

## Article V Stormwater Regulations

**[Added 6-23-2014]**

In support of Chapter **85** NPDES Phase II Stormwater Management Bylaw

**§ 175-35 Title; permits.**

As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need a NPDES permit; however, commercial, industrial, municipal and other facilities must obtain permits if their discharges go directly to surface waters.

**§ 175-36 Authority and responsibility.**

- A. The regulations contained herein have been adopted by the Townsend Stormwater Authority in accordance with the Stormwater Bylaw.
- B. Nothing in these regulations is intended to replace or be in derogation of the requirements of the Townsend Wetland Bylaw and/or other water resource related bylaws, the Planning Board Rules and Regulations, Townsend Zoning Bylaws, or any rules and regulations adopted thereunder.
- C. These regulations may be periodically amended by the Stormwater Authority in accordance with the procedures outlined in § **85-5B** of the Stormwater Bylaw.
- D. For terminology used in these regulations, see § **85-4** of the Stormwater Bylaw.

Stormwater Authority: Major Projects: Planning Board, or as delegated to its Agent(s).

Stormwater Agents: Minor Projects: Conservation Agent, Building Commissioner, or as delegated by the Stormwater Authority.

Land Use Coordinator: Liaison for the Stormwater Authority.

**§ 175-37 Purpose.**

The purpose of the Townsend National Pollutant Discharge Elimination System Phase II Stormwater Regulations is to provide guidance and requirements for implementation of the Townsend Chapter **85** NPDES Phase II Stormwater Management Bylaw (Stormwater Bylaw).

**§ 175-38 Administration.**

- A. The Stormwater Authority or its Agent(s) (the Authority) shall review, implement and enforce these regulations and the Stormwater Bylaw. The Stormwater Agent(s) (the Agent) shall act as field inspector. [04-01-24]
  - (1) Major projects: The Planning Board shall be the stormwater management permit granting authority.
  - (2) Minor projects: The Conservation Agent and Building Commissioner shall be designated as Stormwater Agent(s) and permit granting authorities. In the absence of an Agent, the Planning Board shall be the permit granting authority for minor projects.[04-01-24]

B. The Authority or its Agent(s) may:

- (1) Approve the application and issue a stormwater management permit (permit) with conditions, modifications, or restrictions; or
- (2) Disapprove the application and deny the permit if it finds the proposed plan will not protect water resources, fails to meet the objectives and requirements of the Stormwater Bylaw and regulations, or if the applicant has submitted insufficient information to describe the site, work, or effect of the project on water quality and runoff. [04-0124]

**§ 175-39 Applicability.**

Any land disturbance may require an earth excavation special permit, as outlined in Zoning Bylaw § **145-46**.

**Land Disturbance Activity Thresholds**

**(new or redevelopment)**

**Project Category**

40,000 ft.<sup>2</sup> - 60,000 ft.<sup>2</sup> for single-family lot not an ANR or subdivision within last 5 years.

Minor project

1,500 yds.<sup>3</sup> - 2,200 yds.<sup>3</sup> not related to ANR or subdivision

Minor project

1,000 ft.<sup>2</sup> - 10,000 ft.<sup>2</sup> if:

Minor project

a. Slope > 15%; or

(septic system installations are exempt)

b. Soil cut or fill > 4 feet in vertical depth from natural ground level

> 40,000 ft.<sup>2</sup> for subdivision or ANR approved in last 5 years

Major project

> 60,000 ft.<sup>2</sup>

Major project

> 2,200 yds.<sup>3</sup>

Major project

> 10,000 ft.<sup>2</sup>if:

Major project

a. Slope >15%; or

(septic system installations are exempt)

b. Soil cut or fill > 4 feet in vertical depth from natural ground level

**NOTES:**

**ft.<sup>2</sup> = square feet.**

yds.<sup>3</sup> = cubic yards.

**§ 175-40 Procedures.**

An application and all required documents shall be submitted to the Town Clerk and Land Use Coordinator, accompanied by the appropriate fees. The Land Use Coordinator shall review the scope of the project, and forward projects deemed to be "minor," to the Stormwater Agent(s), and those deemed to be "major," to the Stormwater Authority.

