

Protection.

5.7 Termination of a State of Water Supply Conservation: Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 5.6.

5.8 State of Water Supply Emergency: Compliance with DEP Orders

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

5.9 Penalties

Any person violating this bylaw shall be issued a warning for the first violation, and shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100.00 for each subsequent violation which shall go to the General Fund. Fines shall be recovered by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

Note: Adopted Art. 7 TM 10/01/01. App. A.G. 12/18/01. Pub. Daily Times 12/27/01 & 1/3/02.

BURLINGTON STORM WATER MANAGEMENT BYLAW GOVERNING EROSION AND SEDIMENTATION CONTROL FOR NEW AND REDEVELOPMENT PROJECTS DURING CONSTRUCTION AND POST-CONSTRUCTION PERIODS.

6.0 Erosion and Sedimentation Control

6.1 Purpose and Objective

Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of Burlington's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated storm water runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.

A. The harmful impacts of soil erosion and sedimentation are:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. alteration or destruction of aquatic and wildlife habitat;
4. flooding;
5. erosion of stream channels; and
6. overloading or clogging of municipal catch basins and storm drainage systems.

This bylaw establishes storm water management standards for the temporary and final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople and the general public. This bylaw complies with EPA regulations [National Pollutant Discharge Elimination System](#) (NPDES) Phase II final rule (Dec 8, 1999) requiring regulated municipalities reduce the discharge of pollutants in stormwater to the maximum extent practicable and adopt bylaws to address the control of sources of pollutants entering the municipal storm drain system.

B. The objectives of this bylaw are to:

1. Protect ground water and surface water to prevent degradation of drinking water supply
2. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbing activities;
3. Promote infiltration and the recharge of groundwater;
4. Ensure that soil erosion and sedimentation control measures and storm water runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
5. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter,

- and sanitary waste at a construction site that may cause adverse impacts to water quality;
6. To prevent pollutants from entering the Burlington municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
 7. To ensure adequate long-term operation and maintenance of structural storm water best management practices so that storm water structures work as designed;
 8. Comply with state and federal statutes and regulations relating to storm water discharges; and
 9. Establish Burlington's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

6.2 Definitions

ABUTTER: The owner(s) of land abutting the activity.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff from a pre-activity condition. Such changes from a pre-activity condition may include: change from distributed runoff to confined discrete point discharges, 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 soil erosion and sedimentation control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCIES: The Conservation Commission is the lead agency with authority given by this bylaw to promulgate regulations and policies that support the goals and objectives of this bylaw. The Conservation Commission, its employees or agents, and the Planning Board, its employees or agents will share the administration and enforcement of this by-law as detailed herein.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff. It also includes schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems.

The **BOARD** – Town of Burlington Planning Board

The **COMMISSION** – Town of Burlington Conservation Commission

CONSTRUCTION AND WASTE MATERIALS: 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: Any activity that removes the vegetative surface cover.

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

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

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), a Certified Professional in Erosion and Sedimentation Control (CPESC) or other qualified professional, 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.

EROSION AND SEDIMENTATION CONTROL PERMIT: A permit with conditions upon a proposed land disturbing activity issued by either the Conservation Commission or Planning Board under this bylaw.

EROSION AND SEDIMENTATION CONTROL APPLICATION PACKAGE. The application materials consisting of a Storm Water Management Plan, an Erosion and Sedimentation Control Plan, and an Operation and Maintenance Plan submitted to either the Conservation Commission or Planning Board (as stipulated within this bylaw) requesting an Erosion and Sedimentation Control Permit.

GRADING: Changing the level or shape of the ground surface contour by means of excavation, fill, in-place ground modification, or any combination thereof, including the establishment of a grade following demolition of a structure

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

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the existing soil cover which includes the position or location of soil, sand, rock, gravel, or similar earth material. Land-disturbing activities include, but are not limited to clearing, grading, filling and excavation. Landscaping activities which involve greater than or equal to 500 ft² are considered a land disturbing activity and may be the subject of enforcement action under this bylaw. Routine landscaping activities

which involve less than 500 ft² are not considered a land-disturbing activity for the purposes of this bylaw.

