

Article No.

**GENERAL BY-LAWS
TOWN OF MANSFIELD**

**CHAPTER 25
STORMWATER MANAGEMENT BY-LAW**

Part A: Illicit Discharges to the Municipal Storm Drain System

**Part B: Stormwater Management and Land Disturbance
(New Developments, Redevelopments, and Post Construction)**

Stormwater Management By Law

Part A: Illicit Discharges To The Municipal Storm Drain System

SECTION 1. PURPOSE

A. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:

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; and
4. flooding.

The United States Environmental Protection Agency has identified land disturbance and polluted stormwater as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Mansfield's water bodies and groundwater, and to safeguard the public health, safety, welfare and the natural resources of the Town.

The objectives of this by-law are:

1. to prevent pollutants from entering the Town of Mansfield's municipal storm drain system;
2. to prohibit illicit connections and unauthorized discharges to the Town;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement;
6. to supplement the Board of Health Regulation on the Disposition of Motor Oil, dated April 20, 1989, as hereafter amended.

SECTION 2. DEFINITIONS

For the purposes of this by-law, the following shall mean:

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

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

GROUNDWATER: Water beneath the surface of the ground.

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

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7, subsection 4, of this by-law.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

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

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

STORMWATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

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

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.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth.

Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;
- (10) construction wastes and residues; and
- (11) and noxious or offensive matter of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

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

STORMWATER: Runoff from precipitation or snow melt.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

SECTION 3. APPLICABILITY

This by-law shall apply to flows entering the municipal storm drainage system.

SECTION 4. AUTHORITY

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

Protection Agency found in the December 8, 1999 Federal Register.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION

The Department of Public works shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Department of Public Works may be delegated in writing by the Department of Public Works to its employees or agents.

SECTION 6. REGULATIONS

The Department of Public Works may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

SECTION 7. PROHIBITED ACTIVITIES

Prohibited activities are as follows:

1. **Illicit Discharges:** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth.

2. Illicit Connections: No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

3. Obstruction of Municipal Storm Drain System: No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works.

SECTION 8. EXEMPTIONS

Exemptions from the by-law are as follows:

1. Discharge or flow resulting from fire fighting activities.
2. Discharge or flow that results from conditions that require immediate action and occurs during a state of emergency declared by any agency of the Federal or State Government, or by the Mansfield Town Manager, Board or Selectmen or Board of Health.
3. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (i) Discharge from landscape irrigation or lawn watering;
 - (j) Water from individual residential car washing;

- (k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided test data is submitted to the Town substantiating that the water meets the one ppm standard and the pool is drained in such a way as not to cause a nuisance or public safety issue, and complies with all applicable Town by-laws;
- (l) Discharge from street sweeping;
- (m) Dye testing;
- (n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (o) Discharge for which advanced written approval is received from the Conservation Commission and the Department of Public Works as necessary to protect public health, safety, welfare or the environment.

SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

SECTION 10. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police Departments, the Conservation Commission and the Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Conservation Commission and the Department of Public Works no later than the next business day. The reporting person shall provide to the Conservation Commission and the Department of Public Works written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 11. ENFORCEMENT

A. Authorized Agents: The Department of Public Works, or an authorized agent of Department of Public Works, shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Civil Relief: If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

C. Orders: The Department of Public Works, or an authorized agent of the Department of Public Works, may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the municipal sewer system; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Mansfield may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department of Public Works within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Department of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, S. 57 after the thirty-first day at which the costs first become due.

D. Criminal Penalty: Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Non-Criminal Disposition: As an alternative to criminal prosecution or civil action, the Town of Mansfield may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the Enforcement Appendix of the General By-laws of the Town of Mansfield, in which case the enforcing person shall be as defined in the General By-laws. The penalty for each violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F. Entry to Perform Duties Under this By-Law: To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Department of Public Works deems reasonably necessary.

G. Appeals: The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

H. 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.

SECTION 12. SEVERABILITY

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

SECTION 13. TRANSITIONAL PROVISIONS

Residential property owners shall have 180 days from the effective date of the by-law to comply with its provisions, or petition the Department of Public Works for an extension with the reasons for failure to comply and a schedule for compliance.

Part B: Stormwater Management and Land Disturbance

SECTION 1. PURPOSE

A. Increased volumes of stormwater and contaminated stormwater runoff, and soil erosion and sedimentation are the major causes of:

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; and
5. Overloading or clogging of municipal catch basins and storm drainage systems.

