



City of Leominster Stormwater and Erosion Control Regulations

The City of Leominster Stormwater Authority hereby adopts these Stormwater and Erosion Control Regulations in accordance with the Stormwater and Erosion Control Ordinance.

Section 1: PURPOSE

The purpose of these Regulations is to protect, maintain and enhance the public health, safety, environment and general welfare of the City by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff and non-point source pollution associated with new development and redevelopment as more specifically addressed in the Stormwater and Erosion Control Ordinance Chapter 21, Article VI of the Ordinances of the City of Leominster.

Section 2: DEFINITIONS

The definitions contained herein apply to the issuance of a Stormwater Management Permit (SMP) established by the City of Leominster's Stormwater and Erosion Control Ordinance and implemented through these regulations. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicated a special or technical meaning.

The following terms are defined in the Massachusetts Wetlands Regulations (310 CMR 10.00): Critical areas, Environmentally sensitive site design, Illicit discharge, Maintenance of a stormwater management system, Redevelopment, Stormwater best management practice (BMP), Stormwater management system, and Surface waters.

ALTER: Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land-disturbing activities".

APPLICANT: Any person, individual, partnership, association, organization, firm, company, trust, corporation, agency, authority, department, or political subdivision of the commonwealth or the federal government, to the extent permitted by law, any officer, employee, or agent of such person who has filed an application for a Stormwater Permit.

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 Stormwater Permit have been met and that a project has been completed in compliance with the conditions set forth in the Stormwater Management Ordinance.

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

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

DISCHARGE OF POLLUTANTS: The addition of any Pollutant or combination of Pollutants into the MS4 or into the waters of the United States or the waters of the Commonwealth, from any source.

LAND-DISTURBING ACTIVITY: Any action that causes a change in the existing soil cover which includes the position or location of soil, sand, rock, gravel, or similar earth material. Land-disturbing activities include, but are not limited to, clearing, clearing of trees, grubbing, filling and excavation.

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



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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.

IMPERVIOUS COVER (IC) or IMPERVIOUS AREA (IA): Any material or structure on, above or below the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: roads, paved surfaces (parking lots, sidewalks, and driveways), concrete, brick, stone, and roof tops.

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

INVASIVE SPECIES: Those plant species whose introduction does, or is likely to, cause economic or environmental harm or harm to human health. For the purpose of this Ordinance, a plant species is considered "invasive" only when it occurs on the List of Federal Noxious Weeds or on the Massachusetts Prohibited Plant List.

LAND DISTURBANCE: Any action that causes removal of vegetation (including tree cutting) or that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See also ALTER.

LOW IMPACT DEVELOPMENT (LID) TECHNIQUES: Innovative stormwater management systems that are modeled after natural hydrologic features. See 310 CMR 10 for further clarification.

MASSACHUSETTS STORMWATER HANDBOOK (HANDBOOK): The Stormwater Handbook, as amended from time to time, that was produced by the Massachusetts Department of Environmental Protection Agency (MassDEP) to be used as guidance for controlling stormwater. Implementation of the Stormwater Management Standards shall be in accordance with the Stormwater Handbook.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The latest version as may be amended from time to time of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the MassDEP pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The conveyance or system of conveyances designed or used for collecting or conveying stormwater, which is not a combined sewer, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Leominster.

NEW DEVELOPMENT: Any construction or land disturbance on a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

NONPOINT SOURCE: Any source from which pollution is discharged which is not identified as a point source, including, but not limited to urban, agricultural, or silvicultural runoff.

PERSON: 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, codes, administrative agency, public or quasi-public corporation or body, the city of Leominster, and any other legal entity, its legal representatives, agents, or assigns.



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PRE-DEVELOPMENT: The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads, utilities, etc.) the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POLLUTANT: Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works, groundwater or surface water.

Pollutants shall include, without limitation:

- A. paints, varnishes, and solvents;
- B. oil and other automotive fluids;
- C. non-hazardous liquid and solid wastes and yard wastes;
- D. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. pesticides, herbicides, and fertilizers;
- F. hazardous materials and wastes; sewage, fecal coliform, and pathogens;
- G. dissolved and particulate metals;
- H. animal wastes;
- I. rock, sand, salt, soils, with the exception of winter salting and sanding in quantities that will not clog or otherwise impair the performance of the MS4 and Stormwater Management Systems;
- J. construction wastes and residues; and
- K. noxious or offensive matter of any kind.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans 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.

