



Office of the Town Clerk

Town of Chelmsford
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Patricia E. Dzuris, CMC
 Town Clerk

CERTIFICATE OF VOTE

ARTICLE 31

Zoning Bylaw Amendment: Stormwater Management

2021 Spring Annual Town Meeting

Thursday, June 17, 2021

I, Patricia E. Dzuris, Town Clerk of Chelmsford, Massachusetts, do hereby certify the following vote taken under Article 31 as part of a consent agenda at the reconvened session of the 2021 Spring Annual Town Meeting on Thursday, June 17, 2021 held at the Chelmsford Senior Center, 75 Groton Road, Chelmsford, MA 01863. The meeting was called to order at 7:30 PM by Moderator Jon H. Kurland. There were 124 members present which satisfied a quorum requirement of 82.

ARTICLE 31. To see if the Town will vote to amend the Town Code by adding a stormwater general bylaw, Chapter 141 Stormwater Management as follows:

Chapter 141 Stormwater Management

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ARTICLE I – GENERAL PROVISIONS

Section 141-1. Purpose and Objective

- A. The purpose of this bylaw is to protect public health, safety, general welfare, and the environment by regulating illicit connections and discharges to the storm drain system, as well as to control the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;
 - (2) Contamination of drinking water supplies;
 - (3) Contamination of downstream coastal areas;
 - (4) Alteration or destruction of aquatic and wildlife habitat;
 - (5) Overloading or clogging of municipal stormwater management systems; and
 - (6) Flooding.
- B. The objectives of this bylaw are to:
- (1) Protect water resources;
 - (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection (“MS4 Permit”);
 - (3) Prevent and reduce pollutants from entering the Chelmsford municipal separate storm sewer system (MS4);
 - (4) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
 - (5) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, and pose no threat to public safety; and
 - (6) Recognize Chelmsford’s legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

Section 141-2. Definitions

Unless a different definition is indicated in other sections of this bylaw, the following definitions and provisions shall apply throughout this bylaw:

ADMINISTRATIVE LAND DISTURBANCE APPROVAL: Review and approval by the DPW Director of a land disturbance activity that does not require a Land Disturbance Permit because of its size and/or scope.

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

groundwater on the area.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government, to the extent permitted by law, requesting a Land Disturbance Permit or Administrative Land Disturbance Approval.

AS-BUILT DRAWING: Drawings that completely record and document applicable aspects and features of conditions of a project following construction using Stormwater Management Plans derived from a Land Disturbance Permit.

BEST MANAGEMENT PRACTICE (BMP): schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

CLEARING: Any activity that removes the vegetative surface cover.

COMMON PLAN OF DEVELOPMENT: - A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Waters of the United States or Commonwealth from any source.

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 and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities.

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

GROUNDWATER: Water beneath the surface of the ground.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

HAZARDOUS MATERIAL: 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 materials 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 MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

ILLCIT CONNECTION: A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLCIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Chapter 142-6B(6). The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities and other activities exempted pursuant to Chapter 142-6B(6).

IMPERVIOUS SURFACE: Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using nonporous material; buildings, rooftops, structures, and compacted gravel or soil.

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 PERMIT: A permit issued by the DPW Director pursuant to this bylaw prior to commencement of Land Disturbing Activity.

LAND DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing, grading, or excavating, including grubbing; or results in an alteration of drainage characteristics.

LOW IMPACT DEVELOPMENT or LID: site planning and design strategies that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. LID practices include but are not limited to bioretention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Chelmsford.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by the EPA that authorizes the discharge of pollutants to Waters of the United States.

NEW DEVELOPMENT: any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

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 finally depositing them into a water resource area.

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

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

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

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

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

POLLUTANT: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, animal waste, oil and other automotive fluids, yard waste, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, construction wastes and residues including discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes and industrial, municipal and agricultural waste discharged into water.

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

REDEVELOPMENT: Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

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

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

SEDIMENTATION: The process or act of deposition of sediment.

SITE: The areal extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

SOIL: Any earth, sand, rock, gravel, or similar material.