**§ 175-41 Applications.**

A. Application package.

<b>Submission Item</b>	<b>Major Project</b>	<b>Minor Project</b>
Completed application form with original signatures of all owners	Yes, 1 original copy to Land Use Coordinator; 1 original copy to Town Clerk	Yes, 1 original copy to Land Use Coordinator; 1 original copy to Town Clerk
Written authorization signed by the owner(s), if submitted by another individual	Yes, 2 copies	Yes, 2 copies
Application fee payable to the Town of Townsend to cover expenses connected with the application review	Yes, to Town Clerk	Yes, to Town Clerk
Stormwater management erosion and sedimentation control plan ("stormwater plan")	Yes, 7 copies to Land Use Coordinator; 1 copy to Town Clerk	Yes, 4 copies to Land Use Coordinator; 1 copy to Town Clerk
Operation and maintenance	Yes, 7 copies to Land Use	Yes, 4 copies to Land Use Coordinator;

<b>Submission Item</b>	<b>Major Project</b>	<b>Minor Project</b>
plan ("O & M plan")	Coordinator; 1 copy to Town Clerk	1 copy to Town Clerk

Engineering review fee payable to Town of Townsend	Yes, as part of Planning Board required submission	May be required after initial review
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Certified assessor's abutter's list (within 300 feet of property)	Yes, as part of Planning Board required submission	No
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- B. Determination of completeness. The Land Use Coordinator shall determine if the application packet is complete within 10 business days of submission. No review shall take place until the application and number of document copies has been found to be complete.
- C. Information requests. The Authority may request additional information to determine whether the plan will protect water resources and meet the objectives of the Stormwater Bylaw and these regulations.

**§ 175-42 Fees.**

A. Application fees.

- (1) A nonrefundable application fee shall be submitted with the application. The fee schedule is listed on the application and available at Town Hall. These fees are in addition to any other local or state fees assessed under any other laws, bylaws, or regulations.
- (2) Revision of fee schedules. The Authority may review and revise its fee schedule periodically. Amendments shall be preceded by a public hearing held by the Authority, and notification shall be filed with the Town Clerk. The revised fee schedule shall become effective 10 days following the filing date.

B. Engineering and consultant reviews and fees.

- (1) Minor projects. A consultant's fee may be required in accordance with the major projects section below if the Authority or Agent determines that engineering or consultant reviews are necessary. [04-01-24]
- (2) Major projects.
  - (a) A fee shall be required for engineering or consultant reviews. The stormwater consultant review fee will be deposited into a 53G interest-bearing account, pursuant to MGL c. 44, § 53G.
  - (b) The Authority reserves the right to hire outside consultants at the property owner's expense if at any time after a permit is issued an inspection reveals violations.

**§ 175-43 Public meetings; hearings; decisions.**

A. Public meetings. If an applicant or Agent requests a decision by the Stormwater Authority related to an

assumed minor project, the Planning Board will address the issue at a public meeting and approve or disapprove the application, or may determine that a major application filing is required.

- B. Public hearings. For major projects, an advertised public hearing shall be scheduled by the Planning Board, and may be held concurrently with other hearings under review.
- C. Decisions. After the close of the public hearing, the Authority will issue its decision. As a condition of approval, all stormwater management systems shall be completed within two years, unless an extension of time is authorized.
- D. Appeals. The decisions or orders of the Authority shall be final. Further relief shall be to a court of competent jurisdiction.
- E. Recording for major projects. Decisions shall be recorded at the Middlesex South Registry of Deeds in accordance with MGL c. 40A, § 11. Proof of recording shall be submitted to the Authority and Town Clerk prior to the commencement of any land-disturbing activity.

§ 175-44 **Stormwater management, erosion and sedimentation control plan (the stormwater plan).**

A. Applicability. All projects determined as major or minor. The stormwater plan shall describe the nature and purpose of the proposed activity, pertinent conditions of the site and adjacent areas, proposed erosion and sedimentation controls during the activity, and proposed best management practices (BMPs) for the permanent management and treatment of stormwater. The stormwater plan shall contain sufficient information for the Authority or Agent to evaluate the environmental impact, effectiveness, and acceptability of measures proposed for reducing adverse impacts from stormwater runoff.

[Amended 7-19-2022] 04-01-24]

- (1) Standards. The stormwater plan shall be designed so that the project meets the standards of the most recent Massachusetts Stormwater Management Policy, regardless of any existing wetlands on the property; and shall incorporate low-impact measures outlined in A Community Guide to Growing Greener by Massachusetts Watershed Coalition, Inc.
- (2) Contents. The applicant shall submit the information listed in Subsections **B** and **C**, below.
- B. Minor projects. The stormwater plan shall fully describe the project in drawings or plans and narrative containing the following information:
  - (1) Names, addresses, e-mails and telephone numbers of owner(s), applicant(s), and person(s) or firm(s) preparing the plan.
  - (2) Plan(s) or drawing(s) showing title, date, North arrow, property lines, locus map, names of abutters, scale used and legend, if necessary. This may be hand drawn.
  - (3) Location and description of the following natural features:
    - (a) Watercourses and water bodies, wetland resource areas, and their one-hundred-foot buffers and two-hundred-foot riverfront areas, riparian zones, hydrologic connections, and all floodplain information, including the one-hundred-year flood elevation based upon the most recent Flood Insurance Rate Map (FIRM), or as calculated by a professional engineer (PE) for areas not assessed on these maps.
    - (b) Habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program, as Endangered, Threatened or of Special Concern; estimated Habitats of Rare Wildlife; Certified or Potential Vernal Pools, and Priority Habitats of Rare Species.
  - (4) Existing and proposed land use at the site.

