- C. Denial of the SMP application based upon a determination that the proposed plan does not meet the required standards or does not adequately protect water resources, as set forth in these Stormwater Rules and Regulations.
- D. Disapproval of the SMP application "without prejudice" where an Applicant fails to provide requested additional information that in the Stormwater Authority's opinion is needed to adequately describe the proposed project. Information shall generally be

limited to those items listed in Sec.2.5 – SMP Application Management Plans and Submittals of these Rules and Regulations.

- E. Failure by the Stormwater Authority to take final action within said 60 days of receipt of a complete application, as determined by the Stormwater Authority, or without a mutual agreement to extend the time period for review, shall be deemed to be a grant of the SMP. An Applicant who seeks such approval by reason of the failure of the Stormwater Authority to act within such time prescribed, shall notify the Stormwater Authority, in writing within 14 days from the expiration of said 60 days of such approval. Within 15 days from the date of receipt of said notice, the Stormwater Authority shall:
 - a. Notify the property owner, in writing, of the reason or reasons why the application was not deemed complete, or
 - b. Issue a certificate stating the date of approval, the fact that the Stormwater Authority failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the applicant.

2.6.1 Appeals of Actions of the Stormwater Authority:

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

2.6.2 Project Completion:

At completion of the project the permittee shall submit Record Drawings of all structural stormwater controls and treatment BMPs required for the site as required in SECTION 3: SMP PERFORMANCE STANDARDS. The Record Drawings shall show deviations from the approved plans, if any, and be certified by a Massachusetts Registered Professional Engineer. All Record Drawings shall be verified by the Stormwater Authority and data collected during field inspections.

SECTION 3: SMP PERFORMANCE STANDARDS

Sec. 3.1 - Construction Stormwater Management Criteria

At a minimum, the Erosion and Sediment Control (ESC) Plan shall comply with the performance standards of the most recent version of the *Massachusetts Erosion and Sedimentation Control Guidelines for Urban and Suburban Areas: A Guide for Planners, Designers, and Municipal Officials* published by the Massachusetts Executive Office of Energy and Environmental Affairs (EEA), as well as the following:

3.1.1 General Criteria:

The following general performance criteria shall be applicable to all (ESC) Plans, unless otherwise provided for in these Stormwater Rules and Regulations:

- A. Measures shall be taken to control erosion within the project area;
- B. The removal of existing trees and ground cover shall be kept at a minimum;

- C. Perimeter barriers, such as straw bales and silt fences, shall be installed along the downslope property edges;
- D. Site stabilization procedures shall be employed to minimize the loss of soil;
- E. Soil stockpiles shall be stabilized by seeding or mulching if they will remain for more than seven calendar days;
- F. Wetland areas and surface waters shall be protected from sedimentation;
- G. Sediment in runoff water shall be trapped and retained within the project area. All temporary sediment trapping devices shall be designed to retain one inch of runoff from the contributing drainage area;
- H. All construction stormwater conveyance channels shall be designed to avoid unstabilized areas on the site and to reduce erosion. Minimize erosion through the use of erosion controls and velocity dissipation devices, such as check dams or sediment traps, within and along the length of any conveyance channel and at any outlet to provide a non-erosive flow velocity;
- I. Sediment basins shall provide storage for either the calculated runoff volume from a two year, 24-hour storm, or 3,600 cubic feet per acre drained. Sediment basins shall have side slopes composed of earthen embankments with side slopes no greater than 3:1 (horizontal:vertical). No structural retaining walls are permitted to confine a sediment basin;
- J. Linear projects involving concrete, masonry, or paved sidewalks shall include a grass/vegetated ribbon where ADA compatible pathway widths can be met without restriction. The ribbon width shall be determined in accordance with the City of New Bedford - Construction Standards and Specifications. The Stormwater Authority, at **it's** discretion, may waive or eliminate the need for grass/vegetated ribbons in favor of recharging alternatives based on local conditions and circumstances.

3.1.2 NPDES Construction General Permit:

All projects disturbing one or more acres shall obtain an EPA NPDES Construction General Permit. This permit requires the implementation of practices to minimize the discharge of pollutants from a site. The permit also requires the development of a Stormwater Pollution Prevention Plan that describes structural and non-structural BMPs that will be used to control erosion and sedimentation.

3.1.3 NPDES General Permit for Dewatering Activity Discharges:

An EPA NPDES General Permit for Dewatering Activity Discharges is required to authorize the discharge of uncontaminated water from construction dewatering and/or stormwater accumulation for projects that disturb less than one acre of land. This permit allows pumped or drained discharges of groundwater or stormwater from excavations or other points of accumulation associated with a construction activity.

