

**The City of Cambridge
Department of Public Works**

The City of Cambridge Commissioner of Public Works (“the Commissioner”) hereby adopts these Land Use Regulations pursuant to Cambridge Municipal Code Chapter 13.16 Wastewater and Stormwater Drainage System.

LAND DISTURBANCE REGULATIONS

**Article I
General Provisions And Definitions**

Section 1 – Reference to Regulations.

These regulations shall be referred to as the Land Disturbance Regulations.

Section 2 – Authority.

Under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statues and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34 and in furtherance of the goals set forth therein and pursuant to Cambridge Municipal Code, ch. 13.16, the City of Cambridge Commissioner of Public Works has established the following Regulations governing stormwater management standards for land disturbance including but not limited to disturbance from development and redevelopment projects.

Section 3 – Applicability and Purpose.

This Regulation shall apply to all activities that individually or as part of a common plan for Development:

- (i) disturb one (1) or more acres of land,
- (ii) exceed fifty thousand (50,000) square feet of Gross Floor Area,
- (iii) have a project parcels(s) equal to or greater than one acre in size,
- (iv) include outdoor parking for ten (10) cars or more,
- (v) require a Special Permit from the Planning Board, or
- (vi) in the opinion of the City Engineer may result in an adverse impact of the municipal Sewer, Combined Sewer, Stormwater Drainage Systems or Water Resources.

The purpose of this Regulation is to reduce pollutants in any stormwater runoff from construction activities and to address post construction stormwater runoff from new development and redevelopment projects.

All federal, state and local permit requirements related to implementation of stormwater management facilities must be met by the owner prior to facility use.

Section 4 – Severability.

The provisions of these Regulations are severable. If any provision of these Regulations or any specific application to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications which can be given effect in the absence of the invalid provision or application.

Section 5 – Required Applications and Permits.

- (a) Applications and permits required by these Regulations are in addition to applications and permits that may be required by other federal, state (including MWRA) and local laws or Regulations. The

following applications and permits are required by these Regulations and issued by the Cambridge Department of Public Works (DPW) as they apply:

- (i) Stormwater Control Permit
- (ii) NPDES General Permit for Discharges from Large and Small Construction Activities as issued by EPA, where applicable
- (iii) Dewatering Permit, where applicable
- (iv) Excavation Permit issued by DPW

Section 6 – Definitions

All terms used in these Land Disturbance Regulations shall be as defined in the City of Cambridge Wastewater and Stormwater Drainage Use Regulations unless otherwise defined herein:

Certified Professional In Erosion And Sediment Control (CPESC) shall mean a certified specialist in soil erosion and sediment control. The CPESC certification program was developed in close association with the International Erosion and Sedimentation Control Association and the Soil and Water Conservation Society.. CPESC is a trademark of EnviroCert International, Inc.

Construction and Waste Materials shall mean excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

Clearing shall mean any activity that removes the vegetative surface cover.

Development shall mean the modification of land to accommodate a new use or expansion of use, usually involving construction.

Erosion shall mean 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 Sediment Control Plan shall mean a document containing narrative, drawings and details developed by a Massachusetts registered professional engineer (P.E.), a Certified Professional in Erosion and Sedimentation Control (CPESC) or a Massachusetts Registered landscape architect, which includes best management practices (BMPs), or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

Grading shall mean changing the level or shape of the ground surface.

Impervious Surface shall mean any material or structure on, above or below the ground that prevents water infiltrating the underlying soil.

Infeasible shall mean not technologically possible, or not economically practicable and achievable in light of best industry practices.

Land Disturbance shall mean any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel of similar earth material.

Land Disturbing Activity shall mean any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

Low Impact Development (LID) shall mean systems or practices 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.

Massachusetts Stormwater Management Policy is the Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts

through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

New Development shall mean any construction activities or land alteration resulting in earth disturbances on an area that has not previously been developed to include impervious cover.

