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ORDER NO. 2021-038-001  
REQUEST OF THE PLANNING & ZONING SUBCOMMITTEE

UPON THE REQUEST OF THE PLANNING & ZONING SUBCOMMITTEE, THE CITY OF FRAMINGHAM, THROUGH THE FRAMINGHAM CITY COUNCIL, IT IS SO ORDERED:

That, after an advertised public hearing at a duly posted meeting held on April 6, 2021 and lengthy discussion thereafter, the City Council votes to approve the revisions to the Land Disturbance Storm Water Zoning Ordinance as presented and attached.

FIRST READING

YEAS: Bryant, Cannon, Case, King, Leombruno, Long, Ottaviani, Stefanini, Steiner  
NAYS: Stewart-Morales  
ABSTAIN: None  
ABSENT: Shepard  
PASSED IN COUNCIL: April 6, 2021

SECOND READING

YEAS: Bryant, Cannon, Case, King, Leombruno, Long, Ottaviani, Stefanini, Steiner  
NAYS: Stewart-Morales  
ABSTAIN: None  
ABSENT: Shepard  
PASSED IN COUNCIL: April 27, 2021

A True Record, Attest:

4/29/2021  
\_\_\_\_\_  
Date Approved  
Lisa A. Ferguson, City Clerk  
Emily L. Butler, Assistant City Clerk

5/7/2021  
\_\_\_\_\_  
Date Approved  
Yvonne M. Spicer, Mayor

## Cleaner Version of Track Changes for Stormwater Management Ordinance

### AMENDMENTS TO SECTION I.E DEFINITIONS, 1. TERMS DEFINED:

**Best Management Practice (BMP):** The use of structural, nonstructural, or vegetative measures designed to reduce erosion, control the movement of sedimentation, decrease peak storm material discharge, and/or improve the quality of stormwater runoff as well as maintain natural hydrology as described in the Massachusetts Department of Environmental Protection's Stormwater Management Handbook and any other applicable local regulations. All new development and redevelopment project are subject to optimization of phosphorus removal per Structural BMP specifications Vol. 2, Ch. 2 for the Massachusetts Stormwater Handbook

**Massachusetts Stormwater Management Standards:** The Stormwater Management Standards and accompanying Stormwater Handbook issued by the MassDEP pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 33-53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

**Municipal Separate Storm Sewer System (MS4) or Drainage 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 City of Framingham.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:** A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes and regulates the discharge of pollutants to waters of the United States.

**Land Disturbance and Stormwater Management Regulations (LDSM) ("Regulations"):** Regulations adopted by the Planning Board for guidance for compliance with the National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit and this Ordinance.

### AMENDMENTS TO SECTION V.F. Land Disturbance and Stormwater Management:

#### **F. Land Disturbance and Stormwater Management**

##### **1. Purpose and Intent**

The primary purpose and intent of the revised 2021 revisions is to insure municipal compliance with all requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) issued by the United States Environmental Protection Agency (EPA), and the Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection (MassDEP)

The overall purpose of the Land Disturbance and Stormwater Management (LDSM) Ordinance is to provide a thorough review of construction, development, and/or redevelopment projects that have the potential to adversely impact natural resources, man-made structures, abutting properties and/or the City's infrastructure. Projects subject to the LDSM Ordinance shall be designed so as not to impact water quality, or surface flows; shall protect all properties, storm drainage systems, public roadways, natural water bodies from potential flooding, overloading, and/or clogging resulting from development; and shall not cause any significant alteration to topography or significant clearing of land. Moreover, projects shall be designed so as not to create

adverse conditions during or after construction that would alter and/or destroy aquatic or wildlife habitat, and/or cause environmental degradation.

The LDSM Ordinance shall provide review and oversight of the following, as applicable:

- a. Stormwater Management (Section V.F.3.a)
- b. Topographical Alterations (Section V.F.3.b)
- c. Tree Removal (Section V.F.3.c)
- d. Earth Removal and Fill (Section V.F.3.d)

The intent of the LDSM Ordinance is to ensure that development projects incorporate and utilize Best Management Practices (BMP) and Low Impact Development (LID) techniques to the maximum extent feasible. All development and/or redevelopment projects shall be designed to ensure the following:

- a. Protection of surface and groundwater resources, wetlands, and vernal pools;
- b. Infiltration, recharge, and on-site management of stormwater on-site;
- c. Management of erosion, stormwater runoff, and sedimentation through BMPs and LID techniques;
- d. Minimization of alteration to the natural topography to the maximum extent possible;
- e. Control and proper site management of construction waste such as discarded building material; concrete truck washout; limiting on-site idling, fueling, and maintenance of construction equipment/vehicles; chemicals; litter; and sanitary waste during and post-construction;
- f. Compliance that exceeds the regulations set forth in federal, state, and local statutes and those regulations that relate to stormwater discharge and management and include but are not limited to the following: the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Standards. The revised Stormwater Management Standards have been incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a); Massachusetts Stormwater Handbook (<http://www.mass.gov/eea/agencies/massdep/water/regulations/massachusetts-stormwater-handbook.html>); as may be amended from time to time; the NPDES Municipal Separate Storm Sewer System (MS4) regulations adopted by the EPA in conjunction with MA DEP; and any additional local regulations set forth by the Engineering Department of Public Works (DPW); and
- g. Protection of local hydrologic conditions, sensitive areas of land and water, natural areas and topographical features, and unique topography, in addition to the protection of wells and wetlands on-site and abutting properties.

## 2. Applicability and Procedure

### a. Land Use Activities Requiring Review

The LDSM Ordinance shall apply to the following construction, development, and/or redevelopment projects:

- i. The disturbance of land area equal to or greater than one acre;
- ii. The disturbance of land as part of a larger common plan of development with a total disturbance area equal to or greater than one acre;
- iii. The clearing of land that results in 50 percent or more of the lot being cleared of trees. Lots with an area of 20,000sf or less shall be exempt from this requirement; and/or
- iv. Construction, development, and/or redevelopment activities that occur within a 30' buffer of Moderate Slopes or on Moderate Slopes as defined in Section IV.E.3.e.

~~iv.~~ Existing properties not in compliance with current standards that are contributing to ongoing City stormwater management issues that have disturbed over 43,560 sf of land

**b. Land Use Activities Exempt from Review**

The following construction, development and/or redevelopment projects shall be exempt from the LDSM Ordinance, but not exempt from other laws, regulations, and ordinances of the City:

- i. Any normal maintenance of City owned public lands, ways, and/or appurtenances.
- ii. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing water, sewer or drainage systems, and repaving projects).
- iii. Activities undertaken in connection with an existing public athletic field; the management of City-owned park or cemetery; or the management and operation of a golf course.
- iv. Work in connection with an agricultural use classified under M.G.L. c. 61A, including: planting, cultivating harvesting, and/or the raising and/or caring of animals; agricultural operations in accordance with an approved Natural Resource Conservation Service Agricultural Plan; agricultural uses on parcels of land of more than five acres as specified in M.G.L. c. 40A, Section 3; and/or the harvesting of trees on a property classified and good standing under M.G.L. c. 61 and in accordance with a forest management plan or cutting plan as set forth in M.G.L. c. 61, Section 1.
- v. Activities conducted in accordance with a Forest Stewardship Plan approved by the Massachusetts Department of Conservation and Recreation.
- vi. Temporary work relative to emergency storm events or emergency repairs to any utilities (gas, water, sewer, electric, telephone, etc.), including situations that pose an immediate danger to life and/or property.
- vii. Construction of utilities (gas, water, sewer, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns.
- viii. Development and redevelopment projects where less than one acre of land is disturbed for minor roadway maintenance improvement projects and non-public projects that are outside of conservation wetland jurisdictional area
- ix. Repair of septic systems when required by the Board of Health for the protection of public health.
- x. Routine maintenance of existing lawn, landscaping, or garden area associated with a single-family dwelling provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of walls greater than one foot in height, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns
- xi. The construction of fencing that will not alter existing terrain or drainage patterns.
- xii. Repair or replacement of damaged roofs.
- xiii. Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.
- ~~iv.~~ Existing properties that are connected to private wells and are not connected to public municipal water systems.

**c. Minimum Standards**

The LDSM Ordinance shall serve as the minimum standards for activities that fall under LDSM review. Applicants are expected to exceed these minimum standards through the use of BMPs, LID techniques, increased vegetation, the preservation of land, and/or development within previously disturbed areas. Furthermore, previously developed sites shall be expected to exceed existing conditions, in addition to minimum federal, state, and local standards for stormwater management, erosion, infiltration, sedimentation, and Total Suspended Solids (TSS).

d. **Permit Granting Authority and Permit Procedure**

The Planning Board shall be the SPGA for the LDSM Ordinance. All applications subject to the LDSM Ordinance shall follow the special permit procedures for an application submittal pursuant to Section VI.E, herein.

e. **Non-Avoidance by Phasing or Segmentation**

A construction, development and/or redevelopment project shall not be phased and/or segmented in such a manner so as to avoid compliance with the LDSM Ordinance. The Planning Board shall not approve any application for construction, development, and/or redevelopment, where individual parcels and/or multiple parcels of land are held in common ownership (including ownership by related or jointly controlled persons or entities) with the intent to segment project phases. All phases of a project shall be considered as part of a single development project if located either on a single parcel or contiguous parcels of land that have been in the same common ownership at any time subsequent to the date of adoption of this Section V.F Land Disturbance and Stormwater Management.