- (5) Description of all components of the proposed stormwater management system.
  - (6) Location and details of erosion and sedimentation control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and nonstructural measures.
  - (7) Any other information requested by the Authority.
- C. Major projects. The stormwater plan, reports, and calculations must be stamped and certified by a professional engineer (PE), as defined in § 85-4 of the Stormwater Bylaw. The stormwater plan shall fully describe the project in plans or drawings and a narrative containing the following information:
- (1) Names, addresses, e-mails and telephone numbers of owner(s), applicant(s), and person(s) or firm(s) preparing the plan.
  - (2) Title, date, North arrow, names of abutters, scale (1-inch = 20 feet or 1 inch = 40 feet), legend, and locus map (1 inch = 800 feet).
  - (3) Location and description of natural features and proposed changes including:
    - (a) Watercourses and water bodies, wetland resource areas, and their one-hundred-foot buffers and two-hundred-foot riverfront areas, riparian zones, hydrologic connections, and all floodplain information, including the one-hundred-year flood elevation based upon the most recent FIRM, or as calculated by a PE for areas not assessed on these maps.
    - (b) Habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as Endangered, Threatened or of Special Concern; estimated Habitats of Rare Wildlife; Certified or Potential Vernal Pools, and Priority Habitats of Rare Species within wetland resource areas, and their one-hundred-foot buffers and two-hundred-foot riverfront areas.
    - (c) Existing soils (type, hydrologic group, erodibility) and the volume and nature of imported soil materials.
    - (d) Topographical features, including existing and proposed contours at intervals no greater than two feet with spot elevations provided when needed.
    - (e) Existing site hydrology.
    - (f) An estimate made by a licensed soil evaluator (pursuant to 310 CMR 15.017) of seasonal high groundwater elevation in each area to be used for stormwater retention, detention, or infiltration.
    - (g) A drainage area map showing pre-construction and post-construction drainage patterns, stormwater flow paths, watersheds and subwatersheds, with calculations of proposed land disturbance within each subwatershed, and areas of soil to be disturbed in each watershed throughout the duration of the proposed land-disturbance activity.
    - (h) Runoff coefficient with existing and proposed vegetation, and ground surfaces.
  - (4) Existing and proposed land use at the site including:
    - (a) Lines of existing abutting streets showing drainage and driveway locations, and curb cuts within 100 feet of property lines.
    - (b) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, other encumbrances, size of entire parcel, and the delineation and number of square feet of land area to be disturbed.

- (c) Location of existing and proposed utilities.
- (d) Proposed improvements, including location of buildings, other structures, impervious surfaces, and stormwater structures.
- (5) Description and drawings of all components of the proposed stormwater management system including:
  - (a) Locations, cross sections, profiles of all wetlands, drainage swales and their method of stabilization.
  - (b) All measures for the detention, retention or infiltration of water.
  - (c) All measures for the protection of water quality.
  - (d) Structural details for all components of the proposed stormwater management system.
  - (e) Notes on drawings specifying materials to be used, construction specifications, and details.
  - (f) Post-development hydrology with supporting calculations.
- (6) Location and details of erosion and sedimentation control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and nonstructural measures including:
  - (a) Description of provisions for phasing the project where 40,000 square feet of contiguous area or greater is to be altered or disturbed.
  - (b) Schedule and sequence of development, including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
  - (c) Location, description and implementation schedule for temporary and permanent seeding, vegetative controls, and other temporary and final stabilization measures.
  - (d) Interim grading.
  - (e) Description of construction and waste materials expected to be stored on-site, including a description of controls to reduce pollutants from these materials, storage practices to minimize exposure of materials to stormwater, and spill prevention and response.
  - (f) Maintenance schedule for stormwater structures throughout the construction period.
- (7) Any other information requested by the Authority.
- D. Non-applicable projects. Projects of limited scope are not required to obtain a stormwater management permit or to submit a stormwater management plan. Non-applicable projects must have land disturbance less than 1,000 square feet and, in an area, where there is less than a fifteen-percent slope and where the soil cut, or fill does not exceed four feet in vertical depth at its deepest point as measured from the natural ground level. **[Added 7-19-2022]**

**§ 175-45 Operation and maintenance (O & M) plan.**

Upon approval for all projects, applicant records operation and maintenance plan along with the decision at the Middlesex South Registry of Deeds and submits recording information to the Town Clerk and LUC.