Redevelopment shall mean the development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites that does not meet the definition of New Development (see above).

Sediment shall mean mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

Sedimentation shall mean the process or act of deposition of sediment.

Slope shall mean the incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

Soil shall mean any earth, sand, rock, gravel, or similar material.

Soil Stabilization shall mean the use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

Stormwater Control Permit is a permit required to conduct land disturbing activities.

Water Resources shall mean lakes, ponds, streams, rivers, wetlands, and groundwater.

Article II

Permits and Plan Review Procedures

Section 1 – Permits.

- (a) **Filing Application.** A Stormwater Control Permit is required when a project:
- (i) disturbs one (1) or more acres of land,
 - (ii) exceed fifty thousand (50,000) square feet of Gross Floor Area,
 - (iii) has project parcels(s) equal to or greater than one acre in size,
 - (iv) includes outdoor parking for ten (10) cars or more,
 - (v) requires a Special Permit from the Planning Board, or
 - (vi) in the opinion of the City Engineer the project may result in an adverse impact on the municipal Sewer, Combined Sewer, Stormwater Drainage Systems or Water Resources.

The site owner or his/her representative shall file with the DPW a complete application for a Stormwater Control Permit through the City's online permitting system. Permit issuance is required prior to any land disturbing activity. The Stormwater Control Permit Application package shall include:

- (i) the Stormwater Management Plan as specified in Article IV, Sections 1 and 2;
- (ii) the Erosion and Sediment Control Plan as specified in Article V, Sections 1 and 2;
- (iii) the Operation and Maintenance Plan as specified in Article VI, Section 1;

- (iv) All associated checklists provided in the City of Cambridge Wastewater and Stormwater Management Guidance Document;
 - (v) the NPDES General Permit for Discharges from Large and Small Construction Activities, as applicable; and
 - (vi) payment of the application and review fees.
- (b) **Entry.** Filing an application for a permit grants the DPW or its agent permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit

Section 2 – Plan Review Procedures.

- (a) **Process.** An electronic application for approval of the Stormwater Management Plan, Erosion and Sediment Control Plan, and Operation and Maintenance Plan shall be filed with the DPW. Plans that meet the requirements specified in the City of Cambridge Wastewater and Stormwater Management Guidance Document will be reviewed in accordance with the standards of Articles IV, V, and VI. The DPW shall approve, approve with conditions, or deny the Stormwater Management Plan, Erosion and Sediment Control Plan, and Operation and Maintenance Plan within ninety (90) days following the date the application for approval is filed.
- (b) **Duration.** Approval of the Stormwater Management Plan, Erosion and Sediment Control Plan, and Operation and Maintenance Plan submitted under the provisions of this Regulation shall expire one year after the date of approval unless land disturbing activities have commenced in accordance with said plans. However, if, not less than forty-five (45) days prior to the expiration of the approval, the applicant makes a written request to the DPW for an extension of time to commence the land disturbing activities setting forth the reasons for the requested extension, the DPW may grant one or more extension, each not to exceed one year, for good cause.
- (c) **Conditions.** Plans may be approved subject to adherence with reasonable and necessary conditions to assure compliance with this Regulation. Such conditions may, by way of example but not limitation, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure buffering, and require the conveyance to the City or other public entity of certain lands or interests therein as may be needed to comply with such conditions.
- (d) **Modifications.** The approved plans shall not be changed, modified, or altered without written authorization from the DPW. The applicant shall be required to make any plan modifications needed due to conflicts, omissions or changed conditions that arise in the field and adhere to the standards in Articles IV, V, and VI, subject to written authorization from the DPW. The applicant shall bear all costs to comply with this Section 2 and the City of Cambridge Wastewater and Stormwater Management Guidance Document.
- (e) **Performance bond.** Together with the Stormwater Management Plan, Erosion and Sediment Control Plan, and Operation and Maintenance Plan, the applicant shall be required to post a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the City Solicitor, and be in an amount deemed sufficient by the DPW to ensure that the work will be completed in accordance with the Stormwater Control Permit. The bond shall guarantee completion and compliance with conditions within a specific time. The adequacy, conditions and acceptability of any bond shall be determined by the DPW. If the project is phased, the DPW may release part of the bond as each phase is completed and in compliance with the permit but the bond security may not be fully released until the DPW has received the as-built documents and final Operations and Maintenance Plan as further described in Article VIII, and the applicant has obtained a Certificate of Occupancy, if applicable.