LAND IN AGRICULTURAL USE: Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4, are exempt from this bylaw.

MASSACHUSETTS STORM WATER MANAGEMENT POLICY: 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 storm water impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The municipal storm drain system is the system of conveyances designed or used for collecting or conveying storm water, 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 Burlington.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a storm water management system to insure 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.

PRE-CONSTRUCTION: All activity in preparation for construction.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area 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: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

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

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STANDARD EROSION AND SEDIMENTATION CONTROL PERMIT: An permit issued under this bylaw containing a standard set of conditions requiring that best management practices be implemented to prevent erosion and sedimentation from the site. This permit applies to sites proposing a land disturbing activity of greater than 10,000 ft² but less than 20,000 ft².

STORM WATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

STORM WATER MANAGEMENT PLAN: A plan showing existing and proposed features on a site. This is required as part of the application for a Erosion and Sedimentation Control Permit .See Section 6.8

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TOTAL SUSPENDED SOLIDS (TSS): Total Suspended Solids is a water quality measurement that includes particles suspended in water that will not pass through a filter.

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

WETLAND RESOURCE AREA: Areas specified in either the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 or in Burlington's Wetland Bylaw (Article XIV).

WETLANDS: Areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), common names include marshes, swamps and bogs.

6.3 Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34

6.4 Applicability

A. No person may undertake a construction activity that results in a land disturbing activity that will disturb equal to or greater than 10,000 ft² of land (or will disturb less than 10,000 ft² of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 10,000 ft² of land) that drains to the Burlington municipal separate storm sewer system, onto an adjacent property, into a municipal / private street, or into a wetland / stream, without an Erosion and Sedimentation Control Permit from either the Conservation Commission or the Planning Board.

B. Exemptions From Requirement to Obtain Permit (under this bylaw)

Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;

Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling disturbing less than 10000 ft²;

The construction of fencing that will not substantially alter existing terrain or drainage patterns;

Construction of utilities other than drainage (gas, water, electric, cable, telephone, etc.) which will not alter terrain or drainage patterns;

As authorized in Burlington's Phase II Small MS4 General Permit, storm water discharges resulting from the activities identified in Section 6.4 that are wholly subject to jurisdiction under either the Wetlands Protection Act or activities which are subject to Burlington's Bylaw Article XIV and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission, are exempt from compliance with this bylaw.

6.5 Responsibility for Administration

A. Responsibility. The Burlington Conservation Commission shall be the lead agency that may grant waivers and promulgate regulations to support this bylaw as specified in Sections 5B and 5C below. The Conservation Commission and the Burlington Planning Board shall have shared responsibilities to administer and implement this bylaw. Any powers granted to or duties imposed upon either the Conservation Commission or the Planning Board may be delegated to their respective employees and/or their agents, and with mutual concurrence these duties may be delegated to each other's respective employees and/or their agents.

B. Waiver. The Conservation Commission will be the lead agency to grant a waiver to compliance with this bylaw. The Commission with input from the Planning Board, may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:

- (1) such action is allowed by federal, state and local statutes and/or regulations, and
- (2) is in the public interest, and
- (3) is not inconsistent with the purpose and intent of this by-law.

C. Rules and Regulations. The Conservation Commission will be the lead agency to initiate a change to this bylaw. The Conservation Commission working with input from the Planning Board may adopt, and periodically amend rules and regulations to effectuate the purposes of this by-law, by majority vote of the Conservation Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date.

Failure by The Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

6.6 Permits and Procedures

A. Application. Where a land disturbing activity of 20,000 ft² or greater OR a land disturbing activity of 500 yd³ or greater of earth volume is proposed, the site owner or his/her agent shall file with the Conservation Commission, eleven(11) copies of a completed application package with a cover sheet specified by the Commission (available from the Commission office or the Commission's web site) (one for each Commissioner, 2 office copies, and 2 for distribution to other Boards (Board of Health and Planning Board) for an Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site altering

activity. While the applicant can be a representative of the site owner, the permittee must be the owner of the site.