- i. Any project permitted under the Framingham Subdivision Rules & Regulations ~~Governing the Subdivision of Land in Framingham, as may be amended from time to time~~, which was not subject to review under the LDSM Ordinance at the time it was permitted, shall be subject to review if at a later date such project is expanded and triggers any of requirements set forth in Section V.F.2.a. All phases of a project shall be considered to be a single development project.

f. **Submittal Requirements**

Applications for LDSM shall submit plan sets and supporting documentation in accordance with the requirements set forth in Article 24: the Planning Board Rules and Regulations, Land Disturbance and Stormwater Management Documentation Submittal of the Framingham Planning Board Rules & Regulations ~~as may be amended from time to time~~.

g. **Waivers**

Strict compliance with the LDSM Ordinance is required to the greatest extent feasible. The Planning board may grant waivers for Land Disturbance and Stormwater Management Documentation Submittal and/or design standards, by a four-fifths vote, where such action is not inconsistent with the purposes of the LDSM Ordinance or the other associated Regulations.

**3. Land Disturbance and Stormwater Management Guidance**

a. **Stormwater Management**

~~Stormwater Management and erosion control shall exceed the regulations set forth in federal, and state statutes and regulations promulgated thereunder that related to stormwater discharge and management and include but are not limited to the following: the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Standards; Massachusetts Stormwater Handbook (<http://www.mass.gov/eea/agencies/massdep/water/regulations/Massachusetts-stormwater-handbook.html>) as amended; the NPDES Municipal Separated Storm Sewer System (MS4) Permit and regulations; and local regulations set forth by the Department of Public Works (DPW).~~

- i. Any permitted topographical alterations, tree removal, earth removal/fill, and/or site improvements associated with the LDSM Ordinance shall incorporate LID techniques and BMPs to the greatest extent feasible. Such features may include rain gardens, rain water harvesting, green roofs, curb breaks, native/hybrid plantings, etc.
- ii. Stormwater shall not be directed towards sensitive areas, wetlands, habitats, or be permitted to sheet flow causing erosion and sedimentation movement.
- iii. Whenever possible, all buildings, roadways, parking lots/areas, detention/retention facilities, and other site improvements shall be located in previously developed, cleared, disturbed, and/or improved areas before an applicant proposes to disturb an area that presents existing natural topography.
- iv. Natural hydrology and water quality shall be maintained during and post construction.

- v. Projects that alter natural stormwater and drainage systems shall replicate natural conditions with respect to infiltration, evapotranspiration, and stormwater runoff.
- vi. The use of hay bales ~~are~~ is not permitted for erosion and sediment control. Erosion and sediment controls should be consistent with the City's construction standards.
- vii. Under certain circumstances where on-site options for stormwater mitigation are limited, infeasible, and/or where off-site options provide better protection, the Planning Board may allow the applicant to contribute to the implementation of off-site stormwater mitigation or to contribute to a City of Framingham Stormwater Mitigation Fund in lieu of an on-site stormwater best management practices ~~BMPs~~. This may be allowed ~~at the~~ exclusively for redevelopment projects at the discretion of the Planning Board only where a net public benefit is clearly demonstrated and documented by meeting or exceeding the purpose and intent of the LDSM Ordinance.
- viii. Projects that propose dewatering shall submit a dewatering plan for review to the Conservation Commission, the Department of Public Works, and the Planning Board, and shall be accompanied by a detailed description of the methods proposed to mitigate impacts.
- ix. Projects shall be designed to disturb the minimal amount of land possible and to manage the maximum amount of stormwater on-site.