- (f) **Fee Structure.** An applicant shall pay to the DPW with each submission an Application Fee established by the DPW to cover expenses connected with the application review of the Stormwater Control Permit, including, a Technical Review Fee and inspections associated with erosion and sediment control sufficient to cover DPW costs in ensuring adherence to the applicant's permit conditions. The DPW may retain a registered professional engineer (P.E.) or other professional consultant to advise the DPW on any or all aspects of these plans at applicant's expense. Applicants must pay review fees before the permit shall issue.

Section 3 – Issuance of Stormwater Control Permit.

- (a) No permit shall be issued until the required Stormwater Management Plan, Erosion and Sediment Control Plan, and Operation and Maintenance Plan are approved by the DPW.
- (b) As a condition of permit issuance, the applicant shall agree to allow or obtain the necessary authorizations to allow all inspections required by the City.
- (c) Where a bond, letter of credit or other guarantee is required, the permit shall not be issued until the bond or guarantee has been obtained by the applicant and received and approved by the City.

Article III Non-Exclusivity, Exemptions, and Waivers

Section 1 – Non-Exclusivity.

In addition to permits required by these Land Disturbance Regulations, applicants shall be required to obtain all other permits or approvals required by applicable federal, state and local laws, rules, and regulations.

Section 2 – Exemptions.

The provisions of this Regulation do not apply to:

- (a) Emergency work to protect life, or property.
- (b) Transportation improvements which will not directly increase non-point source pollution or quantity of stormwater runoff once construction has been completed (e.g., pavement overlays).
- (c) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04.

Section 3 – Waivers.

- (a) The DPW may waive strict compliance with any requirement of this Regulation, where:
- (i) such action is allowed by applicable federal, state and local laws, rules and/or regulations,
 - (ii) is in the public interest, and
 - (iii) is not inconsistent with the purpose and intent of this Regulation.
- (b) Any applicant may submit a written request to the DPW to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict compliance of this Regulation does not further the purposes or objectives of this Regulation.

Article IV

Stormwater Management Standards

Section 1 – Stormwater Management Standards.

A Stormwater Management Plan shall meet the following requirements and standards (specific plan requirements and guidance are given in the City of Cambridge Wastewater and Stormwater Management Guidance Document).

- (a) The quality of stormwater leaving the site after development shall be better than the quality of stormwater leaving the site before development based on the following criteria:
 - (i) Water quality control facilities required for development shall be designed, installed and maintained in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document and these Regulations, whichever is more restrictive.
 - (ii) Low Impact Development site planning and design strategies must be implemented unless Infeasible in order to reduce the discharge of stormwater from development sites.
 - (iii) Land use activities of particular concern as pollution sources shall be required to implement additional pollution controls in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document.
 - (iv) Development in a watershed that drains to wetlands or Water Resources shall assure that water quality control facilities meet the requirements for Total Maximum Daily Loads and pollutants of concern in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document and all applicable federal, state and local laws, rules and regulations.
 - (v) No new stormwater conveyances (e.g., outfalls) may discharge untreated stormwater directly to or cause erosion in Water Resources.
 - (vi) Development that discharges near or discharges to critical areas require use of source control and pollution control measures in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document and all applicable federal, state and local laws, rules and regulations.