The Conservation Commission (through its agent, the Conservation Commission Administrator) may, at its discretion, elect to delegate its authority to the Planning Board to issue an Erosion and Sedimentation Control Permit, in order to expedite the permitting process for an applicant who must appear before the Planning Board for other matters in connection with the proposed work.

Within 7 days of the filing date, the Conservation Commission (through its agent) will make a determination on whether to schedule a formal hearing before the Commission or delegate its authority under this bylaw to the Planning Board. This determination will be made based on an assessment of the potential for sedimentation and erosion from the proposed land disturbing activity (including grubbing, clearing and/or grading). The Commission's agent will give consideration to the original and proposed grading of the site, existing slopes, the presence of intermittent streams or channels, the size of the site, and/or other factors which may contribute to runoff and erosion potential. Proposed projects where routine erosion and sedimentation controls are needed, will be referred to the Planning Board for a simultaneous hearing for this permit with other matters in connection with this project.

If the Conservation Commission or its agent delegates its authority under this bylaw to the Planning Board, the staff of the Conservation Commission will transfer the original application package (and associated copies) to the Planning Board office and notify the applicant in writing of the Commission's decision to refer this application to the Planning Board and that the hearing under this bylaw will be scheduled before the Planning Board within twenty-one (21) days of the receipt of a complete application or at a time to coincide with other regulatory matters which are being heard by the Board on the same project..

For sites where a land disturbing activity of greater than or equal to 10,000 ft² but less than 20,000 ft² is proposed, the site owner or his/her agent shall file (at their option) with either the Conservation Commission or the Planning Board, two (2) copies of a completed application package for a Standard Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site altering activity. While the applicant can be a representative of the site owner, the permittee must be the owner of the site.

Within 7 days of the filing date, the agent of either the Conservation Commission or Planning Board will issue a Standard Erosion and Sedimentation Control Permit under this bylaw. No public meeting or hearing will be required for sites in this category. For sites in this size category that are not adequately covered by the Standard Erosion and Sedimentation Control Permit, additional special conditions may be appended by the issuing Board or Commission. The issuing Board or Commission may extend the 7 day turnaround time for issuing the Standard Erosion and Sedimentation Control Permit for reasons of insufficient information of which the applicant has been notified in writing.

The Erosion and Sedimentation Control Application package (for sites which propose a land disturbing activity of 20,000 ft² or greater) shall include:

1. a completed Application Form with original signatures of all owners;
2. a list of abutters, certified by the Assessors Office;
3. eleven (11) copies of the Storm Water Management Plan and project description referenced in Section 6.7. of this bylaw.;
4. eleven (11) copies of the Erosion and Sediment Control Plan as referenced in Section 6.8 of this bylaw;
5. eleven (11) copies of the Operation and Maintenance Plan as referenced by Section 6.9 of this bylaw;
6. payment of the application and review fees.

The Standard Erosion and Sedimentation Control Application package (for sites which propose a land disturbing activity equal to or greater than 10,000 ft² but less than 20,000 ft²) is an application package consisting of an abbreviated Storm Water Management Plan, abbreviated Erosion and Sediment Control Plan, and an abbreviated Operations and Maintenance plan as referenced in Section 6.10 of this bylaw.

B. Entry. Filing an application for a permit grants the issuing Board or Commission and its agents permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

C. Coordination Between Planning Board and Conservation Commission. For sites which propose a land disturbing activity

equal to or greater than 10,000 ft² but less than 20,000 ft², the Conservation Commission shall give one copy of the application package to the Planning Board for their records. If the Planning Board is the issuing agency, then the Planning Board shall give one copy of the application package to the Conservation Commission for their records.

D. Fee Structure. For sites which propose a land disturbing activity equal to or greater than 20,000 ft², the issuing Board / Commission shall obtain with each submission an Application Fee established by the Conservation Commission with input from the Planning Board to cover expenses connected with the public hearing and application review for the Erosion and Sedimentation Control Permit and a technical Review Fee (if requested by the Commission/Board) sufficient to cover professional technical review, if needed. The Commission / Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise the issuing Commission/Board on any or all aspects of these plans as provided by G.L.c. 44, Section 53G. Applicants must pay all review fees due before a permit will be issued. The Commission/Board will not be subject to final action deadlines if the appropriate fees have not been paid.