B. The objectives of this bylaw are to:

1. Protect water resources;
2. Require practices that eliminate soil erosion and sedimentation;
3. Control the volume and rate of stormwater runoff resulting from land disturbance activities to minimize potential impacts of flooding;
4. Promote infiltration and the recharge of groundwater;
5. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
6. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
7. Prevent pollutants from entering the municipal storm drain system;
8. Ensure adequate long-term operation and maintenance of structural stormwater best management practices;
9. Comply with state and federal statutes and regulations relating to stormwater discharges; and
10. Establish the Town of Mansfield's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

SECTION 2. DEFINITIONS

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

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that

changes the water quality, force, direction, timing or location of runoff flowing from the areas. Such changes include: change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area, change in the peak rate of runoff from the area, and change in the recharge-to-groundwater on the area.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Conservation Commission, its employees or agents designated to enforce this by-law.

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 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 of 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) or a Professional Land Surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

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

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

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water

infiltrating the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks and rooftops.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS ENDANGERED SPECIES ACT: (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the “taking” of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER 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 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.

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

OPERATION & MAINTANANCE PLAN: A plan describing the functional, financial and organizational mechanisms for the on-going operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

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

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency,

authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

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, or similar material.

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

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a qualified Professional Engineer (PE) or a Professional Land Surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operational & Maintenance Plan describing the maintenance requirements for best structural management practices.

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

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

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 the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the Town of Mansfield's wetland by law/ordinance.

WETLANDS: Tidal and non-tidal 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), brackish and salt marshes; common names include marshes, swamps and bogs.

SECTION 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, published in the Federal Register on December 8, 1999.

SECTION 4. APPLICABILITY

This bylaw shall apply to all activities that result in disturbance of one or more acres of land in the Town of Mansfield. Except as permitted by the Conservation Commission or as otherwise provided in this bylaw, no person shall perform any activity that results in disturbance of an acre or more of land.

SECTION 5. EXEMPT ACTIVITIES

1. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4.
2. Storm water discharges resulting from activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission.

SECTION 6. ADMINISTRATION

A. The Conservation Commission shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon, the Conservation Commission may be delegated in writing by the Conservation Commission to its employees or agents.

B. Waiver: The Conservation Commission 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,
- (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 may adopt, and periodically amend rules

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

SECTION 7. PERMITS and PROCEDURES

Permits are required prior to an activity disturbing an acre or more of land. The site owner or his Agent shall file for the permit with the Conservation Commission; however, any permit will be issued to the Owner.

A. Application: A completed application for a Land Disturbance Permit shall be filed with the Conservation Commission in a form and containing information as specified in this by law and in regulations adopted by the Conservation Commission. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more. The Land Disturbance Permit Application package shall include:

1. A completed Application Form with original signatures of all owners;
2. A list of abutters, certified by the Assessors Office;
3. Eight (8) copies of submittal documents;
4. Payment of the application and review fees; and
5. One (1) copy each of the Application Form and the list of abutters filed with the Town Clerk.

B. Fees: Application fees shall be established by the Conservation Commission to cover expenses connected with public notice, application review, and monitoring permit compliance. In addition, the Conservation Commission may also establish a professional review fee sufficient to cover a professional review based on the magnitude of the project and the potential environmental impacts. The Conservation Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Land Disturbance Permit may be required to establish and maintain an escrow account to cover the costs of said consultant.

C. Information Requests: The Commission may request such additional information as is necessary to enable the Commission to determine whether the proposed land disturbance activity will protect water resources and meet the objectives of this by law.

D. Determination of Completeness: The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

E. Coordination with Other Boards: On receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall distribute one (1) copy each to the Planning Board, Department of Public Works, Board of Health, Engineering Department, and Building Department for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Land Disturbance Permit until it has received reports from said agencies, or until said

agencies have allowed forty (40) days to elapse after receipt of the application materials without submission of a report thereon.