STORMWATER AUTHORITY: The Town of Chelmsford Department of Public Works Director (DPW) or its authorized agent(s).

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

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings, details and reporting requirements developed by a qualified professional engineer (PE), which describes structural and non-structural best management practices designed to control the discharge of pollutants from impervious surfaces and onsite activities as well as the volume and peak rate of surface runoff from a site on an ongoing basis after construction has been completed.

TOTAL MAXIMUM DAILY LOAD or TMDL: Section 303(d) of the Clean Water Act authorizes the EPA to assist states, territories and authorized tribes in listing impaired waters and developing Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL establishes the maximum amount of a pollutant that a waterbody can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking, swimming, recreation, and fishing. A TMDL includes Waste Load Allocations for point source discharges, Load Allocations for nonpoint sources and/or natural background and must include a margin of safety and account for seasonal variations.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water,

including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwater, and Waters of the United States as defined under the Federal Clean Water Act as hereafter amended.

Section 141-3. Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Massachusetts home rule statute.

Section 141-4. Responsibility for Administration

- A. The DPW Director or its authorized agent, shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW Director may be delegated by the DPW Director to its employees or agents.

Section 141-5. Waivers

- A. The DPW Director, or its authorized agent, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action is:
 - (1) allowed by federal, state and local statutes and/or regulations and the MS4 Permit; and
 - (2) in the public interest; and
 - (3) not inconsistent with the purpose and intent of this bylaw.
- B. Any person seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.
- C. If in the opinion of the DPW Director or its authorized agent, additional time or information is required for review of a waiver request, the DPW Director may request additional time for review. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

Section 141-6. Regulations

- A. The DPW Director shall adopt, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Management bylaw.

Stormwater Management regulations, rules or guidance shall identify requirements for Administrative Land Disturbance Approval and Land Disturbance Permits required by this bylaw and consistent with or more stringent than the relevant requirements of the most recent MS4 Permit.
- B. Stormwater Management regulations may identify one or more categories of projects requiring an Administrative Land Disturbance Approval that, because of their size, scope and common features or characteristics, may be approved the DPW Director. For such projects, the DPW Director will identify minimum stormwater management standards pursuant to this bylaw, compliance with which is required before the project is approved.

Section 141-7. Enforcement

The DPW Director or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

A. Criminal and Civil Relief.

- (1) Any person who violates the provisions of this bylaw, or any associated regulations, permit, or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of not more than \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (2) The DPW Director may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders.

- (1) The DPW Director or its authorized agent may issue a written order to enforce the provisions of Article II of this bylaw or any associated regulations or permit. Violations include, without limitation, failure to obtain a Land Disturbance Permit or Administrative Review for an activity subject to this bylaw, or failure to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, or Operations and Maintenance Plan or any other authorization issued pursuant to this bylaw or regulations issued hereunder. The written order may require the violator to remediate the non-compliance and/or any adverse impact caused by it, including without limitation:
 - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the Land Disturbance Permit or other authorization;
 - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) Monitoring, analyses, and reporting;
 - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
 - (e) Construction, reconstruction, repair or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
 - (f) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
 - (g) A requirement to eliminate discharges, directly or indirectly, into the MS4, a watercourse or into the Waters of the Commonwealth.
- (2) If the DPW Director or its authorized agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Chelmsford may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Director within 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 30 days following a decision of the DPW Director affirming or reducing the costs, or from a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of G.L. c.40, §58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to G.L. c.40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59 § 57 on the 31st day after the costs first become due.
- C. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Chelmsford may elect to utilize the noncriminal disposition procedure set forth in M.G.L. c. 40, § 21D, in which case the designated agents of the DPW Director shall be the enforcing persons. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Entry to perform duties under this bylaw. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the DPW Director, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW Director deems reasonably necessary.
- E. Appeals. The decisions or orders of the DPW Director shall be final. Further relief shall be appealed to a court of competent jurisdiction pursuant to G. L. c. 249, s. 4.
- F. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 141-8. Severability

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.