- (b) The quantity of stormwater leaving the site after development shall be mitigated based on the following criteria:
 - (i) Stormwater discharge leaving the site, during construction and after construction completion, does not have a negative impact on adjacent and abutting properties and is not conveyed across public ways.
 - (ii) Stormwater discharge from a site, during construction and after construction completion, will be infiltrated, treated or stored in accordance with the quantity and quality control requirements specified in these Regulations and as further described in the City of Cambridge Wastewater and Stormwater Management Guidance Document.

Article V

Erosion and Sediment Standards

Section 1 – Erosion and Sediment Standards.

An Erosion and Sediment Control Plan must meet the following objectives applicable to all land disturbance activities:

- (a) The objective of this Article is to minimize to the maximum extent practicable sediments or pollutants exiting the site, entering the public right-of-way or being deposited into any Water Resource or stormwater drainage or combined sewer system.
- (b) In order to meet the objectives set forth in Section 1 (a) above, the owner or applicant shall:
 - (i) Implement measures intended to keep soil on site or out of Water Resources, stormwater drainage or combined sewer systems or the public right-of-way as the first step in any development.
 - (ii) Remove any soil that enters the public right-of-way.
 - (iii) Protect stormwater inlets onsite and along any impacted roadway by approved sediment control measures so that sediment-laden water cannot enter the inlets without first being properly treated.
 - (iv) Apply permanent or temporary soil stabilization to denuded development site areas in conformance with the City of Cambridge Wastewater and Stormwater Management Guidance Document.
 - (v) Plant replacement vegetative cover in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document.
 - (vi) Secure or protect soil stockpiles throughout the project with temporary or permanent soil stabilization measures, protect all stockpiles on the site, and those transported from the site. All handling of soils shall be done in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document and all applicable federal, state and local laws, rules and regulations.
 - (vii) Post signage on the site of the permitted land disturbing activity that identifies the DPW 24-hour Hotline Number (617-349-4800) and other information as required by the DPW for the public reporting of stormwater management concerns.
 - (viii) Sequence activities to minimize simultaneous areas of land disturbance.
 - (ix) Maximize groundwater recharge as approved by DPW.
 - (x) Properly manage on-site construction and waste materials.
 - (xi) Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Water shall not be discharged in a manner that causes erosion or flooding of the site or receiving channels or Water Resources. In the case where a Dewatering Permit is granted for construction site dewatering, the owner shall abide by the City of Cambridge Wastewater and Stormwater Drainage Use Regulations and all applicable federal, state and local laws, rules and regulations.

- (xii) Tracking: construct graveled roads, access drives and parking areas of sufficient width and length with sufficiently sized and maintained wash bays to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- (xiii) Implement measure to control dust.
- (xiv) Implement provisions to inspect and clear stormwater inlets before, during and after storm events to prevent flooding.
- (xv) Provide a phased drawing showing existing conditions, any interim conditions and proposed conditions with erosion and sediment control measures.
- (xvi) The Erosion and Sediment Control Plan shall be prepared by a Massachusetts registered professional engineer (P.E.), other professional certified by the State of Massachusetts with experience or qualifications in preparing erosion and sediment control plans, a registered CPESC or Massachusetts registered Landscape Architect prepare or implement the Erosion and Sediment Control Plan.

Section 2 – Additional Erosion and Sediment Requirements for Special Sites.

When the DPW determines that special site conditions may prevent compliance with Section 1, the DPW may require additional erosion, sediment and pollutant control measures as set forth in the City of Cambridge Wastewater and Stormwater Management Guidance Document.

(a) Special site conditions may include, but are not limited to, the following:

- (i) Slopes before development that are greater than 10 percent (1 Vertical: 10 Horizontal).
- (ii) Land disturbance of a natural vegetative buffer within 100 feet of a wetland and or waterbody
- (iii) The development site is located entirely or partially within a Flood Plain Overlay District.
- (iv) Areas with highly erodible soils
- (v) Project timing is such that land disturbing activity will take place between October 1 and April 30.