F. Entry: Filing an application for a land disturbance permit grants the Conservation Commission, or its Agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

G. Hearing: Within sixty (60) days of receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall hold a public hearing and shall take final action within sixty (60) days from the close of the hearing unless such time is extended by agreement between the Applicant and the Conservation Commission. Notice of the public hearing shall be given by publication in a local paper of general circulation, by posting and by certified mailings to abutters, at least fourteen (14) days prior to the hearing. The Conservation Commission shall be responsible for posting the notice at the Town Hall. The Applicant shall be responsible for publishing the notice in the local newspaper and for notifying abutting property owners, by certified mail, return receipt requested. Copies of the certified mail receipts shall be submitted to the Conservation Commission for verification prior to opening the public hearing. The Conservation Commission shall make the application available for inspection by the public during regular business hours at the Town of Mansfield Conservation office.

H. Action: The Conservation Commission may:

1. **Approve** the Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law;
2. **Approve the Application and issue a permit with conditions, modifications or restrictions** that the Conservation Commission determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law;
or
3. **Disapprove the Application and deny the permit** if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law. If the Conservation Commission finds that the Applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

I. Project Changes: The Permittee, or their Agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in Part II or Part III of the Regulations adopted by the Conservation Commission under this by law, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

SECTION 8. EROSION AND SEDIMENT CONTROL PLAN

A. The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and 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 standards and contain the information listed in the Regulations, adopted by the Conservation Commission for administration of this by law.

SECTION 9. STORMWATER MANAGEMENT PLAN

The Stormwater Management Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The Applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this By law.

SECTION 10. OPERATION AND MAINTENANCE PLANS

A. An Operations and Maintenance Plan (O&M Plan) for the permanent stormwater management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this By law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Conservation Commission shall make the final decision of what maintenance is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, potential need for on-going maintenance activities when making this decision, and require the submittal of certified annual reports as part of the O&M Plan. Once approved by the Conservation Commission, the Operations and Maintenance Plan shall be recorded at the Bristol County Registry of Deeds by the Permittee, shall remain on file with the Conservation Commission and shall be an on-going requirement. The Operations and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this By-law. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

B. Changes to Operation and Maintenance Plans

1. The owner(s) of the stormwater management system must notify the Conservation Commission or its Agent 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 Conservation Commission and the Responsible Parties. Responsible Parties shall include Owner(s), persons with financial responsibility, and persons with operational responsibility. Once the amended Plan is signed, the Conservation Commission shall file it at the Registry of Deeds at the expense of the current Owner(s).

SECTION 11. INSPECTION

A. Board Inspection: The Conservation Commission, or its designated agent, shall be notified one (1) week prior to the start of construction for inspection of the erosion and sediment control measures by the Commission. One (1) copy of the permit and approved plans shall be maintained at the site during the progress of the work. Subsequent inspections shall be at the discretion of the Commission or its designated Agent.

B. Permittee 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 Conservation Commission or designated agent in a format approved by Conservation Commission. The Conservation Commission may require, as a condition of approval, that the Permittee's inspections be conducted by a person qualified in environmental monitoring and approved by the Commission.

C. Access Permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Conservation Commission, 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 Conservation Commission deems reasonably necessary to determine compliance with the permit.

SECTION 12. SURETY

The Conservation Commission may require the Permittee to post before the start of land disturbance 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 Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission 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 Commission has received the final report and as-built plan as required by Section 13 and issued a certificate of completion.

SECTION 13. FINAL REPORTS AND AS-BUILT PLAN

Upon completion of the work, the Permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (PE), or Professional Land Surveyor (PLS), 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. In addition to a paper copy of the as-built construction plan, one digital file shall be submitted in AutoCad DWG; but DXF format will be acceptable. The media shall be 3.5" floppy disk or CD. The plan Vertical Datum shall reference the North American Vertical Datum of 1988 (NAVD88), and the plan shall contain a minimum of two benchmarks. The horizontal orientation shall be tied and referenced to the Mansfield GIS horizontal control monuments (North American Datum of 1983, NAD83).

SECTION 14. ENFORCEMENT

A. The Conservation Commission, or an authorized agent of the Commission shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

1. The Conservation Commission, or an authorized agent of the Commission, 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 the bylaw and provisions of the land-disturbance permit;
- (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 person 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 Town of Mansfield may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Mansfield, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

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 of not more than \$300. 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, the Town of Mansfield may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the Enforcement Appendix of the General By-laws of the Town of Mansfield, in which case the enforcing person shall be as defined in the General By-law. The penalty for each violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the Conservation Commission 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.

SECTION 15. CERTIFICATE OF COMPLETION

The Conservation Commission will issue a letter certifying completion upon receipt 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.

SECTION 16. 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.