QUALIFIED PERSON: A person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of these Regulations.

RECHARGE: The replenishment of underground water reserves.

RECHARGE VOLUME: The stormwater volume that shall be captured and infiltrated into the underlying soils to replenish groundwater and reduce runoff. Refer to the Handbook for additional information.

RECONSTRUCTION: Any action causing complete removal and replacement of paved surfaces, such as driveways, parking areas and roads.

RUNOFF: Rainfall or snowmelt water flowing over the ground surface or other source that may result in transport of pollutants.

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

STOCKPILING: The storage of unsecured material for future use, excluding the storage of materials 10 cubic yards or less when secured utilizing erosion controls to prevent erosion of material.

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



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STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Stormwater Authority, after 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.

SUBDIVISION: Defined in the Subdivision Control Law of Massachusetts (M.G.L. – Chapter 41, Section 81L Definitions).

TOXIC MATERIAL OR HAZARDOUS MATERIAL OR WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous material include any synthetic organic chemical, petroleum, product, heavy metal, radioactive or infectious waste, acid, and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.300 and 310 CMR 40.0000.

Section 3: AUTHORITY

Authority is derived from Chapter 21, Article VI (Stormwater and Erosion Control) of the Ordinances of the City of Leominster. Nothing in these Rules or Regulations is intended to interfere with, abrogate, or annul any other Ordinance, rule or regulation, statute, or other provision of law. These Rules and Regulations may be periodically amended by the Stormwater Authority in accordance with the procedures outlined in Chapter 21, Article IV, Section 21-75 of the Ordinances of the City of Leominster.

Section 4: ADMINISTRATION

The Conservation Commission is designated as the Stormwater Authority under Chapter 21, Article VI (Stormwater and Erosion Control), Section 21-79 (a) of the Ordinances of the City of Leominster. The Conservation Commission shall administer, implement, and enforce these Regulations. The Conservation Commission may delegate in writing to another City department, commission or board to act as his/her agent to review application submittals and for site inspections and enforcement.

Section 5: APPLICABILITY

- A. These Regulations apply to all activities identified in the Ordinances of the City of Leominster, Chapter 21, Article VI, (Stormwater and Erosion Control), Section 21-77, Applicability.
- B. These stormwater regulations do not apply to the exemptions as listed in the Ordinances of the City of Leominster, Chapter 21, Article VI, (Stormwater and Erosion Control), Section 21-75, Exemptions.

Section 6: APPLICATION PROCEDURES AND REQUIREMENTS

Projects requiring a SMP as identified in the Ordinances of the City of Leominster, Chapter 21, Article VI, Section 21-74 through Section 21-83, shall be required to submit the materials as specified in this Section, and are required to meet the performance standards as specified in Section 7 of these Regulations.

A. Applications Required

- 1. All subdivisions as defined in the Massachusetts Subdivision Control Law (M.G.L. c 41 §81K – 81GG) requiring approval of a definitive subdivision plan;
- 2. Any activity that will cause a land disturbance of one acre or greater within the City of Leominster; and
- 3. Land disturbing activity occurring at least in part within the City of Leominster that will disturb equal to or greater than 5,000 ft² but less than one acre will file an abbreviated application in accordance with Section 6.I. of these regulations.



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B. Filing Application

The applicant shall file with the Stormwater Authority one (1) original application package along with three (3) copies of a completed application package for a Stormwater Permit. While the applicant can be a representative, the permittee must be the owner of the site or holder of an easement. Applications for a Stormwater Permit shall include the materials as specified in this section and must meet the Design Standards as specified in these Regulations. The Stormwater Application package must include:

1. A completed SMP application with original signatures of all owners;
2. A completed MassDEP *Checklist for Stormwater Report*, prepared in accordance with the Handbook, to document compliance with the Stormwater Management Standards;
3. Payment of the application fee; and
4. Draft Operations and Maintenance Agreement.