Sec. 3.2 - Post-Development Stormwater Management Criteria

At a minimum, all projects shall comply with the performance standards of the most recent version of Massachusetts Stormwater Management Standards (MASWMS). Additionally, the following general performance criteria shall be applicable to all Stormwater Management Plans, unless otherwise provided for in these Stormwater Rules and Regulations:

3.2.1 Stormwater Management Basins:

All stormwater management basins, including detention, retention, and sedimentation basins, shall have side slopes composed of earthen embankments with side slopes no greater than 3:1 (horizontal:vertical). No structural retaining walls are permitted to confine a stormwater management basin.

3.2.2 Site Planning Process:

The site planning process shall be documented and shall include the following steps:

- A. Identify and map critical environmental resources;
- B. Delineate potential building envelopes avoiding environmental resource areas and appropriate buffers,
- C. Develop methods to minimize impervious cover and to protect and preserve open space.

3.2.3 Untreated Discharges:

All stormwater runoff generated from land development and land use conversion activities shall be treated to the maximum extent practicable, and as approved by the Stormwater Authority, prior to discharge to a wetland, local water body, municipal drainage system, or a right-of-way (ROW).

3.2.4 Site Design Criteria:

Low Impact Development (LID) site planning and design strategies must be used to the maximum extent practicable for new development and redevelopment to promote recharge, reduce runoff volumes, and minimize reliance on structural stormwater management measures. Use of LID design strategies must be formally documented in the Stormwater Management Plan as described in Sec.2.5 – SMP Application Management Plans and Submittals of these Rules and Regulations. Acceptable LID design strategies include, but are not limited to:

- A. Bioretention areas, including stormwater planters and tree box filters;
- B. Dry wells;
- C. Grassed channels;
- D. Green roofs;
- E. Leaching catch basins;
- F. Porous pavements, including porous asphalt, permeable pavers and pervious concrete;
- G. Rain barrels/cisterns;
- H. Rain gardens;
- I. Vegetated filter strips;

J. Water quality swales.

3.2.5 Channel Protection:

Protection of channels from bank and bed erosion and degradation shall be provided by controlling the peak discharge rate from the two year storm event to the pre-development rate as required by the MASWMS.

3.2.6 Overbank Flooding Protection:

Downstream overbank flood and property protection shall be provided by attenuating the post-development peak discharge rate to the pre-development rate for the 10-year, 24-hour return frequency storm event as required by the MASWMS.

3.2.7 Extreme Flooding Protection:

Extreme flooding and public safety protection shall be provided by controlling and safely conveying the 100-year, 24-hour return frequency storm event such that flooding is not exacerbated.

3.2.8 Recharge:

- A. Annual groundwater recharge rates shall be maintained, by promoting infiltration and recharge through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall equal the annual recharge from pre-development site conditions.
- B. The stormwater runoff volume to be recharged to groundwater should be determined using the methods prescribed in the latest version of MASWMS. The recharge requirements shall apply to all activities within the jurisdiction of these Rules and Regulations except as noted, and unless specifically waived by the Stormwater Authority. The recharge criterion is not recommended for any portion of a site designated as a stormwater hotspot. In addition, the Stormwater Authority may relax or eliminate the recharge requirement at its discretion, if the site is situated on unsuitable soils, is demonstrated to be too restrictive, or is in a redevelopment area with documentation of prior contaminated soils.

3.2.9 Structural Practices for Water Quality:

- A. All structural Stormwater Management facilities shall be selected and designed using the appropriate criteria from the most recent version of the MASWMS.
- B. For other structural stormwater controls not included in the MASWMS, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the Stormwater Authority before being included in the design of a Stormwater Management system.
- C. Structural best management practices (BMPs) must be designed to remove the prescribed average annual post development total suspended solids (TSS) percentage, as described in Section 3.2.14. It is presumed that a BMP complies with this performance goal if it is:
 - a. Sized to capture the prescribed water quality volume;
 - b. Designed according to the specific performance criteria outlined in the MASWMS;

- c. Constructed properly;
- d. Maintained regularly.

3.2.10 Water Quality Volume:

The prescribed water quality volume required in the sizing of a structural stormwater practice shall be 0.50 inches x the total impervious area of the drainage area and 1.0 inches x the total impervious area of the drainage area in critical areas, as specified in the MASWMS.