**b. Topographical Alterations**

- i. Where possible, development shall not occur on those areas defined as Moderate Slope (Section IV.E.3.e) or within 30' of a Moderate Slope buffer. If development is proposed within an area identified as Moderate Slope or within the 30' Moderate Slope buffer, then the applicant shall submit a geotechnical report, prepared by a professional geotechnical engineer. The Planning Board and the Department of Public Works (DPW) shall review submitted document to ensure such topographical alternation will not adversely impact direct abutters, structures, and/or the stability of the land.
- ii. Any development that is authorized to occur on an identified Moderate Slope (Section IV.E.3.e) and/or within the 30' Moderate Slope buffer shall preserve existing vegetation to the greatest extent feasible.
- iii. Topographical alteration shall not occur within 10' of a vegetated buffer to ensure the protection of the root zone or within 10' of a front and/or rear setback (Section IV.E.3.e).
- iv. In the event that topographical alternation within land identified as Moderate Slope (Section IV.E.3.e) and/or within the 30' Moderate Slope buffer then the applicant shall mitigate all impacts that result in stormwater runoff, erosion, and/or the movement of sedimentation through BMPs and LID techniques. The Applicant shall further establish a vegetated berm to prevent negative impacts to abutting properties and/or roadways.
- v. The applicant may be required to mitigate topographical alternations as outlined in Section V.F.3.a.vii, herein.

**c. Tree Removal**

- i. The removal of trees shall not be permitted within the side/rear setbacks as defined in Section IV.E.2., unless identified by the City's Tree Warden to be hazardous and/or diseased. The Applicant shall retain trees greater than 10" caliper within the front yard setback, as set forth in Section IV.E.2. Furthermore, trees may be removed for the construction of a driveway or subdivision roadway, but shall be such removal shall be at the minimum width as required by the Department of Public Works (DPW), Fire Department, and Police Department.
- ii. All trees that are 8" or greater in caliper that are removed shall be replaced. The total number of replacement trees shall be as follows: 1 tree per caliper per inch of a deciduous tree and 1 tree per inch of height for an evergreen tree. Replacement trees shall be a minimum 3" caliper for deciduous trees and 5' tall for evergreen trees.

- iii. If the applicant can demonstrate that the required number of replacement trees cannot be properly placed on-site, then the applicant may offer the City an equal number of trees comparable in size to the Department of Public Works and/or the Parks and Recreation Department to be planted at their discretion elsewhere in Framingham
- iv. During construction the drip line of the designated trees to be saved post-construction shall serve as the protection boundary. The applicant shall install a barrier around this area.
- v. Land clearance shall be prohibited within 125' of a designated open space parcel of land that is protected by an Agricultural Preservation Restriction (APR) or a Conservation Restriction (CR).

**d. Earth Removal and Fill**

- i. Earth removal shall be limited to areas that have been previously disturbed and/or impervious. Where earth removal is required in an area that has not previously been disturbed then the applicant shall submit a geotechnical report, prepared by a professional geotechnical engineer.
- ii. Soil removed from the property shall be stockpiled and reused on-site where possible. Such stockpiles shall be seeded and/or covered, and protected with erosion controls around the base of the pile, until such soils are needed.
- iii. When new fill is required to be brought onto the site, the use of clean fill shall only be permitted. Prior to fill being brought onto site, the applicant shall provide a written notarized affidavit to the Planning Board, Department of Public Works (DPW), and the Conservation Commission that includes the name of the company, the location where the fill is coming from, the type of fill, and any additional information to certify that all fill is clean.

**4. Findings and Conditions of Approval**

Project review pursuant to the LDSM Ordinance shall be based on the information provided in the LDSM Development Impact Report, the LDSM Site Plan, and a Long Term LDSM Plan. The Planning Board shall render written findings prior to granting an approval or disapproval of the application. Such findings shall pertain to the entire proposed project that is subject to review. The Planning Board may modify the site plan or project as a condition of its approval, which may include either on-site or off-site mitigation measures to offset any negative impacts created by the project.

**a. Filing and Document Review**

- i. All documents and plans required in Section V.F herein have been submitted in accordance with these regulations and City standards.

**b. Federal, state, and local regulations**

- i. A minimum compliance with all applicable federal, state, and local regulations and guidelines, including but not limited to, the most current edition of the MassDEP Stormwater Management Standards, the Massachusetts Stormwater Handbook, the NPDES MS4 permit; and Department of Public Works (DPW) regulations related to stormwater/erosion/etc.

**c. Site Management and Control**

- i. Building envelopes for structures, driveways, wastewater disposal, lawn areas, and utility work shall be designed and delineated in a manner to limit erosion, land disturbance, and stormwater runoff to the greatest extent possible.
- ii. The site shall contain designated areas for temporary uses such as the parking of construction vehicles, trailers, and/or stockpiling of equipment and materials.
- iii. All waste products, grubbed stumps, slash, construction materials, etc., shall be lawfully disposed of and shall not be incorporated into the project site with the exception of the reduction of stumps and slash to mulch.