For sites which propose a land disturbing activity equal to or greater than 10,000 ft² but less than 20,000 ft², a reduced fee schedule will be established by the Commission.

E. Public Hearing. For sites which propose a land disturbing activity equal to or greater than 20,000 ft², the issuing Commission/Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application (or a greater timeframe as mutually agreed upon) and shall take final action within either twenty-one (21) days from the time of the close of the hearing or within such longer time period mutually agreed to by both the Commission / Board and the applicant to coincide with other regulatory decisions on the same project. Notice of the public hearing shall be given by publication and posting, and by first-class mailings to abutters (owners of land within three hundred feet from the boundary of the site) at least seven (7) days prior to the hearing. The issuing Commission/Board shall make the application available for inspection by the public during business hours at the issuing Commission/Board office.

F. Information requests. The applicant shall submit all additional information requested by issuing Commission/Board to issue a decision on the application.

G. Action by the Issuing Commission/Board.

For sites which propose a land disturbing activity equal to or greater than 20,000 ft², the issuing Commission/Board may:

1. Issue an Erosion and Sedimentation Control Permit based upon determination that the proposed plan meets the Standards in or referenced by Section 6.7 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this by-law;
2. Issue an Erosion and Sedimentation Control Permit subject to any conditions, modifications or restrictions required by the issuing Commission/Board which will ensure that the project meets the Standards in or referenced by Section 6.7 and adequately protect water resources, set forth in this by-law;
3. Disapprove the issuance of an Erosion and Sedimentation Control Permit based upon a determination that the proposed plan, as submitted, does not meet the Standards in referenced by Section 6.7 or adequately protect surface and/or ground water resources, as set forth in this by-law.

H. Failure of the issuing Commission/Board to take final action. Failure of the Issuing Commission/Board to take final action upon an Application for a land disturbing activity equal to or greater than 20,000 square feet within either within twenty-one (21) days from the time of the close of the hearing or within such longer time period mutually agreed to by both the Commission / Board and the applicant to coincide with other regulatory decisions on the same project, shall be deemed to be approval of said Application.

I. Project Changes. The permittee must notify the issuing Commission/Board in writing of any drainage change or alteration in the system authorized in a Erosion and Sedimentation Control Permit before any change or alteration is made. If the issuing Commission/Board determines that the change or alteration is significant, based on the Storm Water Management Standards in Section 6.7 C of this bylaw and accepted construction practices, the issuing Commission/Board may require that an amended application be filed and a public hearing held. The issuing Commission/Board may also require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

J. Project Completion. At completion of the project, the permittee shall submit as-built record drawings of all structural storm water controls and best management practices implemented for the site. The as-built drawing shall show deviations from the

approved plans, if any, and be certified by a Registered Professional Engineer.

6.7 Storm Water Management Plan

A. For sites which propose a land disturbing activity of 20,000 ft² or greater OR a land disturbing activity of 500 yd³ or greater of earth volume, the application for a Erosion and Sedimentation Control Permit shall consist of submittal of a Storm Water Management Plan initially to the Conservation Commission. This Storm Water Management Plan shall contain sufficient information for the issuing Commission/Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from storm water. The Plan shall be designed to meet the Massachusetts Storm Water Management Standards (or as revised), the DEP Storm Water Management Handbook Volumes I and II (or as revised), and any specific regulations promulgated under this bylaw.

B. Plan Content. The Storm Water Management Plan (for sites which propose a land disturbing activity of 20,000 ft² or greater) shall fully describe the project in drawings, and narrative. The Storm Water Management Plan shall conform to any detail provided in either regulations or policies promulgated under this bylaw. The Conservation Administrator may (at his/her discretion) waive some detail requirements described below as long as in his/her opinion, the goals and objectives of this bylaw are not compromised.

