Chapter 290

STORMWATER MANAGEMENT

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[HISTORY: Adopted by the Planning Board of the Town of Hudson as amended through ~~4-2-~~ ____ ~~2020~~[1]2026. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Excavation of soil — See Ch. 200.

Site plan review — See Ch. 275.

Administrative requirements and definitions — See Ch. 276.

Subdivision of land — See Ch. 289.

Zoning — See Ch. 334.

Engineering Technical Guidelines & Typical Details

§ 290-1. Purpose and Goals; when effective; applicability.

A. The purpose and goals of this regulation include the following:

(1) To protect the health, safety and general welfare of the Town of Hudson residents.

(2) To maintain and improve the integrity of the Town's surface and groundwater resources as well as preserve their recreational value and natural functions.

(3) To establish stormwater management standards for land development activities and land disturbance activities to minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, flooding damage and nonpoint source pollution associated with stormwater runoff consistent state and federal regulatory requirements.

(4) To prohibit non-stormwater discharges into the municipal stormwater drainage system or to any surface water bodies or wetlands.

~~1. Editor's Note: The regulations adopted this date also superseded former Ch. 290, Stormwater Management, adopted 10-14-2015.~~

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B. To comply with the U.S. Environmental Protection Agency's (EPA's) Municipal Separate Storm Sewer System (MS4) Permit for New Hampshire, which requires regulated municipalities to adopt enhanced construction and post-construction stormwater controls as outlined in Sections 2.3.5 and 2.3.6 of the MS4 Permit, respectively.

C. Applicability thresholds and PLANNING BOARD submittal requirements for proposed projects that are subject to these stormwater management standards are described below. The APPLICANT shall also design in accordance with~~review~~ the Town of Hudson's Engineering Technical Guidelines Handbook (as amended) and the New Hampshire Stormwater Manual for guidance and design details ~~on Best Management Practices (BMPs)~~ to reduce and treat stormwater runoff.

D. Any errors or omissions in these regulations shall not exempt the APPLICANT from complying with any other applicable town, state and federal statutes. In the event of conflicting requirements between this regulation and any existing or subsequently adopted regulation or ordinance of the Town of Hudson, pursuant to RSA 676:14, the provision that imposes the greater restriction or higher standard shall be controlling.

E. The regulation shall become effective upon adoption by the PLANNING BOARD in accordance with provisions of RSA 675:6 and shall apply thereafter to all development and redevelopment projects within the Town of Hudson, pursuant to the PLANNING BOARD's authority to regulate SUBDIVISIONs and SITE PLANs.

§ 290-2. Definitions; abbreviations.

Words in all CAPITAL LETTERS are those with special definitions as noted in § 276-2 of the LAND USE REGULATIONS.

As used in this regulation, the terms listed in § 276-2 of the Land Use Regulations shall have the meanings indicated therein.

APPLICANT — The person, persons, corporation or other legal entity, or their assigns, applying for a Site Plan, Subdivision, Excavation, Driveway and/or Stormwater Management Permit.

BEST MANAGEMENT PRACTICE — Construction period erosion and sedimentation control practices and post-construction good housekeeping practices, including but not limited to: source controls; pollution prevention measures; operating procedures and practices to control site runoff; spillage or leaks; sludge or waste disposal; or drainage from raw material storage..~~A proven or accepted structural, nonstructural, or vegetative measure, as described in the New Hampshire Stormwater Manual (as amended) which reduces erosion, peak runoff rate or volume, or improves the quality of stormwater runoff.~~

CRITICAL AREA — Disturbed area of any size within 50 feet of a stream, bog, water body, or poorly or very poorly drained soils; or disturbed areas exceeding 2,000 square feet in highly erodible soils; or disturbed areas of more than 25 feet in length on slopes greater than 10%.

DEVELOPMENT — Any construction or land disturbance or grading activities other than for agricultural and silvicultural practices.

DISCONNECTED IMPERVIOUS COVER — Impervious cover that directs stormwater runoff to on-site vegetated areas to allow infiltration into the soil or be filtered by overland flow such that the stormwater is not directly released from a site to off-site drainage infrastructure or adjacent water bodies or wetlands.

DISTURBANCE — Any grading, excavation or other land disturbance activity for the purpose of development or redevelopment and not part of any routine maintenance activity associated with existing developed areas.

