**STORMWATER BYLAWS/ORDINANCE/CODE AND**

**ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE) CHAPTER/ORDINANCE/CODE**

**Section 1. Purpose & Intent**

The Purpose is to protect water quality in the **##MUNICIPALITY** while providing for the health, safety and general welfare of the citizens of **Town/City**. The intent is to protect the local natural resources of the **Town/City** by establishing and enforcing the minimum pre-construction, post construction and reconstruction stormwater management and design control standards in a Stormwater Management program. The intent will also prohibit illicit discharges that often contain pathogens, nutrients, surfactants and various toxic pollutants by setting up and enforcing an Illicit Discharge and Detection Elimination program.

**Section 2. Definitions.**

 The following terms shall have the meanings indicated:

 **BEST MANAGEMENT PRACTICE (BMP)**

An activity, procedure, restraint, or an accepted and proven structural, non-structural or vegetative measure which reduces the quantity or improves the quality of stormwater Runoff.

 **DISTURBANCE**

Any construction, reconstruction, land altering or grading activities, other than for agricultural practices.

 **ENVIRONMENTAL PROTECTION AGENCY (EPA)**

The Federal agency responsible for implementing the Federal Water Pollution Control Act,

(3 U.S.C. **§** 1251 et seq.) AKA the “Clean Water Act”.

 **EROSION**

The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment or movement of soil.

**EROSION CONTROL**

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

 **ILLICIT CONNECTIONS**

An Illicit, unauthorized or illegal connection that drains into or is connected to the Municipal Separate Storm Sewer System (MS4), shall mean either of the following:

1. Any pipe, drain, open channel or other conveyances that have the potential to allow an illicit discharge to enter the MS4 system. Including, but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system. This includes any connections to the storm drain system from indoor drains and sinks regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.

Or

1. Any pipe, drain, open channel or conveyance connected from a residential, commercial or industrial land use, to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized federal, state or local enforcement agency.

 **ILLICIT DISCHARGE**

Any direct or indirect non-storm water discharge to the Municipal Separate Storm Sewer System (MS4), excepting discharges pursuant to a specific NPDES permit and firefighting activities.

**INFILTRATION**

The act of conveying the surface water into the ground, to permit the groundwater to be recharged resulting in the reduction of stormwater runoff from a project site.

 **MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)**

Are publicly owned and operated facilities by which storm water is collected including but not limited to roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, piped storm drains, pumping facility retention or detention basins, reservoir or other drainage structure that discharges to the waters of the State of New Hampshire or the United States.

 **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES**)

The water quality program setup as part of the Clean Water Act, implemented by the EPA, to authorize the discharge of pollutants into surface waters of the United States.

 **NH STORMWATER MANUAL**

Reference guide prepared by the NH Department of Environmental Services to manage stormwater, which, unless expressly exempted by the Town, shall include any and all amendments and updates adopted subsequent to the enactment of these standards.

**NON-STORMWATER DISCHARGE**

Discharge to the municipal storm drain system not composed entirely of stormwater.

**OPERATION AND MAINTENANCE PLAN**

A plan setting up the future responsible parties along with the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

**OUTFALL**

The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of New Hampshire or of the United States.

 **OWNER**

A person with a legal or equitable interest in the property.

**PRE-CONSTRUCTION**

All activity in preparation for construction.

**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 or waters of the State of New Hampshire or the United States.

**PROJECT AREA**

Disturbed area plus any area with associated off-site improvements.

 **RESPONSIBLE PARTY**

Entity responsible for submitting a SWMP such as the owner, developer, applicant or owner’s legally designated representative.

 **SEDIMENT**

Mineral or organic matter transported or deposited by water or air.

 **STORMWATER AND LAND DEVELOPMENT MANAGEMENT PLAN REGULATIONS (SWMP)**

The regulations required by the Town, which manages Stormwater Runoff through a parcel of land by using pollutant source controls, structural BMP’s and construction phase practice.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A plan, required by the Town, from a person or business to identify sources of pollution or contamination at a site and to eliminate or reduce pollutant discharges of the Stormwater Runoff through site design, pollutant source controls, structural BMPs and construction phase practices.

**STORMWATER RUNOFF**

Any water coming from rainfall, snowmelt or irrigation systems etc. that is not absorbed, evaporated or otherwise stored within the contributing drainage area.