ARTICLE II – STORMWATER MANAGEMENT AND LAND DISTURBANCE

Section 141-9. Applicability

- A. These regulations shall apply to all construction activity or land disturbance that individually or as part of a Common Plan of Development resulting in disturbance of land in excess of the thresholds below.
- (1) Administrative Land Disturbance Approval is required for projects disturbing between 20,000 square feet and one-acre (43,560 square feet) of land.
 - (2) A Land Disturbance Permit is required for disturbance of one acre (43,560 square feet) or more of land, or for the disturbance of more than 5,000 square feet of land

where the proposed use is a land use of higher potential pollutant loads pursuant to the Massachusetts Stormwater Management Standards or the DPW Director determines that an Administrative Land Disturbance Approval is not sufficient.

- B. The following activities are exempt from the provisions of Section 5(A):
- (1) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling conducted in such a way as not to cause a nuisance;
 - (2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - (3) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment or other pollutants to the MS4 or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;
 - (4) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act regulation 310 CMR 10.04.
 - (5) Municipal roadway maintenance including crack sealing, milling, paving and sidewalk construction and repair.
 - (6) Maintenance of a stormwater treatment structure conducted in such a way that does not cause discharge of sediment or other pollutants to the MS4, or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;

Any person that fails to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, shall be in violation of this bylaw.

Section 141-10. Review or Permit

- A. An Administrative Land Disturbance Approval or Land Disturbance Permit must be obtained prior to the commencement of any construction activity or land disturbance for which such a review or permit is required. An applicant seeking a review or permit shall file an appropriate application with the DPW Director in a form and containing information as specified in this bylaw and in regulations adopted by the DPW Director.
- B. Each application must be accompanied by the appropriate application fee as established by the DPW Director. Applicants shall pay the application fee before the review process commences. The DPW Director is authorized to retain a Registered Professional Engineer (PE) or other professional consultant to advise the DPW Director on any or all aspects of the application and/or the project's compliance with conditions of a Review or Permit. The DPW Director may require the applicant to pay reasonable costs to be incurred by the DPW Director for the employment of outside consultants pursuant to DPW Director regulations as authorized by G.L. c. 44, § 53G.
- C. Required submittals to obtain a Land Disturbance Permit shall include (without limitation) an Erosion and Sedimentation Control Plan, a Stormwater Management Plan, and an Operation and Maintenance Plan. To obtain a Land Disturbance Permit, the applicant must show that site design, construction site stormwater runoff control and post-construction stormwater management will meet the standards set by the DPW Director in its regulations, rules and/or guidance, which shall be at least as stringent as

- the relevant requirements of the MS4 Permit and may also address relevant environmental considerations including (without limitation) protection of aquifers and sensitive water bodies, climate resilience, and prevention of flooding.
- D. The Land Disturbance Permit shall include measures to ensure adequate long-term operation and maintenance of stormwater management design features and BMPs. The DPW Director may impose requirements including (without limitation) the following:
- (1) A requirement that funds for future operation and maintenance be set aside in a dedicated fund or escrow account;
 - (2) A permanent permit condition requiring compliance with an Operation and Maintenance Plan;
 - (3) A permanent permit condition requiring that the property owner submit an annual report or certification regarding operation and maintenance;
 - (4) A requirement to record the Operation and Maintenance Plan (or notice thereof);
 - (5) A requirement that a legal instrument be put in place establishing responsibility for operation and maintenance of a stormwater BMP serving more than one lot; and
 - (6) A requirement that an easement be recorded allowing the Town to access a stormwater BMP to remedy any operational failure or maintenance problem.

Section 141-11. Consent to Entry onto Property

By signing the permit application, an applicant consents to the entry of members of the DPW Director or its authorized agents in or on the site while the application is under review to verify the information in the application, and at any time after a Review or Permit is issued to inspect for compliance with Review or Permit conditions.

Section 141-12. Inspection and Site Supervision

The DPW Director or its designated agent shall make inspections to verify and document compliance with the Administrative Land Disturbance Approval or Land Disturbance Permit.