EFFECTIVE IMPERVIOUS AREA — Impervious cover that discharges stormwater runoff directly to other paved surfaces, off-site drainage infrastructure or adjacent water bodies or wetlands.

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GROUNDWATER RECHARGE VOLUME (GRv) — Volume of runoff to be infiltrated based on existing soils as calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.12.

IMPERVIOUS SURFACE — Any surface that prevents or significantly impedes infiltration of water into the underlying soil. This includes, but is not limited to, buildings, rooftops, asphalt or concrete paved areas, artificial turf and compacted gravel or soil resulting from vehicle traffic.

LOW-IMPACT DEVELOPMENT (LID) — Low-impact development consists of site planning and design strategies intended to maintain or replicate predevelopment hydrology through the use of site planning, source control, and small-scale practices integrated throughout the site to prevent, infiltrate and manage runoff as close to its source as possible. Examples of LID strategies are pervious pavement, rain gardens, green roofs, bioretention basins and swales, filtration trenches, and other functionally similar BMPs located near the runoff source.

NEW DEVELOPMENT — Any proposed construction, land alteration or site grading on an existing undeveloped parcel or a developed parcel with less than 40% of the parcel area comprised of impervious surfaces.

QUALIFIED PROFESSIONAL — A person knowledgeable in the principles and practice of stormwater management and erosion and sedimentation control, including a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Professional in Storm Water Quality (CPSWQ) or a licensed Professional Engineer (PE).

REDEVELOPMENT — Any construction, land alteration, or improvement of any existing parcel that is already developed and has 40% or more the parcel area comprised of impervious surfaces. Alterations and improvements may include proposed disturbances to existing impervious area (including demolition and removal of road/parking lot materials down to the erodible subbase).

STABILIZED ~~SOIL —~~ a condition in which the soils on the site will not erode under the conditions of a 10-year storm.

~~A. When the soil erosion rate approaches that of undisturbed soils, soils which are disturbed shall be considered protected when covered with a healthy and stabilized when one of the following is achieved:~~

~~(1) A minimum of 85% vegetative cover has been established;~~

~~(2) A minimum of 3 inches of non-erosive material such as stone or riprap has been placed; or~~

~~(3) Erosion control blankets have been installed in accordance with Env-Wq 1506.03.~~

~~B. Note: Measures listed under Subsections A(2) and (3) are considered temporary and ultimately, the site needs to be fully vegetated or have a non-erodible surface.~~

STORMWATER CONTROL MEASURE (SCM) —A structural or nonstructural technique for managing stormwater to prevent or reduce point or nonpoint source pollutants from entering surface waters or ground waters. A nonstructural Stormwater Control Measure includes but is not limited to source control, some Low Impact Development techniques or practices, street cleaning and pollution prevention measures. A structural Stormwater Control Measure includes, but is not limited to, a basin, discharge outlet, swale, rain garden, filter, some Low Impact Development techniques or practices, or other stormwater treatment practice or measure either alone or in combination, including without limitation, any overflow pipe, conduit, weir control structure that:

o Is not naturally occurring.

o Is not designed as a wetland replication area.

o Has been designed, constructed, and installed for the purpo

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WATER QUALITY VOLUME — Volume of runoff to be retained or treated as calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.10.

§ 290-3. Applicability Thresholds for a Stormwater Management and Erosion Control Plan.

A. The APPLICANT shall prepare and submit a STORMWATER MANAGEMENT AND EROSION CONTROL PLAN (SMECP) to the PLANNING BOARD and TOWN ENGINEER for any tract of land being proposed for development, redevelopment or subdivided within the boundaries of the Town of Hudson, where one or more of the following conditions are proposed:

(1) A cumulative disturbed area exceeding 20,000 square feet.

(2) Work within the applicable wetlands buffer and/or adjacent wetlands.

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(3) Any disturbance within CRITICAL AREAS (see definitions).

B. Exemptions. The following activities are considered exempt from these regulations:

(1) Agricultural and forestry practices performed in accordance with Best Management Practices included in the NH Department of Agriculture BMP Manual (July 2017 or as amended) or the UNH Cooperative Extension BMP Manual for Forestry, respectively.

(2) Resurfacing and routine maintenance of roads and parking lots that do not disturb gravels/subbase.

(3) Exterior and interior alterations or maintenance to existing buildings and structures.

(4) Linear excavation and trenching for utility installation or maintenance involving daily trench and cover techniques.