3.2.11 Sensitive Areas:

Stormwater discharges to critical areas with sensitive resources (i.e., shellfish beds, vernal pools, swimming beaches, aquifer recharge areas, water supply reservoirs) may be subject to additional criteria, or may need to utilize or restrict certain stormwater management practices at the discretion of the Stormwater Authority. The Stormwater Authority may designate sensitive areas and specific criteria for these areas after conducting a public hearing in accordance with the provisions of Section 1.4 - Revisions of the Rules and Regulations.

3.2.12 Hotspots:

Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots,” as defined in the most recent version of the MASWMS, require the use of specific Stormwater Management BMPs, as specified in the most recent version of the MASWMS. The use of infiltration practices without pre-treatment is prohibited.

3.2.13 Redevelopment:

Redevelopment projects are presumed to meet the specified stormwater requirements described in the Stormwater Rules and Regulations of the City of New Bedford if one of the following criteria is met:

- A. The total impervious cover is reduced by 40% from existing conditions;
- B. Where site conditions prevent the reduction in impervious cover, stormwater practices are implemented to provide stormwater controls for at least 40% of the site’s impervious area; or
- C. When a combination of impervious area reduction and implementation of stormwater management practices is used for redevelopment projects, the combination of impervious area reduction and the area controlled by a stormwater management practice is equal to or exceeds 40%.

3.2.14 On-Site Stormwater Retainage/TSS Removal:

- A. For development projects that result in total earth disturbance equal to or greater than one acre (or activities that are part of a larger common plan of development disturbing greater than one acre), the following on-site retainage and TSS removal requirements shall be met:
 - a. Retain the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the site, and/or
 - b. Remove 90% of the average annual TSS generated from the total post-construction impervious area on the site, and remove 60% of the average annual load of Total

Phosphorus (TP) generated from the total post-construction impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available.

B. For redevelopment projects that result in total earth disturbance equal to or greater than one acre (or activities that are part of a larger common plan of development disturbing greater than one acre), the following on-site retainage and TSS removal requirements shall be met:

- a. Retain the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site, and/or
- b. Remove 80% of the average annual TSS generated from the total post-construction impervious area on the site, and remove 50% of the average annual load of Total Phosphorus (TP) generated from the total postconstruction impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available.

C. For projects disturbing less than one acre, provide TSS removal for development and redevelopment projects in accordance with the guidance provided from the most recent version of the MASWMS.

Sec. 3.3 - Criteria for Connections to the Storm Drain System

3.3.1 Legal Authority:

The Department of Public Infrastructure along with the Stormwater Authority will prohibit, investigate, and eliminate illicit discharges, and implement appropriate enforcement procedures and actions.

3.3.2 Exemptions:

Any discharges associated with municipal fire-fighting activities are exempt from the discharge prohibitions established by this section. In addition, other non-stormwater discharges or flows (such as, but not limited to, water line flushing and discharge from foundation drains) are exempted from the discharge prohibitions of this section, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system as determined by the Stormwater Authority.

3.3.3 Suspension Due to Illicit Discharges in Emergency Situations:

DPI may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare, or the environment. In the event any person fails to comply with an emergency suspension order, DPI, its employees and agents may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare, or the environment.

3.3.4 Suspension Due to the Detection of Illicit Discharge(s):

Any person discharging in violation of these Stormwater Rules and Regulations may have their municipal storm drain and sewer system access terminated if such termination would abate or reduce an illicit discharge. DPI will notify a violator of the proposed termination of its municipal storm drain system access.

SECTION 4: SMP WAIVERS

Sec. 4.1 - SMP Waiver Applicability

The Stormwater Authority may waive strict compliance with any requirement of the Stormwater Rules and Regulations where:

- Such action is allowed by Federal, State, and local statutes and/or Stormwater Rules and Regulations;
- It is in the public interest;
- It is consistent with the purpose and intent of the City of New Bedford Stormwater Management Ordinance.

Sec. 4.2 - SMP Waiver Procedure

4.2.1 Request for SMP Waiver:

Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by a completed and an explanation or documentation supporting the waiver request. The applicant must demonstrate that not strictly complying with the Stormwater Rules and Regulations does not alter the purposes or objectives of these Stormwater Rules and Regulations.

4.2.2 SMP Waiver Reviews:

All SMP Waiver Applications shall be acted on within 30 calendar days. Findings will be provided by the Stormwater Authority to the applicant in a written response letter.

4.2.3 SMP Waiver Review Extension Requests:

If in the Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the Stormwater Authority may request an extension of the review period. In the event the Applicant objects to an extension, or fails to provide requested information, the waiver request may be denied, "without prejudice" by the Stormwater Authority.