C. Fees

1. General: The Stormwater Authority shall obtain with each submission a non-refundable application fee to be collected at the time an application is filed. The application fee will be used for processing of the application, coordination of City staff, posting hearings, and other expenses connected with the review of the application.
2. Rules:
 - a. Application fee is non-refundable.
 - b. All fees shall be calculated by the Stormwater Authority in accordance with the fee schedule in the Stormwater Management Permit.
 - c. These fees are in addition to any other local or state fees that may be charged under law, regulation, or City Ordinance.
 - d. Federal, State and Municipal projects shall be exempt for Application fees associated with the Stormwater Permit.
3. Revision of Fee Schedule: The Stormwater Authority may review and revise its Fee Schedule periodically at its discretion.

D. Public Hearings and Meetings

1. The Stormwater Authority shall hold a public hearing for SMP applications where Design Standards cannot be met or the applicant wishes to propose an alternative design not consistent with the Design Standards. Notices of public hearings shall be published in a newspaper of general circulation for two (2) consecutive weeks. The first publication date shall not be less than fourteen (14) days before the day of the hearing. A copy of the hearing notice shall be posted in the Office of the City Clerk for a period of not less than fourteen (14) days before the date of the hearing. Copies of the notice shall be mailed, postage prepaid, to the applicant, property owner (if different) and to direct abutters and owners of land directly opposite on a public or private way as they appear on the most recent Assessors list. The Stormwater Authority may take the following actions following the close of the public hearing:
 - a. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of these Regulations.
 - b. Approve the Permit Application with conditions, modifications, or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of these Regulations; or



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- c. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of these Regulations.
2. A decision by the Stormwater Authority made under these Regulations shall be final. Further relief shall be to a court of competent jurisdiction.
3. Failure of the Stormwater Authority to take final action upon a completed Application within twenty (20) business days shall be deemed approval of said Application. Upon certification by the City Clerk that the allowed time has passed without Stormwater Authority action, the Stormwater Authority must issue a Stormwater Permit.

E. Stormwater Authority Approval Process

No work requiring a SMP may commence without approval of the Stormwater Authority. The Stormwater Authority's action, rendered in writing, shall consist of either:

1. Approval of the SMP Application upon finding that the proposed plan will protect water resources and meets the objectives and is in compliance with the requirements set forth in the Ordinance and these Regulations;
2. Approve the SMP Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and is in compliance with the requirements of the Ordinance and these Regulations; or
3. Disapprove the SMP Application if the proposed plan, as submitted, will not adequately protect water resources or fails to meet the objectives and requirements of the Ordinance and/or these Regulations, or the application is deemed incomplete.

Failure of the Stormwater Authority to take final action upon a completed Application within twenty (20) business days shall be deemed approval of said Application. Upon certification by the City Clerk that the allowed time has passed without Stormwater Authority action, the Stormwater Authority must issue a SMP.

F. Plan Changes

The permittee must notify the Stormwater Authority in writing of any change or alteration in the stormwater management system authorized in the SMP before any change or alteration is made. If the Stormwater Authority determines that the change or alteration is significant, based on the Massachusetts Stormwater Management Standards, Section 7, Performance Standards, or these Regulations and accepted construction practices, the Stormwater Authority may require that an amended application be filed.

G. Entry

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater Authority and his/her agents, may enter upon privately owned property for the purpose of performing their duties under the Stormwater and Erosion Control Ordinance and these Regulations and may make or cause to be made such examinations, surveys, or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

H. Documentation of Compliance

1. The Stormwater Authority shall review the application submission and issue a determination stating whether the application is complete and whether it complies with the criteria and Design Standards established in these regulations. The Stormwater Report shall document compliance with each of the ten (10) Stormwater Management Standards as provided in the Massachusetts Stormwater Handbook and shall contain sufficient information for the Stormwater Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. The Stormwater Report shall remain on file with the Conservation Commission.