C. Submittal of Stormwater Management and Erosion Control Plan (SMECP) shall be submitted both electronically and in hard copy along with the SITE PLAN and/or SUBDIVISION application and shall include the required elements as outlined in § 290-7 of these regulations.

§ 290-4. Application Plan Review and Approval.

A. Review and approval of the SMECP shall be done concurrently by the PLANNING BOARD, the TOWN ENGINEER and others and the PLANNING BOARD shall consider the TOWN ENGINEER recommendations.

B. At the PLANNING BOARD's and/or TOWN ENGINEER's discretion, a third party, technical review may be required of any SMECP prepared under these regulations. The technical review shall be performed by a qualified professional consultant, as agreed upon by the PLANNING BOARD, at the applicant's expense.

C. The PLANNING BOARD shall indicate approval of the SMECP, as filed, if it complies with the requirements of this regulation. Review and recommendations shall be provided by the TOWN ENGINEER or agent thereof. As applicable, such recommendations shall be included in the Subdivision or Site Plan approval.

D. At the PLANNING BOARD's discretion and in consultation with the TOWN ENGINEER, the BOARD may waive certain requirements that are not relevant or applicable to the proposed project based upon an Applicant's written request.

E. Final SMECP approval shall be contingent upon collection of any required fees or escrow amounts related to technical review of any SWMP prepared under this regulation.

F. After PLANNING BOARD approval of the SMECP, and as established in the Notice of Decision, the property owner of record shall record at the Registry of Deeds documentation sufficient to provide notice to all persons that may acquire any property that the property is subject to the requirements and responsibilities described within the approved SMECP, including the operation and maintenance requirements and all BMPs (see RSA 477:3-a). The notice shall comply with applicable requirements for recording contained in RSA 477 and 478.

Commented [EC1]: Jay- Can you confirm that this is happening or is this outdated and should be removed. Or is this more language covered in Admin Rules.

§ 290-5. Post-Construction Stormwater Management Standards for New and Redevelopment

A. Basic Post-Construction Stormwater Management Standards: The following are minimum post-construction stormwater management standards that shall apply to all new proposed development and

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redevelopment activity that trigger the Applicability Thresholds outlined in § 290-3 above and/or will discharge stormwater to area wetlands and surface waters. The Applicant shall include a narrative and appropriate design details in the SMECP demonstrating how the following standards will be met as well as the construction and erosion control related items listed in § 290-6:

(1) Low-Impact Development (LID) planning and design strategies have been included to the maximum extent practical, to reduce the disturbance and impervious cover , minimize the volume of stormwater runoff discharged from the site, as well as preserve and protect existing vegetation. If LID measures are determined to be impractical or inappropriate, the Applicant shall document in writing why LID strategies or measures are not appropriate or practical for the particular site.

(2) Stormwater runoff from developed portions of the site shall be treated on site to the maximum extent practicable and not discharged directly to municipal drainage systems, privately owned drainage systems or to surface water bodies and wetlands that will cause adverse water quality impacts or additional flooding.

(3) Minimize the amount of effective impervious area through use of ~~permeable pavement,~~ capture/reuse measures or other methods designed to disconnect impervious area and retain/infiltrate water on site through vegetative islands, rain gardens, bioretention systems, tree box filters and/or filter strips.

(4) Maintain existing groundwater recharge volume GRv in accordance with the NHDES Alteration of Terrain regulations (Env-Wq 1504.04) while accounting for the existing Hydrologic Soil Group (HSG) types. For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment. All groundwater recharge systems shall require on-site test pit and percolation test data to be submitted as part of the review.

(5) Implement measures to control the post-development peak rate runoff so that it does not exceed pre-development runoff. Drainage analyses shall include calculations comparing pre- and post-development stormwater runoff rates (cubic feet/second) and volumes (cubic feet) for the two-, ten-, twenty-five-, and fifty-year twenty-four-hour storm events.

(6) Stormwater management SCM~~BMP~~ sizing and design shall be based on the Cornell extreme precipitation data ~~tables~~ posted at the Northeast Region Climate ~~Center~~ Service (~~NRCC~~NRCS) or the equivalent National Oceanic and Atmospheric Administration (NOAA) Atlas Point Precipitation Frequency Estimates information. ~~See NRCC website at http://precip.eas.cornell.edu/.~~

(7) The proposed stormwater drainage system shall not result in flooding or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation while accounting for upstream and upgradient runoff that flows onto, over, or through the site to be developed or redeveloped and provide for this contribution of runoff.