Section 141-13. Surety

The DPW Director may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the DPW Director and be in an amount deemed sufficient by the DPW Director to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW Director may release part of the bond as each phase is completed in compliance with the permit. If the permittee defaults on any obligations imposed by the Land Disturbance Permit, the DPW Director may (after notification of the permittee) inform the holder of the security (and the municipal treasurer if the treasurer is not holding the funds) of the default, in which event the Town shall be entitled to the security funds.

Section 141-14. Final Reports

Upon completion of the work and no later than one (1) year after completion of construction, the holder of a Land Disturbance Permit 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 the project has been completed in accordance with the conditions of the Land Disturbance Permit. The as-built drawings must depict all on site controls, both structural and non-

structural, designed to manage the stormwater associated with the completed site (post construction stormwater management). Any discrepancies with the approved permit plans shall be noted in the cover letter submitting the report and as-built plans.

;or act in relation thereto.

SUBMITTED BY: **Town Manager**

ARTICLE 31. I move that the Town amend the Town Code by adding a stormwater general bylaw, Chapter 141 Stormwater Management as follows:

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- A. The purpose of this bylaw is to protect public health, safety, general welfare, and the environment by regulating illicit connections and discharges to the storm drain system, as well as to control the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:
 - (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;
 - (2) Contamination of drinking water supplies;
 - (3) Contamination of downstream coastal areas;

- (4) Alteration or destruction of aquatic and wildlife habitat;
 - (5) Overloading or clogging of municipal stormwater management systems; and
 - (6) Flooding.
- B. The objectives of this bylaw are to:
- (1) Protect water resources;
 - (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection (“MS4 Permit”);
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EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities.

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

GROUNDWATER: Water beneath the surface of the ground.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

HAZARDOUS MATERIAL: 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 materials 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 MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Chapter 142-6B(6). The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities and other activities exempted pursuant to Chapter 142-6B(6).

IMPERVIOUS SURFACE: Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using nonporous material; buildings, rooftops, structures, and compacted gravel or soil.

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 PERMIT: A permit issued by the DPW Director pursuant to this bylaw prior to commencement of Land Disturbing Activity.

LAND DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing, grading, or excavating, including grubbing; or results in an alteration of drainage characteristics.

LOW IMPACT DEVELOPMENT or LID: site planning and design strategies that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. LID practices include but are not limited to bioretention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Chelmsford.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by the EPA that authorizes the discharge of pollutants to Waters of the United States.

NEW DEVELOPMENT: any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

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 finally depositing them into a water resource area.

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

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

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

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

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

POLLUTANT: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, animal waste, oil and other automotive fluids, yard waste,

biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, construction wastes and residues including discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes and industrial, municipal and agricultural waste discharged into water.

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

REDEVELOPMENT: Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

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

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

SEDIMENTATION: The process or act of deposition of sediment.

SITE: The areal extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

SOIL: Any earth, sand, rock, gravel, or similar material.

STORMWATER AUTHORITY: The Town of Chelmsford Department of Public Works Director (DPW) or its authorized agent(s).

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

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings, details and reporting requirements developed by a qualified professional engineer (PE), which describes structural and non-structural best management practices designed to control the discharge of pollutants from impervious surfaces and onsite activities as well as the volume and peak rate of surface runoff from a site on an ongoing basis after construction has been completed.

TOTAL MAXIMUM DAILY LOAD or TMDL: Section 303(d) of the Clean Water Act authorizes the EPA to assist states, territories and authorized tribes in listing impaired waters and developing Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL establishes the maximum amount of a pollutant that a waterbody can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking, swimming, recreation, and fishing. A TMDL includes Waste Load Allocations for point source discharges, Load Allocations for nonpoint sources and/or natural background and must include a margin of safety and account for seasonal variations.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwater, and Waters of the United States as defined under the Federal Clean Water Act as hereafter amended.

Section 141-3. Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Massachusetts home rule statute.

Section 141-4. Responsibility for Administration

- B. The DPW Director or its authorized agent, shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW Director may be delegated by the DPW Director to its employees or agents.