(b) Required additional control measures may include but are not limited to:

- (i) Requiring that a Massachusetts registered professional engineer (P.E.), other professional certified by the State of Massachusetts with experience or qualifications in preparing erosion and sediment control plans, a registered CPESC or Massachusetts registered Landscape Architect prepare or implement the Erosion and Sediment Control Plan.
- (ii) Prohibiting land disturbing activities between October 1 and April 30.
- (iii) Limiting the amount of denuded soil at any given time.
- (iv) Requiring a bond, letter of credit or other guarantee.

Article VI

Operation And Maintenance Standards

Section 1 – Maintenance and Repair.

The owner is responsible for maintenance and shall prepare and submit to the DPW for approval an Operation and Maintenance Plan for the stormwater management measures incorporated in the Stormwater Control Permit. The owner shall notify DPW of any changes in ownership or assignment of financial responsibility. Prior to any transfer of ownership of any property subject to an Operation and Maintenance Plan, the owner shall inform the prospective owner of the requirements of the existing Operation and Maintenance Plan, and of the requirement to file a new Operation and Maintenance Plan upon transfer of ownership. The new owner shall be required to submit an Operation and Maintenance Plan to the DPW for approval within 60 days of the transfer of ownership. Until the new plan is approved by the DPW, the new owner shall be bound by the provisions of the existing Operation and Maintenance Plan.

An Operation and Maintenance Plan must meet the following requirements (specific plan requirements and guidance are given in the City of Cambridge Wastewater and Stormwater Management Guidance Document):

- (a) If the Operation and Maintenance Plan identifies a person other than the owner (for example, a public agency, property manager or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation satisfactory to DPW of such person's obligation or agreement to assume this responsibility.
- (b) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
- (c) The Operation and Maintenance Plan shall include a list of source controls for the site and a schedule for maintenance of all water quality and quantity control measures in the Stormwater Management Plan including structural and nonstructural controls to meet water quality and quantity requirements, and a schedule for preventative and corrective maintenance to maintain the function of the stormwater management measures, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; repair or replacement of nonvegetated linings, and maintenance of sanitary sewer system control measures such as oil water separators and sanitary holding tanks.
- (d) The person responsible for maintenance identified under Section 1 (a) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
- (e) The person responsible for maintenance identified under Section 1 (a) above shall evaluate the effectiveness of the operation and maintenance plan at least once per year and shall note certification of its effectiveness in the log referred to in Section (d) above and shall submit to DPW an annual certification certifying that inspections and maintenance of the stormwater management measures have been performed according to these regulations. In the event that the operations and maintenance plan is no longer effective, applicant shall provide documentation to that effect to DPW in the annual certification with a proposed revised plan for DPW's review and approval.
- (f) The person responsible for maintenance identified under Section 1(a) above shall retain and make available, upon request by DPW, the operation and maintenance plan and the documentation required by Sections 1(d) and (e) above.

- (g) The provisions of any Operation and Maintenance Plan for a stormwater management facility that is dedicated to and accepted by the City for the City's ownership, operation or control shall terminate upon the City's acceptance of ownership, operation or control of said facility.

Nothing in this Section 1 shall preclude the DPW from requiring the posting of a performance or maintenance guarantee in accordance with the City of Cambridge Wastewater and Stormwater Management Guidance Document.

Article VII

Inspections and Plan Revisions

Section 1 – Inspections.

- (a) The DPW or its authorized representative may conduct inspections whenever it is necessary to enforce any provisions of this Regulation, to determine compliance with this Regulation.
- (b) When an inspection is occurring, the DPW or authorized representative shall first present proper credentials to the responsible party and request entry. If such entry is thereupon refused, the DPW shall have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.

Section 2 – Permit-Related Inspections.