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2. If the Stormwater Authority determines the application is incomplete, including insufficient information to describe the site, the work or the effect of the work on water quality and runoff volume, the Stormwater Authority may require the submission of additional information and/or disapprove the application and deny the permit.
3. Applications deemed to be complete and in compliance with Design Standards: Each application for a Stormwater Permit that complies with the Regulations, and is determined to be a complete application by the Stormwater Authority shall be acted upon within thirty (30) days of the date of filing with the Stormwater Authority, unless such application has been withdrawn from consideration. The Stormwater Authority may:
 - a. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of the Ordinance.
 - b. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of the Ordinance; or
4. Applications not in compliance with Design Standards:
 - a. For applications where the Stormwater Authority has determined that the Design Standards are not met, the Applicant may appeal the determination and request a public hearing with the Stormwater Authority or Conservation Commission to consider the application or resubmit the application demonstrating compliance.
5. For applications where the Design Standards cannot be met due to site conditions or the applicant wishes to propose an alternative design not consistent with the Design Standards, the applicant may immediately request a public hearing with the Conservation Commission.

I. Abbreviated Application

The abbreviated application shall apply to all projects that require a SMP per Section 6.A.3. of these regulations and will disturb less than one acre of land. An abbreviated application shall include a completed Checklist for Stormwater Report from the latest edition of the Massachusetts Stormwater Handbook to document compliance with applicable stormwater standards.

An abbreviated permit application shall at a minimum contain: contact information; a brief description of the project; a brief description of the plans to prevent erosion and control sediments during construction; sufficient information to describe the existing and proposed features of the land (including structures, vegetation, and drainage); and anticipated maintenance requirements. The Conservation Commission and/or its agents may request additional information from the applicant if deemed necessary to determine compliance with the Stormwater Standards or may waive a portion of these submission requirements if in their opinion, sufficient information exists on which to base the issuance of a SMP.

J. Project Completion

At completion of the project the permittee shall provide a statement of compliance and shall submit both a hard copy and an electronic copy of as-built record drawings and an updated Operation and Maintenance Plan (O&M Plan) noting any changes and new responsible parties. As-built record drawings shall include all structural stormwater BMPs, drainage structures, conveyances, outfalls, catch basins, curbing and headwalls and shall be stamped by a Registered Professional Engineer or Registered Land Surveyor. A computer disk shall be submitted with the as-built record drawings in digital CADD Format, DXF (drawing exchange format).

K. Permit Expiration/Extension

An approved Stormwater Permit is valid for three years from the date of issuance. If work has not been completed within three (3) years, the Applicant may request in writing to the Stormwater Agency, a one-time extension of up to one year. This request shall be submitted twenty (20) business days prior to expiration of the approved SMP. The Stormwater



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Agency may re-evaluate the originally approved SMP application and Stormwater Report to determine whether the plan still satisfies state and local regulations. If the Stormwater Agency finds the previously filed Plan to be inadequate, a modified plan shall be submitted and approved prior to the commencement of land-disturbing activities per the procedure in Section 6.0 of these Regulations.

L. Stormwater Management Permit Submission Requirements

1. The application for a SMP shall include the submittal of a Stormwater Report to the Stormwater Authority prepared in accordance with the Massachusetts Stormwater Handbook and the criteria established in these Regulations. The Stormwater Report shall include the *Massachusetts Department of Environmental Protection Checklist for Stormwater Report* and document compliance with each of the Stormwater Management Standards as provided in the Handbook and 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. The Stormwater Report shall remain on file with the Stormwater Authority.
2. The Stormwater Report shall fully describe the project in drawings, narrative, and calculations. To demonstrate compliance to the Stormwater Authority, the applicant shall include the following in addition to the Stormwater Report requirements in the Handbook:
 - a. Locus Map;
 - b. Existing Conditions and Proposed Site Plan including the following:
 - i. location of existing and proposed easements;
 - ii. location of existing and proposed utilities;
 - iii. existing and proposed topography with contours at a maximum of 2-foot intervals;
 - iv. 1% annual chance floodplain boundary (100-year floodplain);
 - v. existing wetlands and buffer zones;
 - vi. existing building or other structures;
 - vii. proposed erosion control for construction;
 - viii. location of existing and proposed impervious surfaces. Proposed Site Plan shall note the total increase or decrease in impervious area.
 - ix. Notation if site is located within the aquifer protection district.
3. For each waterbody that receives a discharge from the site, the description must include the water quality classification per the Commonwealth Surface Water Quality Standards applicable to that waterbody and standards that are applicable to the water classification, and any identified impairments included on the most recent Massachusetts Integrated List of Waters.
4. A drainage area map showing pre- and post-construction watershed boundaries (as governed by topography), drainage areas, time of concentration (Tc) path, and stormwater flow paths, including municipal storm drain system flows.
5. A description and detail drawings of all components of the proposed Stormwater Management System including:
 - a. All measures for the detention, retention or infiltration of water;
 - b. Description of non-structural BMPs;
 - c. All measures for the protection of water quality;
 - d. The structural details for all components of the proposed Stormwater Management System;
 - e. Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations; and
 - f. Any other information requested by the Stormwater Agency.
6. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the Massachusetts Stormwater Handbook. Such calculations shall include:
 - a. NRCS soil types and hydrologic group;
 - b. test pit data for the site;
 - c. comparison of pre- and post-development peak discharge rates for the 2-, 10-, 25- and 100-year storm event;