(8) Where practical, native site vegetation shall be retained, protected, or supplemented. Vegetation removal shall be done in a manner that minimizes soil erosion.

(9) Seasonal high-water table elevations must be accounted for in all SCM/BMP designs as specified in the current New Hampshire Stormwater Manual ~~Volume 2 (as amended)~~.

(10) Locate stormwater management and erosion and sediment control practices outside any protected buffer zones unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered

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whenever possible.

(11) Design and size permanent stormwater management measures in accordance with the design guidelines and sizing criteria included in the current New Hampshire ~~H~~ Stormwater Manual ~~prepared by the NH Department of Environmental Services, 2008, as amended~~.

(12) Develop a long-term maintenance plan and agreement that meets the requirements outlined in § 290-8.

(13) Design salt storage areas to be fully covered with permanent or semipermanent measures and locate salt loading/off-loading areas to prevent runoff from draining directly to receiving waters and shall be maintained with good housekeeping measures in accordance with NHDES published guidance. Runoff from snow and salt storage areas shall be directed to treatment areas before discharging to receiving waters or allowed to infiltrate into the groundwater. See NHDES website for published guidance fact sheets on road salt and water quality, and snow disposal.

B. Enhanced Stormwater Management Standards for New Development and Redevelopment Projects that will Disturb 40,000 square feet or more:

(1) New Development: In addition to the Basic Stormwater Management Standards in Subsection A above, new development projects that will disturb 40,000 square feet or more shall also meet one of the following enhanced stormwater management requirements in accordance with EPA's MS4 Stormwater Permit requirements:

(a) Incorporate stormwater treatment BMPs into the project design that are designed to retain the Water Quality Volume generated from the total post-construction impervious area to the maximum extent practicable and calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.10.; or

(b) Incorporate stormwater treatment BMPs designed to remove 80% of the average annual Total Suspended Solids (TSS) load and 50% of the average annual Total Phosphorus (TP) load generated from the total post-construction impervious area to the maximum extent practicable. Provide NHDES "BMP Worksheets" or if utilizing propriety devices, provide support materials or calculations showing the required pollutant removals. [NOTE: Pollutant removal efficiencies shall be based on procedures contained in Attachment 3 of Appendix F of the ~~2017~~ current NH MS4 Permit or by using the Best Management Practices (BMP) Performance Data Contained in the current ~~Appendix E of the~~ New Hampshire Stormwater Manual~~, Volume 1, 2008 or as amended.~~]

(2) Redevelopment: In addition to the Basic Stormwater Management Standards in Subsection A of this section, redevelopment project that will disturb 40,000 square feet or more shall meet one of the following stormwater treatment standards in accordance with EPA's MS4 Stormwater Permit requirements;

(a) Implement LID or stormwater treatment measures that will treat or disconnect at least 30% of the existing impervious cover and 50% of any additional proposed impervious surface or paved areas using filtration and/or infiltration practices; or

(b) Implement LID or stormwater treatment measures on site to provide disconnection or treatment for at least 50% of the entire site area.

NOTE: Any new impervious surface associated with new or redevelopment that drain to nutrient impaired water bodies such as Robinson Pond or Otternick Pond should meet the Anti-degradation Provisions of State Water Quality Standards (Env-Wq. 1708) and demonstrate no additional phosphorus loading to these water bodies.

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C. Municipal projects: All municipal projects shall comply with water quality control measures defined in this regulation. Nothing regarding municipal projects is intended to impose any greater requirement than is already required by RSA 674:54.

§ 290-6. Construction Erosion Control and Stormwater Standards.

The design shall conform to the standards set forth in the current NHDES NH Stormwater Manual ~~(as amended), or as directed in the Land Use Regulations, whichever dictates the higher standard~~.

A. Temporary/Construction Stormwater Management Design. The following standards shall be applied in planning for stormwater management and erosion control as it relates to construction. If a Stormwater Pollution Prevention Plan (SWPPP) has been prepared to comply with the EPA Construction General Permit (CGP), the SWPPP can also be utilized to satisfy related portions of the required SMECP contents, provided that the listed required elements are included in the SWPPP.

(1) The selection, sizing, installation and maintenance of all erosion and sediment control measures included in the SMECP shall meet, as a minimum, the Best Management Practice design guidance set forth in the current New Hampshire~~H~~ Stormwater ~~Management~~t Manual ~~(Vols. 1, 2, and 3, as amended)~~.