C. Standards. As stated in Section 6.7A, the Storm Water Management Plan shall meet the current Standards of the Massachusetts Storm Water Management Policy. When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

6.8 Erosion and Sedimentation Control Plan

A. Application. For sites which propose a land disturbing activity of 20,000 ft² or greater or a land disturbing activity of 500 yd³ or greater of earth volume, the Erosion and Sedimentation Control Plan contained within the Storm Water Management Plan shall contain sufficient information to describe the proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements referenced in Section 6.8 B. below. The Conservation Administrator may (at his/her discretion) waive some detail requirements described below as long as in his/her opinion, the goals and objectives of this bylaw are not compromised.

B. Design. The design requirements of the Erosion and Sedimentation Control Plan must conform to any regulations and policies promulgated under this bylaw.

C. Erosion and Sedimentation Control Plan Content. The Plan shall at a minimum contain the following information:

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
 2. Title, date, north arrow, names of abutters, scale, legend, and locus map;
 3. Location and description of natural features
- The Erosion and Sedimentation Control Plan must conform to the details of any regulations and policies promulgated under this bylaw.

6.9 Operations and Maintenance Plans

For sites which propose a land disturbing activity of 20,000 ft² or greater OR a land disturbing activity of 500 yd³ or greater of earth volume, an Operation and Maintenance plan (O&M Plan) is required as part of the Storm Water Management Plan at the time of application for all projects. Upon request by the applicant, the issuing Commission/Board may delay the completion date of the O&M plan, but in all cases, the O&M Plan must be submitted and approved prior to the completion of the project and before any occupancy takes place.

The O&M plan shall be designed to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The issuing Commission/Board shall make the final decision of what maintenance option is appropriate in a given situation. The issuing Commission/Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of storm water management structures, and potential need for ongoing maintenance activities when making this decision.

The O&M Plan shall remain on file with the issuing Commission/Board and shall be an ongoing requirement in perpetuity.

The O&M Plan shall, at a minimum, include:

A. The name(s) of the owner(s) for all components of the system

B. Detail of maintenance agreements

C. Detail on storm water management easement(s).

The details of the Operation and Maintenance Plan shall conform to the requirements of any regulations and policies promulgated under this bylaw.

D. Changes to Operation and Maintenance Plans

1. The owner(s) of the storm water management system

must notify the issuing Commission/Board of changes in ownership or assignment of financial responsibility.

2. The maintenance schedule in the Maintenance

Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the issuing Commission/Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

6.10 Standard Erosion and Sedimentation Control Permit

The Standard Erosion and Sedimentation Control Application package (for sites which propose a land disturbing activity equal to or greater than 10,000 ft² but less than 20,000 ft²) is an application package consisting of an abbreviated Storm Water Management Plan, abbreviated Erosion and Sediment Control Plan, and an abbreviated Operations and Maintenance plan as referenced in Section 6.10 of this bylaw.

The abbreviated Storm Water Management Plan shall at a minimum contain sufficient information to describe the existing and proposed features of the land (including structures, vegetation, and drainage), and anticipated maintenance requirements of structures. The abbreviated Storm Water Management Plan shall conform to any detail provided in either regulations or policies promulgated under this bylaw.

The Board / Commission and/or its agents may waive any portion of these submission requirements if in their opinion, sufficient information exists on which to base the issuance of a Standard Erosion and Sediment Control Permit.

6.11 Inspection and Site Supervision

A. Pre-construction Meeting. When requested, prior to starting clearing, excavation, construction, or land disturbing activity, the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the issuing Commission/Board, to review the permitted plans and their implementation.

B. Commission/Board Inspections. The issuing Commission/Board or its designated agents shall make inspections as needed and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sedimentation Control Permit as approved. If the work conducted to date is approved, an inspection report issued during the inspection will bear the signature of approval of the issuing Commission/Board or its agents that the work may continue. This site inspection report shall be maintained at the site during the progress of the work.