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- d. required recharge volume (refer to Section 6) for additional requirements;
 - e. required water quality volume (refer to Section 6) for additional requirements;
 - f. TSS removal rates for each treatment train;
 - g. and Sizing of stormwater structures;
7. Landscaping plan showing proposed plantings, type and quantity, to be used within and adjacent to the stormwater practice.
 8. Operation and Maintenance (O&M) Plan (Drawings and Narrative). The O&M Plan shall be designed to ensure compliance with the SMP, the Ordinance and these Regulations and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system. The O&M Plan shall be a stand-alone document, and shall remain on file with the Stormwater Authority and shall be an ongoing requirement. To ensure that all BMP's continue to function as designed, a final O&M Plan shall be submitted prior to issuance.

Section 7: Performance Standards

A. Stormwater Management Design and Performance Criteria

1. At a minimum, all projects subject to a SMP shall comply with the performance standards of the most recent version of the Massachusetts Stormwater Management Standards and accompanying Stormwater Management Handbook, as well as the criteria contained herein. Additional requirements are noted below.

2. Landscape Design

Site plans and landscape plans for all proposed projects must take appropriate steps to minimize water use for irrigation and to allow for natural recharge of groundwater. Native species and habitat-creating species shall be used in all landscape plans to the maximum extent possible as site conditions allow. Invasive species shall not be planted in the City of Leominster under any circumstances.

3. Erosion and Sediment Control Design and Performance Criteria

Approval of an Erosion and Sediment Control Plan by the Stormwater Authority is required to any site altering activity. The plan shall be designed to ensure compliance with the SMP, these Regulations and if applicable, the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Activities. In addition, the plan shall ensure that the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met in all seasons. The Applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements.

- a. If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities (applicable to construction sites that disturb one or more acres of land), then the Applicant is required to submit a complete copy of the SWPPP (including the signed Notice of Intent and approval letter) as part of its application for a SMP. If the SWPPP meets the requirements of the NPDES General Permit, it will be considered equivalent to the Erosion and Sediment Control Plan described in this Section.
- b. The Erosion and Sediment Control Plan shall be designed to meet the following criteria and guidelines:
 - i. Minimize total area of disturbance and minimize unnecessary clearing and grading from all construction sites. Clearing and grading shall only be performed within areas needed to build the project, including structures, utilities, recreational amenities, post-construction stormwater management facilities and related infrastructure.
 - ii. Erosion and Sediment Control measures shall be chosen based on the goal of minimizing site disturbance from installation of such measures.

Section 8: WAIVERS



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- A. The Stormwater Authority may in its discretion and after due consideration decide to waive and exempt strict compliance with any requirement of the Stormwater Management Ordinance and these Regulations, where it makes a written finding that such action is:
 - 1. Allowed by federal, state and local statutes and/or regulations;
 - 2. In the public interest; and
 - 3. Consistent with the purpose and intent of the City of Leominster Stormwater Management Ordinance and these Regulations.
- B. Any applicant shall submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the Ordinance does not further the purposes or objectives of the Ordinance.
- C. All waivers requested shall be acted on within twenty (20) business days and the written finding will be provided by the Stormwater Authority.
- D. Waivers described herein shall not constitute an exemption from any applicable Federal or State permitting requirements.