(2) Whenever practical, natural vegetation shall be retained, protected and/or supplemented. The clearing of vegetation shall be done in a manner that minimizes soil erosion. Vegetated areas to be retained should be clearly marked and protected using construction fencing or similar means.

(3) Soil disturbance shall be avoided within established buffer setbacks as established by the Town Wetland and Conservation Overlay District.

(4) The area of disturbance shall be kept to a minimum through use of Low-Impact Development (LID) site design and treatment methods to preserve and protect the integrity of existing natural resources to the maximum extent practical.

(5) Construction site disturbance should be limited to only disturb the area necessary for a particular construction activity or phase of development especially in winter months.

(6) Adequate temporary solid waste and sanitary waste disposal facilities shall be maintained on site during the construction period, as necessary.

(7) Adequate construction stone access pads shall be installed and maintained at site entrance and exit locations to prevent mud and sediment from being tracked on to pavement.

(8) An on-site pre-construction meeting shall be held with the TOWN ENGINEER or designated representative prior to initiating earth moving activities and after perimeter erosion control measures, protective fencing, waste disposal and construction access pads have been installed.

(9) Disturbed soil areas that will remain idle for more than 30 days shall be temporarily stabilized as soon as practicable but no later than five days from the initial disturbance with seed and mulch, erosion control blankets or crushed stone or other suitable measures approved by the TOWN ENGINEER or designated representative. All disturbed soil areas that have achieved final grading shall be permanently stabilized within three days following final grading.

(10) Up-gradient surface runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried non-erosively through the project area. Integrity of downstream drainage systems shall be maintained.

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(11) Natural drainage patterns and conveyances, including intermittent streams, swales, and drainage ditches shall be maintained to the extent practical to convey runoff from the project area. Perimeter controls shall not be placed within wetlands or intermittent and perennial stream channels.

(12) Disturbed areas that will remain idle over the winter period shall employ winter stabilization measures as described in Section 4-3 of the current New Hampshire Stormwater Manual~~, Volume 3, as amended~~.

(13) All erosion and sediment control measures shall be designed and installed in accordance with guidelines contained in the current New Hampshire ~~H~~ Stormwater Manual~~, Volume 3, as amended~~.

(14) All erosion control measures and related drainage ways shall be routinely inspected and maintained by a qualified professional to ensure measures remain in functioning condition until final site stabilization is accomplished. See § 290-6 .

(15) All temporary erosion and sediment control measures and accumulated sediment shall be removed after final site stabilization.

§ 290-7. Stormwater Management and Erosion Control Plan (SMECP) Contents.

The following are minimum technical details to be included in stormwater management and erosion control plans (SMECP). Additional requirements may be found in this and other sections of the Site Plan Review and Subdivision Regulations. At the PLANNING BOARD's discretion and in consultation with the TOWN ENGINEER, the Board may waive certain items that are not relevant or applicable to the proposed project following written request by the Applicant.

A. Stormwater Management and Erosion Control Plan (SMECP) Contents:

(1) Narrative that describes the proposed development activity, the construction period and timing, the proposed changes in existing land use, land cover and changes in impervious areas and how the various local and state stormwater management and erosion control standards will be met.

(2) Description of on-site and adjacent wetlands, streams and other water bodies or natural resources and the methods used to identify these resources.

(3) Description of Low-Impact Development (LID) practices and other protective measures to limit impacts to adjacent natural resources and water bodies.

(4) Description of any applicable buffer setbacks, steep slopes, critical areas, existing mature vegetation, unique habitat conditions, 100-year floodplain limits, man-made and natural drainage conveyances and constraints and known water quality based on local data or the NHDES 303(d) list.

(5) Description of the proposed erosion control and stormwater treatment measures, dewatering methods, methods and calculations of stormwater runoff rate and volumes and BMP sizing, demonstration of no downstream impacts, inspection and maintenance procedures including discussion of roles and responsibilities and contingency measures for extreme precipitation events during construction.

(6) Calculations for the infiltration or exfiltration system, test pit information including estimated seasonal high-water table elevation for any proposed infiltrating or exfiltrating device. These calculations should also account for frozen ground conditions, when the devices may not function at their optimal design.

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(7) Any other specific study, calculation, or investigation as requested by the Town.

(8) The SMECP and Drainage Plans shall be certified by a licensed professional engineer, registered in the State of New Hampshire.