- (a) **Pre-Development Meeting.** Prior to starting the clearing, excavation, construction, or land disturbing activity the applicant or designated agent, shall meet with the DPW to review the approved plans and their implementation. The applicant or designated agent shall inspect the project site and provide certification to the DPW of project completeness at the following stages:
 - (i) Initial Site Inspection: prior to approval of any plan.
 - (ii) The applicant or designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the owner if the work fails to comply with the Stormwater Control Permit. The Stormwater Control Permit and associated plans for grading, stripping, excavating, and filling work, as approved by DPW, shall be maintained at the site during the progress of the work. The owner shall notify the DPW at least two (2) working days before each of the following events or any event deemed significant at the Pre-Development Meeting; the applicant or designated agent shall be responsible to observe and assure the project progresses appropriately at the following events:
 - a. Erosion and sediment control measures are in place and stabilized;
 - b. Site Clearing has been substantially completed;
 - c. Site Stormwater BMP are being installed
 - d. Installation of Stormwater BMPs are completed;
 - e. Close of the Construction Season; and
 - f. Final Landscaping (permanent stabilization) and project final completion.
- (b) **Owner Inspections.** The owner or designated agent shall conduct and document inspections of all control measures no less than weekly or as specified in the Stormwater Control Permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the Erosion and Sediment Control Plan and the need for additional control measures. The owner or designated agent shall retain monthly reports in a format approved by the DPW which shall be made available to the DPW upon request.

- (c) **Bury Inspection:** The DPW shall be notified prior to backfilling of any underground drainage or storm water conveyance structures so that inspection, if deemed necessary by the DPW, can take place.
- (d) **Final Inspection.** After the stormwater management system has been constructed and before the surety bond is released, the applicant must submit a stamped record plan in electronic format signed by a Massachusetts Registered Professional Engineer (P.E.) or Massachusetts Registered Professional Land Surveyor detailing the actual storm water management system as installed. The record plan will include a statement box on the plan certifying the site review was conducted in accordance with this Regulation and all items were constructed in accordance with the Stormwater Control Permit. The applicant or designated agent shall request a final inspection site meeting with the DPW. The DPW shall visit the site with the applicant or designated agent to confirm its "as-built" features. As-Built drawings of structural BMPs shall be submitted to the DPW. A final report as referenced in Article VIII shall be submitted to the DPW for review and approval prior to the release of any surety bond.
- (e) **Access Permission.** To the extent permitted by law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Regulation and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary to determine compliance with the Stormwater Control Permit.

If the system is found to be inadequate by virtue of physical evidence of operational failure, it shall be corrected by the owner before the surety bond is released. If the owner fails to act the DPW may use the surety bond to complete the work.

Section 3 – Other Inspections.

Where the DPW has determined that special site conditions exist, the DPW may designate an inspector to monitor erosion, sediment and pollutant control at that site, or, if deemed necessary by the DPW, the DPW may hire a consultant to serve as the designated inspector, the cost of which shall be borne by the owner.

Section 4 – Refusal of Entry.

No person shall refuse entry or access to a permitted development project to any authorized representative of the DPW who provides proper credentials and requests entry for the purpose of conducting an inspection. In addition, no person shall obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

Section 5 – Inspection Fees.

The owner or applicant shall be solely responsible for the costs associated with any revisions, including but not limited to, any additional or alternate methods, measures, performance criteria or controls. If the DPW deems it necessary to hire a consultant to assist with same, the cost of such consultant shall be borne by the owner.

Section 6 – Revisions to Plans.

- (a) During development, the DPW or the owner or applicant may request revisions to the Stormwater Control Permit. All revisions shall be reviewed and approved by the DPW.
- (b) The DPW may require revisions to the approved Stormwater Management Plan, Erosion and Sediment Control Plan or Operating and Maintenance Plan when:
 - (i) It is determined that measures approved in the Stormwater Management Plan, Erosion, Sediment Control Plan or the Operation and Maintenance Plan do not meet the purposes set forth in Article IV, V or VI.;