Section 9: ENFORCEMENT

- A. Enforcement powers of the Stormwater Authority or its authorized agent are granted in the Stormwater Management Ordinance, Section 21-81, Enforcement.
- B. Notices and Orders

The Stormwater Authority or an authorized agent may issue a written notice of violation or enforcement order to enforce the provisions of the Stormwater Management Ordinance and these regulations, which may include requirements to:

- a. Suspend or revoke approval of any SMP;
- b. Cease and desist from or a portion of construction or land disturbing activity until there is compliance with the Ordinance and the SMP;
- c. Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the O&M Plan;
- d. Perform monitoring, analyses, and reporting; and/or
- e. Fix adverse impact resulting directly or indirectly from malfunction of the stormwater management system.

The suspension or revocation of the SMP shall not relieve the applicant of his obligation there under except at the discretion of the Stormwater Authority.

- C. If the Stormwater Authority determines that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the City of Leominster may, at its option, undertake such work, and the property owner shall reimburse the City of Leominster for expenses incurred.
- D. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the City of Leominster, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first



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become due.

- E. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of the Stormwater Management Ordinance and these Regulations, or in violation of the approved Plans under this Section shall forthwith comply with any such Order, and restore such real estate to its condition prior to such violation, as the Stormwater Authority deems necessary to remedy such violation.
- F. Any person who violates any provision of the City of Leominster Stormwater Management Ordinance, these Regulations, 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 day for each day of violation, excluding the cost of damages. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the City of Leominster may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the City of Leominster Code of Ordinances.
- H. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.
- I. 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.

Section 10: SURETY

The Stormwater Authority may require proper surety to ensure compliance with the application for SMP. Prior to issuance of a SMP, the Applicant shall furnish said surety in form of a Performance Bond, cash certified check, or other applicable security to the City. The Applicant shall submit the value of the work to be approved by the Stormwater Authority to be sufficient to insure that all conditions and requirements imposed by the SMP will be carried out.

If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the Plan, but the bond may not be fully released until the Stormwater Authority has received the final inspection report as required by Section 11 of these Regulations and issued a Certificate of Completion.

Section 11: INSPECTIONS

- A. Notice of Construction Commencement.

The applicant must notify the Stormwater Agency or its authorized Agent five (5) days prior to the commencement of construction. In addition, the applicant must notify the Stormwater Agency three (3) days in advance of construction of any components of the stormwater management system.

- B. At the discretion of the Stormwater Agency, the Stormwater Agency or its designee may inspect the project site at the following stages:
 - 1. Initial Site Inspection: prior to approval of any Permit.
 - 2. Erosion Control Inspection: prior to earth disturbing activities but after installation of all approved erosion and sedimentation controls.
 - 3. Stormwater Management System Inspection: prior to backfilling of any portion of a stormwater management system, including underground drainage or stormwater conveyance structures.
 - 4. Final Inspection.
 - a) After the stormwater management system has been constructed and before the surety has been released, all applicants are required to submit actual "as built" plans for the stormwater management system after final construction is completed and must be stamped by a Professional Engineer or Land Surveyor.



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- b) The Stormwater Agency or an authorized agent shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm that creates runoff. If the inspector finds the system to be adequate he shall so report to the Stormwater Agency before a Certificate of Completion is issued. Periodic Inspections; throughout land disturbing activities, until as-builts are received.

C. Erosion Control Inspections

1. If a project is covered by the EPA NPDES General Permit for Stormwater Discharges from Construction Activities (Construction General Permit), the permittee is required to conduct inspections in accordance with requirements of the Construction General Permit, and must submit reports of all inspections required thereunder to the Stormwater Agency.
2. If a project is not covered by the Construction General Permit, to ensure erosion control practices are in accord with the filed Stormwater Report, Erosion Control Inspections will be conducted by the approved qualified person at least once every seven (7) calendar days or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.25 inches or greater, from the start of construction until the site is permanently stabilized. Inspection frequency may be reduced to at least once a month if the site is determined by the Stormwater Agency or its designee to be temporarily stabilized, such as runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or if construction is occurring during seasonal dry periods. The permittee is required to notify the Stormwater Agency or its designee of any change in inspection frequency, including termination of inspections due to site stabilization. Inspection forms are available from the Stormwater Agency.