(9) An erosion control inspection and maintenance plan that describes inspection protocols, frequency, reporting, roles and responsibilities, contact information and contingency plans for extreme weather events.

(10) A long-term post-construction stormwater BMP maintenance plan that describes inspection and maintenance procedures for all post-construction stormwater control measures including a description of the responsible party that will perform the long-term maintenance, reporting procedures and process for corrective actions.

B. Plans of both existing and proposed conditions shall present the following items:

(1) Locus map.

(2) Parcel map showing property boundaries and any existing and proposed easements.

(3) North arrow, scale, date and existing and proposed topographic contours at two-foot intervals.

(4) Existing and proposed structures, utilities, roads and limits of other paved areas.

(5) Locations and limits of CRITICAL AREAS within the Project Area and within 200 feet of project boundary and surface waters and wetlands.

(6) Surface water and wetlands, drainage patterns, and watershed boundaries.

(7) Limits of disturbance, areas of cut and fill and limits and types of existing mature vegetation.

(8) Locations and detail notes of the sediment and erosion control measures including, but not limited to, temporary and permanent stabilization measures, perimeter controls, slope stabilization, construction access pads and spill containment measures to be used at various locations and stages of construction.

(9) Proposed stockpiles, equipment storage and refueling areas, and a plan for stump and debris removal.

(10) Identify locations and type of sanitary and solid waste disposal facilities, if applicable.

(11) Construction schedule, phasing and grading details.

(12) Extent of 100-year floodplain boundaries if published or determined.

(13) Soils information from a National Cooperative Soil Survey (NCSS) soil series map or a High Intensity Soil Map of the site, prepared in accordance with SSSNNE Special Publication No. 1. HIGHLY ERODIBLE SOILS shall be determined ~~by soil series~~based on the requirements of the current New Hampshire Stormwater Manual.

(14) Identify temporary and permanent wetland impact areas of poorly and/or very poorly drained soils and areas proposed to be filled.

(15) Identification of permanent stormwater treatment ~~BMPs~~ SCMs and associated design and sizing details.

(16) Locations of post-construction snow storage areas and temporary snow storage area during

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construction.

(17) The direction of flow of runoff using arrows and location, elevation, and size of all existing and proposed catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers shall be shown on the plan.

(18) As applicable, test pit log forms, subsurface inspection results and infiltration rates.

(19) Location and description of nearest receiving water (include at least 1/4 mile downstream), drainage channels, conveyance systems and information on water quality impairments.

(20) A demonstration or explanation showing the adequate capacity of the downstream system to handle flow conditions after Development.

(21) A demonstration or explanation showing that the Development of the site shall not affect the downstream systems negatively.

§ 290-8. Required Actions following Plan Approval and Prior to Construction.

A. Construction Plan Documents and Approvals:

(1) Two copies of the SMECP, and associated construction documents must be provided at that time. The SMECP must bear the seal and signature of the New Hampshire registered professional engineer preparing the documents.

(2) Prior to commencement of construction, the Planning Department shall confirm that the documents submitted meet the conditions of PLAN approval. An appropriate notation shall be made on the "official" construction set used by the Code Enforcement Officer and/or Engineering Department.

(3) The Town Engineering Department reserves the right to prepare and request the APPLICANT's acknowledgement of a preconstruction checklist.

(4) The Town Engineering Department may require a bond or other security in an amount and with surety conditions satisfactory to the Town, providing for the actual construction and installation of such measures within a period specified by the Town and expressed in the bond or the surety.

(5) The Town Engineering Department may require the OWNER or his/her/its authorized agent or Successor to deposit in escrow with the Town an amount of money sufficient to cover the Town's costs for inspection and any professional assistance required for site compliance monitoring.

(6) The APPLICANT completes the project in a manner satisfactory to the Town and files a notice of termination (NOT) with the EPA in accordance with the terms of the federal requirements.

B. Roles and Responsibilities:

(1) The APPLICANT and its Owner/ Successor shall bear final responsibility for the installation, construction, inspection and disposition of all stormwater management and erosion control measures required by the provisions of this regulation.

(2) For commercial and industrial new development and/or redevelopment. The APPLICANT, OWNER, and OWNER's legally designated representative (if any) shall all hold responsibility for implementing the SMECP.