All projects: The O & M plan shall be designed to ensure compliance with the requirements listed below and the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00, in all seasons and throughout the life of the system. The Authority shall make the final decision regarding appropriate

maintenance options, giving consideration to natural features, proximity of the site to water bodies and wetlands, extent of impervious surfaces, size of the site, types of stormwater management structures, and potential need for ongoing maintenance activities. Once approved, the O & M plan shall remain on file with the Authority.

A. Operation and maintenance plan requirements.

- (1) Name(s) and signatures of all owner(s) for each component of the system.
- (2) Operations and maintenance plan agreement that provides contact information for person(s) responsible for operation, maintenance, long-term inspections, and emergency repairs shall be submitted to the Authority prior to the commencement of work.
- (3) A description of any routine inspection and/or maintenance requirements for each BMP used in the stormwater system.
- (4) A proposed inspection/maintenance schedule for each BMP.
- (5) A summary of any proprietary BMPs used, with the manufacturer's O & M requirements attached.

B. Stormwater management license for inspections and maintenance.

As a condition of approval of any permit issued under the Stormwater Bylaw, and whether or not expressly made a part of any decision issued by the Authority, the applicant and/or owner, as appropriate, shall grant to the Town of Townsend a license sufficient in location and extent to access the property and all areas used for off-site stormwater control in order to facilitate inspections and to perform required maintenance. [04-01-24]

- ~~(1) Unless waived by the Authority, stormwater management easements shall be granted to the Town of Townsend and be sufficient in location and extent to access the property and all areas used for off-site stormwater control in order to facilitate inspections and perform required maintenance. [04-01-24]~~
- ~~(2) The owner shall record any easements with the Middlesex South Registry of Deeds. Proof of recording shall be forwarded to the Authority and Town Clerk. [04-01-24]~~

C. Changes to operation and maintenance plans.

- (1) The owner(s) of the stormwater management system (the system) must notify the Authority of changes in ownership within 30 days of transfer.
- (2) The maintenance schedule may be amended to achieve the purposes of the Stormwater Bylaw and these regulations by mutual agreement of the Authority and the owner(s). Amendments must be signed by all owner(s).
- (3) Once an amended plan is signed, the owner(s) shall record it at the Middlesex South Registry of Deeds and submit proof of recording to the Authority and Town Clerk.

D. Annual report submittal.

- (1) Any activity approved by the permit shall remain subject to compliance with the Stormwater Bylaw and these regulations. Reports shall be submitted to the Authority each year within 30 days of the date of approval, and shall include descriptions of the BMPs, inspections, and maintenance performed.
- (2) The Authority shall review annual reports and may require the permittee to attend a public meeting for a compliance review. The owner(s) shall correct any deficiencies identified by the Authority.



## E. Enforcement

Failure to comply with post-construction or O&M requirements from 175-45 may result in enforcement action pursuant to 85-7 of the Stormwater Bylaw.[04-01-24]

### § 175-46 **Project changes.**

The permittee shall notify the Authority in writing of any changes to a permitted land-disturbing activity at least 48 hours before modifications can occur. If the modification is determined to be significant based on §§ **175-44** and **175-45** of these regulations, a revised or new application may be required. Alterations may require interim erosion and sedimentation control measures before considering the modification.

### § 175-47 **Inspection and site supervision.**

All inspections shall be conducted by the Stormwater Agents.

- A. Access permission. The Authority shall be authorized to enter upon privately owned property at reasonable times for the purpose of performing its duties under these regulations to the extent permitted by state and federal law.
- B. Preconstruction meeting. The applicant, his or her engineer, general contractor, and/or pertinent subcontractors shall meet at the site with the Stormwater Agent for a minor project or with the Town's designee for a major project prior to clearing, excavation, construction, or any land-disturbing activity requiring a permit, but after erosion and sedimentation controls have been installed. [04-01-24]
- C. Authority inspections. Inspections may take place at any time during the review process and throughout the duration of the project.
  - (1) One copy of all required plans and the permit shall be kept at the site during construction. In addition, a copy of EPA's NPDES construction general permit and stormwater pollution prevention plan (if applicable) shall be kept on site.
  - (2) Following inspections, the Authority shall either approve portions of work completed, or notify the permittee wherein the work fails to comply. Significant non-compliances or deviations from the approved plans or permit conditions may be subject to enforcement if not previously approved by the Authority or Agent.[04-01-24]
  - (3) The permittee shall notify the Authority at least three business days prior to the completion of the following events:
    - (a) Erosion and sedimentation control measures are in place and stabilized.
    - (b) Rough grading has been substantially completed.
    - (c) Final grading has been substantially completed.
    - (d) Bury inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
    - (e) Close of the construction season or suspension of activities for more than 30 days (temporary stabilization required).
    - (f) Final landscaping (permanent stabilization) and final completion of the project.
- D. Permittee inspections.
  - (1) All projects. The permittee or representative shall conduct and document inspections of all control measures no less than weekly, or as specified in the permit, as well as prior to and following anticipated