Section 12: CERTIFICATE OF COMPLETION

- A. At the completion of the project, the permittee shall submit the following material to the Stormwater Authority demonstrating that the completed project is in accordance with the approved plans and specifications:
1. As-built record drawings for projects as required by Section 6.J of these regulations.
 2. Documentation on compliance with all permit conditions.
 3. All inspection reports as required during construction have been submitted, if applicable.
 4. An updated O&M Plan noting any changes and new responsible parties, if applicable.
 5. Maintenance contracts in place, if applicable.
- B. Upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Regulation, the Stormwater Authority shall issue a letter certifying completion in conformance with these Regulations.

Section 13: PERPETUAL INSPECTION AND MAINTENANCE

A. Maintenance Responsibility

1. The City of Leominster will not accept ownership of stormwater BMPs located outside of street rights-of-way, and the maintenance of such facilities shall remain the permanent responsibility of the applicant or his successors and/or assigns. The owner of the property on which work has been done pursuant to these Regulations for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with an approved O&M Plan (MA Stormwater Management Standard 9).

B. Maintenance Inspections

1. Stormwater management facilities and practices included in an O&M Plan must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the Plan, and these Regulations.



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2. A Maintenance Agreement between the owner and the Stormwater Authority shall be executed for privately-owned stormwater management systems that specify the Responsible Party for conducting long term inspections.
3. At a minimum, inspections shall occur once during the first year of operation and at least once every three years thereafter. Some BMPs may require more frequent inspection, as specified in the O&M Plan.
4. Inspection reports shall be submitted annually to the Stormwater Authority for all stormwater management systems. Inspection reports for stormwater management systems shall include at a minimum:
 - i. The date of inspection;
 - ii. Name and signature of inspector;
 - iii. The condition of:
 - a. Pretreatment devices
 - b. Vegetation or filter media
 - c. Fences or other safety devices
 - d. Spillways, valves, or other control structures
 - e. Embankments, slopes, and safety benches
 1. Reservoir or treatment areas
 2. Inlet and outlet channels and structures
 3. Underground drainage
 4. Sediment and debris accumulation in storage and fore bay areas (including catch basins)
 5. Any nonstructural practices
 6. Any other item that could affect the proper function of the stormwater management system
 7. Description of the need for maintenance.

5. Right-of-Entry for Inspection

The terms of the Maintenance Agreement 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, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under these Regulations and may make or cause to be made such examinations, surveys, or sampling as the Stormwater Authority deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

6. Records of Inspection and Maintenance, Repair, Replacement and Disposal Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all inspection and maintenance, repair, replacement and disposal activities, and shall retain the records for at least five years. These records shall be made available to the Stormwater Authority during inspection of the facility and at other reasonable times upon request. For disposal, the record must indicate the type of material, quantity of material, and disposal location.

7. Failure to Maintain

- a. All stormwater BMPs shall be operated and maintained in accordance with the design plans and the O&M Plan approved by the Stormwater Authority.
- b. The responsible party shall:
 - i. maintain an operation and maintenance log for the last three years, including inspections, repairs, replacement and disposal (for disposal, the log shall indicate the type of material and the disposal location);
 - ii. make this log available to the Stormwater Authority upon request; and



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- iii. allow the Stormwater Authority or his agents to enter and inspect the premises to evaluate and ensure that the responsibility party complies with the O&M Plan requirements for each BMP.
8. If a Responsible Party fails or refuses to meet the requirements of the Maintenance Agreement, the Stormwater Authority, after 30 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 design standards 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 a lien on the property.
9. After notification is provided to the person responsible for carrying out the maintenance plan of any deficiencies discovered from an inspection of a stormwater management system, the person responsible for carrying out the maintenance plan shall have 30 days or other time frame mutually agreed to between the Stormwater Authority and the person responsible for carrying out the maintenance plan to correct the deficiencies. The Stormwater Authority shall then conduct a subsequent inspection to ensure completion of repairs.

Section 14: SEVERABILITY

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