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(3) Residential DEVELOPMENT and redevelopment. The APPLICANT and/or its Legal Successor will be responsible for implementing the SMECP. There are two ways for the Town to consider an APPLICANT to be removed as the responsible party (The APPLICANT may also be required to comply with other regulating entities' additional requirements.):

(4) The APPLICANT passes legal responsibility for the Plan to another competent party. In the case of a new SUBDIVISION where Lots may be transferred to a different entity for construction of the buildings, it is the APPLICANT's responsibility to ensure that the APPLICANT has a legally binding agreement that ensures compliance by the new entity.

(5) Homeowner development. The homeowner association (HOA) of a subdivided property bears responsibility for performing the long-term inspection and maintenance plan contained in the approved SMECP. If a HOA is not established, the individual homeowners will share joint and several liability for implementing the plan. The HOA or individual homeowners may contract out these services to another person or entity and pass legal responsibility of compliance to the contracted entity. If the responsibility is not passed, the homeowner association or individual homeowners remain the responsible party and must comply with the terms of the original plan.

(6) The APPLICANT shall provide an emergency contact name and number for stormwater management emergency incidents. The contact name and number shall remain current during the life of the permit and shall be able to respond to an emergency as soon as possible and no more than four hours at any given time.

C. Preconstruction Meeting:

(1) The APPLICANT and the APPLICANT's Engineer (or technical representative) shall schedule and attend a mandatory preconstruction meeting with the Town Engineer or his/her/its designee at least two weeks prior to commencement of construction. Perimeter erosion controls and any markings or protective fencing indicating no-disturbance areas shall be installed and be clearly visible prior to the preconstruction meeting. (Note: Preconstruction conferences are typically not required for single-family and duplex construction.)

§ 290-9. Inspection and Maintenance Plan.

A. Long-term Operations and Maintenance O&M Plan: The applicant shall develop and execute an enforceable operations and maintenance plan for both erosion control measures and permanent stormwater treatment measures as well as related protective covenants or land preservation commitments with a long-term agreement that specifies who will be responsible for inspecting and maintaining the long-term integrity and the stormwater ~~BMP~~ SCM functions and protected area. The operations and maintenance shall be provided to the PLANNING BOARD as part of the application prior to issuance of any local permits for land disturbance and construction activities. The Plan shall include the following items at a minimum:

(1) This agreement will identify the Owner/ Operator and their successor that will be responsible for perform the inspections and maintenance and the ability to access these ~~BMPs~~ SCMs including all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater system.

(2) During the construction period, inspections shall be conducted at least once every seven calendar days or once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater.

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(3) Snow storage areas shall be shown. Snow storage is not allowed in stormwater treatment bays or basins.

~~(3)~~(4) Permanent Stormwater ~~BMPs~~ SCMs shall be inspected annually following post-construction.

~~(4)~~(5) The operations and maintenance plan shall specify the parties responsible for the proper maintenance of all stormwater treatment practices.

~~(5)~~(6) The approved plan shall be incorporated into the Development Agreement of the property on which such measures are located and recorded at the Hillsborough County Registry of Deeds. The narrative shall be in the form of a typical SITE PLAN Management or Development Agreement, or as otherwise set forth by the PLANNING BOARD.

B. Inspection reports are to be kept on-site in a location easily accessible to a Town Engineer.

C. If the APPLICANT is unable to adequately provide the required inspection and maintenance activities during construction, the Town may require additional escrow funding to be used by either the APPLICANT or the Town solely to repair, replace and/or maintain the required measures.

D. As a condition of PLANNING BOARD approval, the owner, his/her/its successor and assigns shall consent to inspections by the PLANNING BOARD or its designee for compliance with these regulations.

§ 290-10. Other Required Permits.

In addition to local approval, copies of the following permits shall be required if applicable:

A. ~~RSA 485-A:17 requires a PERMIT from the New Hampshire Department of Environmental Services for "[...]any person proposing to significantly alter the characteristics of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff[...]".~~NHDES Alteration of Terrain Permit: Regulations require this PERMIT for any project involving more than 100,000 contiguous square feet of disturbance or if such activity occurs in or on the border of the surface waters of the state as defined in Env-Wq 1500.