Section 141-5. Waivers

- D. The DPW Director, or its authorized agent, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action is:
- (4) allowed by federal, state and local statutes and/or regulations and the MS4 Permit; and
 - (5) in the public interest; and
 - (6) not inconsistent with the purpose and intent of this bylaw.
- E. Any person seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.
- F. If in the opinion of the DPW Director or its authorized agent, additional time or information is required for review of a waiver request, the DPW Director may request additional time for review. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

Section 141-6. Regulations

- C. The DPW Director shall adopt, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Management bylaw.
- Stormwater Management regulations, rules or guidance shall identify requirements for Administrative Land Disturbance Approval and Land Disturbance Permits required by this bylaw and consistent with or more stringent than the relevant requirements of the most recent MS4 Permit.
- D. Stormwater Management regulations may identify one or more categories of projects requiring an Administrative Land Disturbance Approval that, because of their size, scope and common features or characteristics, may be approved the DPW Director. For such projects, the DPW Director will identify minimum stormwater management standards pursuant to this bylaw, compliance with which is required before the project is approved.

Section 141-7. Enforcement

The DPW Director or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

- G. Criminal and Civil Relief.

- (1) Any person who violates the provisions of this bylaw, or any associated regulations, permit, or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of not more than \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (2) The DPW Director may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

H. Orders.

- (4) The DPW Director or its authorized agent may issue a written order to enforce the provisions of Article II of this bylaw or any associated regulations or permit. Violations include, without limitation, failure to obtain a Land Disturbance Permit or Administrative Review for an activity subject to this bylaw, or failure to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, or Operations and Maintenance Plan or any other authorization issued pursuant to this bylaw or regulations issued hereunder. The written order may require the violator to remediate the non-compliance and/or any adverse impact caused by it, including without limitation:
 - (h) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the Land Disturbance Permit or other authorization;
 - (i) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (j) Monitoring, analyses, and reporting;
 - (k) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
 - (l) Construction, reconstruction, repair or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
 - (m) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
 - (n) A requirement to eliminate discharges, directly or indirectly, into the MS4, a watercourse or into the Waters of the Commonwealth.
- (5) If the DPW Director or its authorized agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Chelmsford may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- (6) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Director within 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 30 days following a decision of the DPW Director affirming or reducing the costs, or from a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of G.L. c.40, §58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to G.L. c.40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59 § 57 on the 31st day after the costs first become due.

- I. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Chelmsford may elect to utilize the noncriminal disposition procedure set forth in M.G.L. c. 40, § 21D, in which case the designated agents of the DPW Director shall be the enforcing persons. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- J. Entry to perform duties under this bylaw. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the DPW Director, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW Director deems reasonably necessary.
- K. Appeals. The decisions or orders of the DPW Director shall be final. Further relief shall be appealed to a court of competent jurisdiction pursuant to G. L. c. 249, s. 4.
- L. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 141-8. Severability

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.

ARTICLE II – STORMWATER MANAGEMENT AND LAND DISTURBANCE

Section 141-9. Applicability

- B. These regulations shall apply to all construction activity or land disturbance that individually or as part of a Common Plan of Development resulting in disturbance of land in excess of the thresholds below.
 - (1) Administrative Land Disturbance Approval is required for projects disturbing between 20,000 square feet and one-acre (43,560 square feet) of land.
 - (2) A Land Disturbance Permit is required for disturbance of one acre (43,560 square feet) or more of land, or for the disturbance of more than 5,000 square feet of land where the proposed use is a land use of higher potential pollutant loads pursuant to the Massachusetts Stormwater Management Standards or the DPW Director determines that an Administrative Land Disturbance Approval is not sufficient.
- C. The following activities are exempt from the provisions of Section 5(A):

- (1) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling conducted in such a way as not to cause a nuisance;
- (2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (3) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment or other pollutants to the MS4 or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;
- (4) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act regulation 310 CMR 10.04.
- (5) Municipal roadway maintenance including crack sealing, milling, paving and sidewalk construction and repair.
- (6) Maintenance of a stormwater treatment structure conducted in such a way that does not cause discharge of sediment or other pollutants to the MS4, or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;

Any person that fails to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, shall be in violation of this bylaw.