 **WATER QUALITY STANDARDS (WQS)**

Defines the water quality goals of a water body by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. NH and EPA have adopted WQS through the “303(d)” list to protect public health and welfare, enhancing the quality of water and serve the purposes of the Clean Water Act (CWA).

**Section 3 – REGULATIONS**

The **Town/City of XX MUNICIPALITY** may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions definitions, enforcement, fees, procedures and administration of this Stormwater and IDDE **Chapter/Ordinance/Bylaw** by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation at least fourteen (14) days prior to the hearing date. Failure of the **Town/City of XX MUNICIPALITY** to issue such rules or regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this **Chapter/Ordinance/Byla**w.

Such regulations, rules and/or guidance may include without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the **Town/City of XX MUNICIPALITY** without the requirement of a public hearing as detailed in this bylaw. Administrative review approval shall comply with all other provisions of this **Chapter/Ordinance/Bylaw**.

**Section 4 – SERVERABILITY**

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence or clause of this bylaw or the application thereof to any person, establishment or circumstances shall be held invalid such invalidity shall not affect the other provisions or application of this bylaw.

**Section 5 – NOTIFICATION**

**§ 7.1 – Notification of Spills or Other Non-Stormwater Discharges**

1. As soon as any person responsible for a facility, site activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges which are resulting or may result in illicit discharges or pollutants discharging into the **Town/City of XX MUNICIPALITY** municipal storm system, state waters or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release so as to minimize the effects of the discharge.
2. If the substance poses an immediate health or safety concern the **Town/City of XX MUNICIPALITY** and the State of New Hampshire Emergency Services shall be immediately notified.
3. If the substance does not pose an immediate health or safety concern than the **Town/City of XX MUNICIPALITY Health** Department should be notified as soon as possible, however, no later than twenty four (24) hours post event.

**Section 6 – TRANSITIONAL PROVISIONS**

Residential property owners shall have 60 days from the effective date of this bylaw to comply with its provisions provided good cause is shown for the failure to comply with the **Chapter/Ordinance/Bylaw** during that period.

 **Section 7. STORMWATER AND LAND DISTURBANCE MANAGEMENT**

 **PLAN REGULATIONS**

**§ 7 1 – Applicability.**

Prior to any Construction Activity, Reconstruction or Land Disturbance, the Responsible Party shall submit a SWMP to the **##AGENCY OR DEPARTMENT** for any tract(s) of land that results in a total Disturbance equal to or greater than the amounts described within the Stormwater and Land Disturbance Management Regulations.

Any person that fails to follow the requirements of a Stormwater and Land Disturbance Management **Approval/Permit** and the related Erosion and Sedimentation Control Plan and including the Operations and Maintenance Plan issued under the Stormwater and Land Disturbance Management Regulations shall be in violation of the **Town/City of XX Municipality Chapter/Ordinance/Bylaws**.

**§ 7. 2 – Approval and/or Permit**

The applicant shall seek approval and/or a permit prior to beginning to the commencement of land disturbing or redevelopment activity based on thresholds described in the Stormwater and Land Disturbance Management Regulations.

**§ 7. 3 – Entry**

Filing an application for an approval or permit grants the **##AGENCY OR DEPARTMENT** and its employees or agent’s permission to enter the site to verify the information in the application and to inspect for compliance with approval or permit conditions

 **§ 7. 4 – Inspection and Site Supervision**

The **##AGENCY OR DEPARTMENT** or its designated agent shall make inspections as outlined in the Regulations to verify and document compliance with the Stormwater and Land Disturbance Management **Approval/Permit**.

**§ 7. 5 – Compliance with EPA’s General Permit for MS4’s in New Hampshire**

**This allows the ##AGENCY OR DEPARTMENT** the authority to implement the permit in accordance with the most recent General Permit for MS4s in New Hampshire. Regulations can be more stringent but must be at least as stringent as the MS4s.

**§ 7. 6 – Surety**

The **##AGENCY OR DEPARTMENT** may require the applicant to post a surety bond, irrevocable letter of credit, cash or other acceptable security prior to construction activity. The form of the bond and the bond amount shall be approved by the ##AGENCY OR DEPARTMENT to ensure all of the work will be completed in accordance with the plans. Phasing may occur and the bonds may be released accordingly as the project comes into compliance with the permit.