B. EPA's Construction General Permit for Stormwater Discharges Associated With Construction Activity (CGP): For a cumulative disturbance of one acre of land that the EPA considers "construction activity," which includes, but is not limited to, clearing, grading, excavation and other activities that expose soil typically related to landscaping, demolition and construction of structures and roads, a federal CGP shall be required. Consult the EPA for specific rules. To apply, the entity or individual responsible for construction site operations shall file a notice of intent (NOI) with the EPA at least seven days prior to work beginning. Discharge is authorized when the application status is listed as "authorized" in the EPA public NOI database or when the APPLICANT receives an EPA authorization letter by mail.

§ 290-11. Post-Construction Reports and Recordkeeping.

A. Stormwater treatment BMPs shall be inspected annually and maintained as needed. The inspection observations must be documented and at a minimum should include:

(1) All inspections records must be made available to the Town or authorized agent upon request.

(2) As-Built Plans shall be submitted to the Town Engineering Department within two years following completion of the project.

(3) A Copy of the Notice of Termination (NOT) for the EPA Construction General Permit shall be provided to the Engineering Department once the project has been completed and fully stabilized.

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B. Notification of spills or other non-stormwater discharges. As soon as any person responsible for a facility, site, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Town of Hudson's municipal storm system, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release so as to minimize the effects of the discharge. (If said individual is not competent to assess, contain, or clean up, that person shall immediately notify another competent individual or firm.)

C. If the substance poses an immediate health or safety concern, the TOWN OF HUDSON Emergency Services must immediately be notified. If the substance does not pose an immediate concern, the Town of Hudson Engineering Department should be notified. This notification should be made as soon as possible; however, no later than 24 hours post-event. This notification does not preclude and must be made in addition to any federal or state required notifications. The site operator/owner must be aware that discharges such as treated swimming pool water are not allowed discharges unless appropriate measures have been taken to reduce the treatment chemical concentrations in the water.

§ 290-12. Enforcement; violations and penalties.

A. Any violation of the requirements of this regulation. PLANNING BOARD Approvals and approved Plans shall be subject to the enforcement procedures detailed in RSA Chapter 676 in addition to any other remedy available in law or equity.

B. Written Notice of Violation/Cease and Desist Order. A written Notice of Violation/Cease and Desist Order shall be issued to the property OWNER by certified mail from the Town Engineer or designee if the agent determines that conditions at the site are in violation of any of the requirements of this regulation or Plans approved under this regulation and that the violation is not an immediate threat to public health and safety. The Notice of Violation/Cease and Desist Order shall include:

(1) The actions or conditions which violate the requirements of this regulation, PLANNING BOARD Approvals or Plans approved under this regulation.

(2) Identify what needs to be done to correct the violation(s).

(3) Specify a reasonable time frame within which the violation shall be corrected.

(4) The following note:

Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of $275 for the first offense, and $550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense.

In any legal action brought by a municipality to enforce, by way of injunctive relief as provided by RSA 676:15 or otherwise, any local ordinance, code or regulation adopted under this title, or to enforce any planning board, zoning board of adjustment or building code board of appeals decision made pursuant to this title, or to seek the payment of any fine levied under paragraph

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I, the municipality shall recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action.

C. If the property owner has failed to take corrective action(s) identified in the written Notice of Violation/Cease and Desist Order issued under Subsections A or B of this section within the time frame specified therein, the Town Engineer or designee may:

(1) Request Town Counsel to petition Superior Court for Penalties and Remedies: as allowed per RSA 676:15 Injunctive Relief, RSA 676:17, Fines and Penalties; Second Offense; and/or

(2) Proceed with Revocation of SUBDIVISION or SITE PLAN approval or building PERMIT or certificate of occupancy. If the Town and the developers are unable to reach a viable agreement related to any on-site violation, the PLANNING BOARD may revoke the SUBDIVISION or SITE PLAN approval pursuant to the provisions of RSA 676:4-a.

(3) In addition, the Community Development Department may revoke the building PERMIT or certificate of occupancy pursuant to the provisions of the TOWN OF HUDSON Zoning Ordinance and Building Code. This action is only to be used in cases where the above measures have failed to move the project into compliance with the established regulations or design standards or those standards subsequently adopted by state and/or federal agencies.

D. Associated fees. In any legal action brought by the Town to enforce these regulations or any requirement or condition imposed by the PLANNING BOARD or the Town Engineer, the Town shall recover its costs and reasonable attorney's fees actually expended in pursuing a legal action if it is found to be a prevailing party. For the purposes of this subsection, recoverable costs shall include all out-of-pocket expenses actually incurred, including but not limited to inspection fees, expert fees, and investigatory expenses.

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