In order to obtain inspections, the permittee shall notify the issuing Commission/Board at least two (2) working days before each of the following events if required by the Commission/Board:

1. Erosion and sediment control measures are in place and stabilized;
2. Site Clearing has been substantially completed;
3. Rough Grading has been substantially completed;
4. Final Grading has been substantially completed;

5. Close of the Construction Season; and
6. Final Landscaping (permanent stabilization) and project final completion.

C. Permittee self-inspections. The permittee or his/her agent shall conduct and document inspections of all control measures) no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the issuing Commission/Board or designated agent in a format approved by the issuing Commission/Board, which may include the signature of the Professional Engineer if required by the issuing Commission/Board.

D. Access Permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, The issuing Commission/Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the issuing Commission/Board deems reasonably necessary to determine compliance with the permit.

6.12 Surety

As part of any Erosion and Sedimentation Control Permit, the issuing Commission/Board may require the permittee to post before the start of land disturbing activity activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the issuing Commission/Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the issuing Commission/Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the issuing Commission/Board has received the final report as required by Section 6.12 and issued a certificate of completion.

6.13 Final Reports

Upon completion of the work and if required by the issuing Commission/Board, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

6.14 Enforcement

A. The Planning Board and Conservation Commission and their employees and agents shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Persons subject to enforcement under this bylaw include:

- all permittees who have been issued an Erosion and Sedimentation Control Permit (for project sites which propose a land disturbing activity of 20,000 ft² or greater OR a land disturbing activity of 500 yd³ or greater of earth volume)
- all permittees who have been issued a Standard Erosion and Sedimentation Control Permit (for project sites which propose a land disturbing activity equal to or greater than 10,000 ft² but less than 20,000 ft²)
- all other persons who have engaged in a Land Disturbing Activity (as defined in this bylaw as greater than 500 ft²), who have caused substantial erosion and sedimentation due to Alteration of Drainage Characteristics, Grading, Grubbing, Clearing, and/or Stripping of soil.

B. Orders

1. The issuing Commission/Board or an authorized

agent of the issuing Commission/Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:

- (a) a requirement to cease and desist from the land-disturbing activity until there is compliance with this bylaw and its provisions of any permit issued.
- (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.

2. If the enforcing Board / Commission or its agents determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Board / Commission may, under this bylaw and subsequent regulation promulgated hereunder, may impose a fine on a daily basis until such time as the abatement or remediation of erosion and sedimentation has been completed. The Town of Burlington, at its option, may seek a court order requiring the property owner to perform the work.

C. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued there under, shall be punished by a fine. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, Burlington may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, in which case the Conservation Administrator of Burlington shall be the enforcing person. The penalty for the 1st violation shall be \$100. each day or part thereof that such violation occurs. The penalty for the 2nd violation shall be \$300. each day or part thereof that such violation occurs. The penalty for the 3rd and subsequent violations shall be \$300. each day or part thereof for every day that such violation occurs. For the purposes of issuing a non-criminal disposition penalty, both the Planning Board Director and Conservation Commission Administrator are named as the specific enforcing agents.

E. Appeals. The decisions or orders of issuing Commission/Board shall be final. Further relief shall be to a court of competent jurisdiction.

F. Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

6.15 Filing With Registry of Deeds

The applicant must file the issued Erosion and Sedimentation Control Permit with the Middlesex Registry of Deeds within 21 days from issuance.

6.16 Certificate of Completion

The issuing authority will issue a letter certifying completion upon receipt (with appropriate continuing requirements) and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw, noting any exceptions and to which permit condition these exceptions apply. The Certificate of Compliance will stipulate that the permit holder is to remove required erosion controls (unless changed or waived by the Conservation Administrator) within 60 days of the date on the Certificate. This Certificate of Completion will be filed by the applicant at the Middlesex Registry of Deeds within 21 days.

6.17 Severability

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

Note: Amended Art. 7 TM 9/25/06. App. AG 10/31/06. Posted 11/20/06.

7.0 Illicit Discharges and Detection

7.1 Purpose/Intent

The purpose of this bylaw is to protect Burlington's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment through the regulation of non-storm water discharges to the storm drainage system to the