- (ii) An alternate method, measure or control fails to perform as claimed by the owner or applicant;
 - (iii) A change in project timing has occurred due to an adverse change in weather;
 - (iv) During development, relevant new information about soil, site, topography, groundwater or surface water conditions is discovered;
 - (v) Changes to the area or type of land disturbing activity or equipment used are proposed or implemented;
 - (vi) The project schedule has changed which results in development being conducted at a different time of year than originally accepted or approved; or
 - (vii) Additional or substitute construction or maintenance materials or chemicals will be used during development that require pollutant BMPs as set out in the City of Cambridge Wastewater and Stormwater Management Guidance Document.
- (c) Revised plans shall show all actual and proposed changes made on the site, the new locations of the drainage patterns, and the effect that the revisions will have on the site. The new plans shall show how problems associated with the prior plan have been corrected, and indicate all new erosion, sediment and pollutant control measures. The DPW may require that the new plans be prepared by a Massachusetts registered professional engineer (P.E.), a Massachusetts registered landscape architect, or a CPESC, and that the revisions are stamped as such.
- (d) The owner or applicant shall be solely responsible for the costs associated with any revisions, including but not limited to, any additional or alternate methods, measures, performance criteria or controls or costs for any consultants that the DPW deems necessary to assist it with its review and approval of any such revisions.

Article VIII Project Completion

At completion of the project the owner shall submit a final report (including a final Operations and Maintenance Plan) detailing all structural and non-structural stormwater controls and treatment BMPs. The as-built drawings shall show all deviations from the approved plans, if any, and be certified by a Massachusetts registered professional engineer (P.E.) or a Massachusetts registered professional land surveyor. Detailed requirements pertaining to the final report and as-built drawings are set forth in the City of Cambridge Wastewater and Stormwater Management Guidance Document.

Article IX Release of Performance Bond

The DPW will issue a letter or other appropriate correspondence certifying completion upon receipt and approval of the final reports and as-built drawings and/or upon otherwise determining that all work completed pursuant to the Stormwater Control Permit has been satisfactorily completed in conformance with this Regulation. This correspondence shall be used to authorize the release of the surety required as part of the Stormwater Control Permit.

Article X Compliance and Enforcement

Section 1 – Investigation and Notice of Violations.

If the DPW believes that a violation of this Regulation, a rule promulgated pursuant to this Regulation, or

a Stormwater Control Permit issued hereunder may have occurred or exists, the City may investigate. If, after this investigation, the DPW determines that a violation has occurred or exists, the DPW shall issue written notice of a violation to the person or persons alleged to have caused or contributed to a violation of this Regulation, a rule promulgated pursuant to this Regulation, and/or a Stormwater Control Permit issued hereunder. A written notice of violation shall include a statement of facts upon which the violation is based.

Within fourteen (14) days of the issuance of a written notice of violation, the alleged violator shall submit to the DPW a written response to the notice of violation and a plan for correcting the violation. Submission of this plan in no way relieves the alleged violator of liability for any previous violation not addressed by the plan or future violation(s).

Within fourteen (14) days of the receipt of a written response to a notice of violation, the DPW shall determine whether the response resolves and/or corrects the violation. If the DPW determines that the response resolves and/or corrects the violation, then the plan for correcting the violation shall be incorporated into a consent agreement pursuant to Section 2.

Section 2 – Consent Agreement.

A consent agreement may be entered into at any time by and between the DPW and the person or persons alleged to have caused or contributed to the violation. The consent agreement shall be mutually acceptable to both the DPW and the recipient(s) and shall reflect the recipient's agreement to assume responsibility for and correct violations of this Regulation, rules promulgated or permits issued pursuant to this Regulation.

The consent agreement shall contain a short statement of facts, describe the actions necessary to correct the non-compliance, contain a compliance schedule, and be signed by all parties. The agreement may contain a monetary assessment or other relief as agreed to by the parties for the non-compliance, including without limitation, amounts necessary to compensate the City for costs incurred investigating, administering and/or enforcing this Regulation or rules promulgated hereto.

Section 3 – Administrative Compliance Orders.