storms. The purpose of inspections shall be to determine the overall effectiveness of the stormwater plan, and the need for maintenance or additional control measures.

- (2) Major projects. The permittee or representative shall submit monthly inspection reports on Form SM8 during the construction phase to the Authority. The Authority may require that an authorized environmental site monitor be retained by the owner to conduct inspections and submit reports to the Authority.

E. Final inspection and report.

- (1) Minor project. After the system has been constructed, the applicant shall submit a letter to the Authority certifying that the work site has been stabilized, and that all erosion and sedimentation control devices and any approved modifications have been completed in accordance with the conditions of the permit. Any discrepancies and mitigation measures shall be noted in a cover letter.
- (2) Major project. After the system has been constructed, the applicant shall submit a report to the Authority, including certified as-built plans, documenting that the system and approved modifications have been completed in accordance with the conditions of the permit. Any discrepancies and mitigation measures shall be noted in a cover letter. Deviations shall be accompanied by technical evidence which shows the project still meets the purposes and provisions of these regulations. Three copies of the as-built plan shall be submitted to the Authority. [04-01-24]
- (3) Deficiencies. The system shall be corrected by the permittee if it is found to be deficient based on physical evidence of operational failure.

F. Certificate of completion.

- (1) All projects. The Agent shall inspect the system to confirm its as-built features and evaluate the effectiveness of the system in an actual storm. If the inspection finds the system to be adequate, and if upon receipt and approval of the final reports, it is determined that all work has been satisfactorily completed, the Authority will issue a certificate of completion.
- (2) Major projects. The certificate of completion shall be recorded at the Middlesex South Registry of Deeds by the owner(s), in accordance with MGL c. 40A, § 11, and proof of recording shall be forwarded to the Authority and Town Clerk.

**§ 175-48 Perpetual inspection and maintenance.**

A. All projects: maintenance responsibility.

- (1) Stormwater management facilities and practices included in an O & M Plan shall undergo ongoing inspections to document maintenance and repairs to ensure compliance with the Bylaw and these regulations.
- (2) The owner of the system shall maintain in good condition all grade surfaces, walls, drains, dams and structures, vegetation, and any other protective devices.
- (3) The owner of the system shall maintain records of the system installation and all maintenance and repairs for at least five years, to be made available to the Agent during inspection of the facility and at other times upon request.
- (4) The Authority shall notify the owner of the system if the requirements of the O & M Plan are not met. All deficiencies shall be corrected within 30 days. If a deficiency constitutes an imminent danger to public health, safety, or the environment, the owner shall take immediate corrective action, and then notify the Agent for an inspection to ensure compliance.

B. Major projects: maintenance inspections.

- (1) At a minimum, inspections by the property owner shall occur twice during the first year of operation and at least annually thereafter.
- (2) Inspection reports shall be submitted to the Authority on Form SM12 for all systems, and shall include:
  - (a) Date of inspection.
  - (b) Name of inspector.
  - (c) Condition of:
    - i. Pretreatment devices.
    - ii. Vegetation or filter media.
    - iii. Fences or other safety devices.
    - iv. Spillways, valves, or other control structures.
    - v. Embankments, slopes, and safety benches.
    - vi. Reservoir or treatment areas.
    - vii. Inlet and outlet channels and structures.
    - viii. Underground drainage.
    - ix. Sediment and debris accumulation in storage and forebay areas (including catch basins).
    - x. Any nonstructural practices.
    - xi. Any other item that could affect the proper function of the system.
  - (d) Description of any maintenance issues and mitigation measures taken.

§ 175-49 **Enforcement.**

Refer to the NPDES Phase II Stormwater Management Bylaw § 85-7.

§ 175-50 **Severability.**

If any provision, paragraph, sentence, or clause of these regulations shall be held invalid for any reason, all other provisions shall continue in full force and effect.