SECTION 5: SMP SURETY

Prior to the start of land disturbance or construction activity, the Stormwater Authority may require the Applicant to post a surety bond, irrevocable letter of credit, cash, or other acceptable security, when deemed appropriate. The form of the surety shall be approved by the City Treasurer, and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the SMP. If the project is phased, the Stormwater Authority may release part of the surety as each phase is completed in compliance with the SMP, but the surety may not be fully released until the Stormwater Authority has received the final

inspection report as required by these Stormwater Rules and Regulations and issued Certificate of Completion.

SECTION 6: SMP INSPECTIONS

Sec. 6.1 - Construction Inspections

6.1.1 Notice of Construction Commencement:

The Applicant must notify the Stormwater Authority **72 hours** in advance before the commencement of construction. In addition, the Applicant must notify and schedule inspections with the Stormwater Authority 24 hours in advance of construction of critical components of the stormwater management facility.

6.1.2 Right of Entry for Inspections: Refer to Sec.2.3 – Right of Entry for Inspection.

6.1.3 Inspection Procedures:

At the discretion of the Stormwater Authority, periodic inspections of the stormwater management system construction shall be conducted by DPI or a Massachusetts Registered Professional Engineer or the Professional Engineer's designee who has been approved by the Stormwater Authority. All inspections shall document the following information:

- A. The date and location of the inspection;
- B. Whether construction is in compliance with the approved Stormwater Management Plan;
- C. Variations from the approved construction specifications;
- D. Any other variations or violations of the conditions of the approved Stormwater Management Plan.

6.1.4 Final Inspection:

- a. After the project, including the stormwater management facilities, has been constructed and before the surety has been released, all Applicants are required to submit Record Drawings that are certified by a Massachusetts Registered Professional Engineer after final construction is completed.
- b. The Stormwater Authority or its designee shall inspect the site to determine its conformity to the Record Drawings. This inspector shall also evaluate the effectiveness of the stormwater management system in an actual storm. If the inspector finds the system to be adequate, he/she shall so report to the Stormwater Authority, which will issue a Certificate of Completion. Record Drawings shall be full size plans which reflect the "as built" conditions, including all final grades, developed by a Massachusetts Registered Professional Engineer. All changes to project design should be recorded in red ink on plans to define changes made. All work deleted, corrections in elevations, and changes in materials, should be shown on the Record Drawings.

6.1.5 System Requiring Corrective Actions:

- A. 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 plans, the Applicant shall correct it

before the Certificate of Completion is released. If the Applicant fails to act, the Stormwater Authority may use the surety bond to complete and/or correct the work.

- B. If the Stormwater Authority 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 Authority.

Sec. 6.2 - Post-Development Inspection and Maintenance

6.2.1 Maintenance Responsibility:

- A. The Owner of stormwater management facilities and practices included in the Stormwater Management Plan is responsible for conducting ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the Maintenance Agreement in the O&M Plan, and these Stormwater Rules and Regulations.
- B. The owner of the property on which work has been done pursuant to these Stormwater Rules and 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 the approved plans.

6.2.2 Maintenance Inspections:

- A. All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of these Stormwater Rules and Regulations, as specified in the Maintenance Agreement in the O&M Plan described in Section 2.5.3 Operation and Maintenance Plan Contents of these Rules and Regulations.
- B. At a minimum, inspections shall occur during the first year of operation and at least once every two (2) years thereafter, or more frequently as deemed necessary. In addition, a Maintenance Agreement between the owner and the Department of Public Infrastructure shall be executed for privately-owned stormwater management systems that specifies the Responsible Party for conducting long-term inspections and provides evidence to the Stormwater Authority that sufficient financial resources have been set aside for this purpose.
- C. Inspection reports shall be submitted to and maintained by the Stormwater Authority for all stormwater management systems within one (1) month following an inspection. Inspection reports for stormwater management systems shall include:
 - a. The date of inspection;
 - b. Name of inspector;
 - c. The condition of (as applicable):
 - i. Pre-treatment devices

- ii. Vegetation or filter media
- iii. Fences or other safety devices
- iv. Spillways, valves, or other control structures
 - v. Embankments, slopes, and safety benches
- vi. Reservoir or treatment areas
- vii. Inlet and outlet channels and structures
- viii. Underground drainage
 - ix. Sediment and debris accumulation in storage and forebay areas (including catch basins)
 - x. Any non-structural practices
 - xi. Any other item that could affect the proper function of the stormwater management system
- d. Description of the need for maintenance.