If the DPW determines that a violation of this Regulation, a rule promulgated or a permit issued pursuant to this Regulation has occurred or exists, the DPW may issue an administrative compliance order ("Administrative Order") pursuant to this Section 3.

Except as provided in Section 4, the DPW may issue an Administrative Order in the following circumstances:

- (a) the DPW determines that a person has violated a consent agreement entered into with the DPW; or
- (b) (i) the DPW determines that a person has violated or continues to violate this Regulation, a rule promulgated or permit issued pursuant to this Regulation, and (ii) the DPW has attempted to resolve the violation pursuant to Sections 1 and 2 but no voluntary consent agreement has been entered into.

The Administrative Order shall contain a statement of facts upon which the Administrative Order is based, a description of the actions that must be taken to correct the non-compliance, a compliance schedule, and other requirements as might be reasonably necessary to address the non-compliance.

Administrative Orders also may contain administrative fines and penalties, and such other monetary relief for the non-compliance, including without limitation amounts necessary to compensate the City for costs incurred investigating, administering, and enforcing this Regulation or rules promulgated hereto.

Section 4 – Emergency Orders.

The DPW may issue an order without attempting to resolve a violation by using the enforcement procedures described in Section 1 and 2 if the City finds that a violation of this Regulation, a rule promulgated or permit issued pursuant to this Regulation, constitutes or causes, or will constitute or cause, a substantial injury to the public health, safety, welfare, or the environment, and it is prejudicial to

the interests of the people of the City to delay action ("Emergency Order").

Emergency Orders issued pursuant to this Section 4 shall contain a statement of facts upon which the order is based, and notification to the person that it must immediately take action to discontinue, abate, correct, or otherwise address the imminent and substantial injury caused or likely to be caused by the non-compliance.

Within seven (7) days, the City shall provide the person an opportunity to be heard and to present any proof that the non compliance does not or will not constitute imminent and substantial injury to the public health, safety, welfare or the environment.

Section 5 – Civil Penalties.

A person who violates any provision of this Regulation or rules promulgated hereunder, including without limitation any notice, order, stormwater construction approval, agreement, decision, or determination promulgated, issued, made, or entered by the DPW under this Regulation or rules promulgated hereunder, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100 per day and not more than \$5,000 per day for each infraction, plus costs and other sanctions.

Section 6 – Separate Offenses.

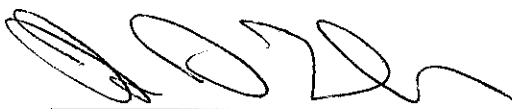
Each act of violation, and each day or portion of a day that a violation of this Regulation, rules or regulations promulgated pursuant to this Regulation, stormwater construction approval, order, notice, or determination issued, made or entered into under this Regulation is permitted to exist or occur, constitutes a separate offense and shall be punishable as provided by this Regulation.

Section 7 - Cost Recovery.

- (a) The DPW may recover all reasonable costs incurred by the City which are attributable to or associated with violations of these Regulations, including but not limited to the costs of administration, investigation, sampling and monitoring, legal and enforcement activities, damage to the City's sanitary or combined system or to the City's stormwater drainage systems, contracts and health studies, and any fines and penalties assessed to the City which result from a discharge not in compliance with these Regulations or rules adopted thereunder.
- (b) All such costs shall be documented by the City and shall be served upon the discharger by certified or registered mail, return receipt requested. Such documentation shall itemize the costs the DPW has determined are attributable to the violations.
- (c) Such costs are due and payable to the City upon the receipt of the letter documenting such costs. All such costs shall be paid to the City Treasurer. Nonpayment or dispute regarding the amount shall be referred for appropriate action to the City Solicitor. The City Solicitor may initiate appropriate action against the discharger to recover costs under this Article.
- (d) The DPW may terminate a discharge for nonpayment of costs after 30 days notice to the discharger.

Adopted:

Effective Date: June 30, 2021



Owen O'Riordan
Commissioner