Section 141-10. Review or Permit

- A. An Administrative Land Disturbance Approval or Land Disturbance Permit must be obtained prior to the commencement of any construction activity or land disturbance for which such a review or permit is required. An applicant seeking a review or permit shall file an appropriate application with the DPW Director in a form and containing information as specified in this bylaw and in regulations adopted by the DPW Director.
- B. Each application must be accompanied by the appropriate application fee as established by the DPW Director. Applicants shall pay the application fee before the review process commences. The DPW Director is authorized to retain a Registered Professional Engineer (PE) or other professional consultant to advise the DPW Director on any or all aspects of the application and/or the project's compliance with conditions of a Review or Permit. The DPW Director may require the applicant to pay reasonable costs to be incurred by the DPW Director for the employment of outside consultants pursuant to DPW Director regulations as authorized by G.L. c. 44, § 53G.
- C. Required submittals to obtain a Land Disturbance Permit shall include (without limitation) an Erosion and Sedimentation Control Plan, a Stormwater Management Plan, and an Operation and Maintenance Plan. To obtain a Land Disturbance Permit, the applicant must show that site design, construction site stormwater runoff control and post-construction stormwater management will meet the standards set by the DPW Director in its regulations, rules and/or guidance, which shall be at least as stringent as the relevant requirements of the MS4 Permit and may also address relevant environmental considerations including (without limitation) protection of aquifers and sensitive water bodies, climate resilience, and prevention of flooding.

- D. The Land Disturbance Permit shall include measures to ensure adequate long-term operation and maintenance of stormwater management design features and BMPs. The DPW Director may impose requirements including (without limitation) the following:
- (7) A requirement that funds for future operation and maintenance be set aside in a dedicated fund or escrow account;
 - (8) A permanent permit condition requiring compliance with an Operation and Maintenance Plan;
 - (9) A permanent permit condition requiring that the property owner submit an annual report or certification regarding operation and maintenance;
 - (10) A requirement to record the Operation and Maintenance Plan (or notice thereof);
 - (11) A requirement that a legal instrument be put in place establishing responsibility for operation and maintenance of a stormwater BMP serving more than one lot; and
 - (12) A requirement that an easement be recorded allowing the Town to access a stormwater BMP to remedy any operational failure or maintenance problem.

Section 141-11. Consent to Entry onto Property

By signing the permit application, an applicant consents to the entry of members of the DPW Director or its authorized agents in or on the site while the application is under review to verify the information in the application, and at any time after a Review or Permit is issued to inspect for compliance with Review or Permit conditions.

Section 141-12. Inspection and Site Supervision

The DPW Director or its designated agent shall make inspections to verify and document compliance with the Administrative Land Disturbance Approval or Land Disturbance Permit.

Section 141-13. Surety

The DPW Director may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the DPW Director and be in an amount deemed sufficient by the DPW Director to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW Director may release part of the bond as each phase is completed in compliance with the permit. If the permittee defaults on any obligations imposed by the Land Disturbance Permit, the DPW Director may (after notification of the permittee) inform the holder of the security (and the municipal treasurer if the treasurer is not holding the funds) of the default, in which event the Town shall be entitled to the security funds.

Section 141-14. Final Reports

Upon completion of the work and no later than one (1) year after completion of construction, the holder of a Land Disturbance Permit 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 the project has been completed in accordance with the conditions of the Land Disturbance Permit. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post construction stormwater management). Any discrepancies with the approved permit plans shall be noted in the cover letter submitting the report and as-built plans.

SUBMITTED BY: **Town Manager**

Recommendations:

Finance Committee: Unanimously recommends approval of Article 31.

Select Board: Unanimously recommends approval of Article 31.

The electronic voting devices registered the following votes:

YES: 120 NO: 0 Abstentions: 2

MOTION UNDER ARTICLE 31: Carries by unanimous consent.



Patricia E. Dzuris, CMC
Town Clerk