**§ 7. 7 – Final Reports**

Upon completion of the work, the applicant shall submit a report (including certified as-built construction plans) from a Professional Engineer (PE), surveyor or Certified Professional in Erosion and Sedimentation Control (CPESC), certifying that all erosion and sedimentation control devices and approved changes and modifications, have been completed in accordance with the conditions of the approved Erosion and Sediment Control Plan, Operations and Maintenance Plan and Stormwater and Land Disturbance Management Plan. Any discrepancies shall be noted in the cover letter.

 **§ 7. 8 – Enforcement and penalties.**

 The purpose of this section is to enact locally, administrative and enforcement procedures set forth in RSA Title LXIV, specifically RSA 676:15, 17, 17-a and 17-b, and to authorize penalties and remedies for enforcement of the provisions of these Standards. Any violation of these Standards shall be subject to enforcement by either **##AGENCY OR DEPARTMENT** or their designated agent.

 **§ 7. 9 – Conflicts of law.**

Nothing contained herein, or any SWPPP granted pursuant hereto, shall be construed to exempt any Responsible Party from complying with all applicable State or Federal laws/regulations. In the event of conflicting requirements, the stricter standard shall apply.

 **§ 7.10 – Waivers.**

A waiver of these Standards, in whole or in part, may be granted when the strict application of these standards would impose unnecessary hardship because of the unique characteristics of the land including, but not limited to, to the size, character, location, nature of use, or other unspecified conditions of the Project Area. **Waivers shall only be granted with approval of both Community Development Department and Department of Public Works**.

 **§ 7.11 – SWMP Validity.**

All construction contemplated by the Stormwater and Land Disturbance Plan and the SWPPP shall be completed within a period of four (4) years from the date of approval.

**Section 8 – Illicit Discharge and Detection Elimination (IDDE)**

**§ 8. 1 – Applicability**

Illicit discharges enter the system through either direct connections (such as wastewater piping either mistakenly or deliberately connected to the storm drains) or by indirect connections. Indirect connections can include failing individual sewage disposal systems, cracked sanitary pipes, spills collected by drain outlets or by dumping an illicit discharge directly into the storm basin.

The Illicit discharges result in high levels of pollutants including heavy metals, toxics, oil and grease, solvents, nutrients, viruses and bacteria being released directly into the receiving waters of the State or the United States. The MS4 drainage system is not designed to accept, process, or discharge such non-stormwater wastes. The pollutant levels from these illegal discharges degrade the receiving water quality and threaten aquatic, wildlife and human health.

**§ 8.2 – Prohibition of Illicit Discharges**

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater

The following items are not considered as Illicit Discharges:

* Water line flushing
* Uncontaminated ground water infiltration
* Uncontaminated pumped ground water
* Discharges from potable water sources except landscape irrigation and lawn watering
* Foundation & footing drains including crawl space pumps
* Air conditioning condensation
* Diverted/pumped stream flows, Springs & riparian habitats and wetlands and rising groundwater
* Dechlorinated swimming pool discharges
* Discharge form Street Sweeping
* Dye testing as long as the officials are made aware prior to the test
* Non-stormwater discharge permitted under an NPDES permit, waiver or waste discharge order administered under the authority of the US EPA, provided that the discharge is in full compliance with the requirements of the permit, waiver or order and applicable laws and regulations
* Discharge for which advanced written approval is received from the Department of Public Works and the Planning and Zoning Administrator.

**§ 8.3. – Prohibition of Illicit Connections**

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

**§ 8. 4– IDDE Responsibility for Administration**

The **AGENCY OR DEPARTMENT of XX MUNICIPALITY** shall administer, implement and enforce the provisions of the IDDE ordinance and shall prepare the associated regulations. Regulations can be more stringent but must be at least as stringent as the MS4s. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the **Authorized Agent** to persons or entities acting in the beneficial interest of or in the employ of the **XX MUNICIPALITY**.

The standards set forth herein are promulgated pursuant to these **Ordinances/Chapters/Bylaws** and regulations are minimum standards; therefore these regulations do not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**§ 8. 4– IDDE Enforcement of Prohibitions**

The **AGENCY OR DEPARTMENT of XX MUNICIPALITY** may order anyone responsible for an illicit connection or discharge to an MS4 to:

* + - 1. Eliminate it
			2. Take measure to minimize the discharge of pollutants until such time as the illicit connection or discharge shall be eliminated and
			3. Remediate the contamination

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Town Council Chair Date

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Town Clerk / Tax Collector Date