6.2.3 Right-of-Entry for Inspection:

The terms of the Maintenance Agreement as specified in these Stormwater Rules and Regulations shall provide for the Stormwater Authority or its designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The Stormwater Authority or its designee shall have authority to enter upon privately owned land for the purpose of performing their duties under these Stormwater Rules and Regulations and may make or cause to be made such examinations, surveys, or sampling as the Stormwater Authority deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

6.2.4 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 Authority, upon request. Parties responsible for the operation and maintenance of a stormwater management facility shall make available all records of the **installation, all maintenance and** all repairs, and shall retain the records for at least five (5) years following final inspections and/or repairs. These records shall be made available to the Stormwater Authority or its designee during inspection of the facility and at other reasonable times upon request.

6.2.5 Failure to Maintain:

If responsible party fails or refuses to meet the requirements of the O&M Plan, the Stormwater Authority, after 30 calendar days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the approved plans or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The Stormwater Authority may assess the owner(s) of the facility for the cost of repair work, which shall be payable to the City of New Bedford within 30 days from the date of invoice. Failure to make payment within 30 days shall result in a “municipal charges lien” against the owner’s property, pursuant to the provisions of M.G.L. chapter 40, section 58.

After notification is provided to the owner, the parties responsible for carrying out the maintenance plan shall have 30 calendar days or other time frame mutually agreed to between the Stormwater Authority and the parties responsible for carrying out the maintenance plan to correct the deficiencies. The Stormwater Authority or its designee shall then conduct a subsequent inspection to ensure completion of repairs.

SECTION 7: CERTIFICATE OF COMPLETION

Within 60 calendar days of completion of construction, the Stormwater Authority shall require the submission of Record Drawing(s) prepared by a Massachusetts Registered Professional Engineer and Massachusetts Professional Land Surveyor, certifying that the completed project is in accordance with the approved plans and specifications. Furthermore, the Stormwater Authority may require construction inspection reports sufficient to adequately document compliance, when necessary.

SECTION 8: VIOLATIONS AND ENFORCEMENT

Sec. 8.1 - Introduction

The following section outlines those acts the Stormwater Authority may consider a violation and outlines actions the Stormwater Authority or its designee may employ in response to violations or apparent violations.

Sec. 8.2 - Powers of the Stormwater Authority

The Stormwater Authority shall enforce these Rules and Regulations via orders, violation notices, and enforcement orders, and may pursue all civil, criminal and non-criminal remedies for such violations.

Sec. 8.3 - Violations Defined

Each day following the issuance of a notice of violation exists constitutes a separate violation. Violations include, but are not limited to:

- 8.3.1 Refusal or failure to comply with a SMP;
- 8.3.2 Refusal or failure to observe a particular condition or time specified in a SMP;
- 8.3.3 Refusal or failure to complete work described in a SMP, whether or not such failure causes damage;
- 8.3.4 Refusal or failure to maintain a stormwater management facility covered by a SMP;
- 8.3.5 Refusal or failure to obtain a valid SMP prior to conducting an activity subject to these Stormwater Rules and Regulations;
- 8.3.6 Illicit connections or discharges to the City of New Bedford municipal storm drain system.

Sec. 8.4 - Enforcement

8.4.1 General Enforcement Actions:

If the Stormwater Authority determines that an activity is in violation of Chapter 16, Article VIII of the Code of Ordinances or these Stormwater Management Rules and Regulations, the Stormwater Authority may: (1) issue an Enforcement Order; (2) impose fines; and/or (3) seek injunctive relief.

8.4.2 Additional Enforcement Actions:

The Stormwater Authority may seek remedies in addition to or in lieu of the other provisions of this section, where the Stormwater Authority deems appropriate, including instituting a civil action to obtain an injunction without the imposition of penalties, criminal enforcement of up to THREE HUNDRED (\$300.00) DOLLARS per day per offense, or non-criminal enforcement as provided in G.L. c. 40, § 21D and G.L. c.40U. of up to THREE HUNDRED (\$300.00) DOLLARS per day per offense .

SECTION 9: SEVERABILITY

The invalidity of any section or provision of these Stormwater Rules and Regulations shall not invalidate any other section or portion thereof, nor shall it invalidate any permit or determination that previously has been issued.

SECTION 10: EFFECTIVE DATE

These Stormwater Rules and Regulations shall be effective January 25, 2017 as amended on June 30, 2021.

Promulgated by:

Jamie Ponte
Commissioner of Public Infrastructure