- iv. During construction, temporary erosion and sedimentation control measures shall be employed in accordance with the approved plan and the BMP until a disturbed area is permanently stabilized.
- v. Permanent erosion control and vegetative measures are in accordance with the BMP and LID techniques.
- vi. Dust control measures are used throughout construction.

vii. Throughout the duration of construction, a gravel apron of at least fifteen feet wide and at least twenty-five feet long is required at any site access from a paved public way to prevent unstable material from being transported onto the roadway by vehicle tires.

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d. Throughout the duration of construction, a gravel apron of at least fifteen feet wide and at least twenty-five feet long is required at any site access from a paved public way to prevent unstable material from being transported onto the roadway by vehicle tires.

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#### d-c. Control of Stormwater Runoff

- i. Whenever possible, the natural topography of a site shall be preserved so as to reduce unnecessary erosion, land disturbance, stormwater runoff, and/or to preserve natural drainage patterns and infiltration on the site.
- ii. The project as designed does not increase the rate, concentration, and/or velocity of runoff from the site.
- iii. There will be no adverse impact to abutting properties from any change in volume of stormwater runoff resulting from land disturbance activities including but not limited to erosion, silting, flooding, sedimentation, subsidence or impacts to wetland, groundwater resources, septic systems, wells, and/or lack of long term maintenance of the BMP and LID techniques.
- iv. There will be no adverse impacts to groundwater resources in terms of quantity or quality.

#### d-f. Protection of Natural Features and Vegetation

- i. Endangered species and wildlife habitats and corridors, natural landscape features, and scenic vistas and views shall be protected to the maximum extent feasible. Buildings, structures, and/or parking facilities are sited away from the crest of hills in a manner so as not to detract from the site's scenic qualities.
- ii. Open space, native trees, and specimen trees are preserved to the greatest extent feasible in the site's design and development placing priority on the retention of an existing tree, existing stands of trees, trees at the site perimeter, and contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions).
- iii. Forested areas, wetlands, waterbodies, critical wildlife habitat areas and Moderate Slopes as defined in Section IV.E.3.e, herein are preserved to the maximum extent feasible.
- iv. The Applicant shall demonstrate that all vegetation that shall be retained will be surrounded by temporary protective fencing or other measures before any Land Clearing or grading occurs, and shall be maintained as such until all construction and site work is completed and all construction equipment and debris is removed from the site.
- v. Grading shall be designed to maintain the area around the trunks of trees so that the ground level is not raised over the root area.
- vi. Requirements shall be met for screening of the adjoining premises or screening from the street by walls, fences, plantings, and/or other devices to mitigate adverse impacts of the project.

#### d-g. Protection of Historic Resources

- i. Reasonable measures shall be employed to protect historic, unique topographical, and archaeological resources including, but not limited to, historic landscape features both above and below ground, buildings, structures, objects, stone walls, foundations, designed landscapes and gardens.

**5. Additional Requirements, Conditions, Limitations and Safeguards**

The Planning Board may impose additional requirements, conditions, limitations, and/or safeguards in granting approval of an application which shall be incorporated in writing as part of the Decision.

**a. Long Term LDSM Plan**

- i. Submission of the covenant; homeowners' association documents; condominium Master Deed; property deed; and/or Declaration of Trust documents as applicable, which shall provide reference to the Long Term LDSM Plan for all permanent erosion control and stormwater management measures as conditioned by the Planning Board.
- ii. The Applicant/landowner shall notify the Planning Board when the initial BMPs for erosion, land disturbance, and stormwater management measures have been installed in accordance with the Long Term LDSM Plan.

**b. Construction Maintenance Bond**

- i. Prior to the issuance of a building permit, the Applicant shall provide a Construction Performance Bond in the amount of \$5,000.00 or equal to 20 percent, whichever amount is greater, of the expected values of the BMPs for erosion control and stormwater management during construction of the project. The Planning Board shall hold such Construction Performance Bond until the issuance of a use and occupancy permit from the Building Department.

**c. Construction Procedure**

- i. No land disturbance activities shall begin prior to the written approval by the Planning Board Administrator, Department of Public Works (City Engineer), and the Conservation Commission Administrator.
- ii. Maintenance of BMPs for erosion control, land disturbance, and/or stormwater management during construction shall be maintained in good order and in compliance with the NPDES Construction General Permit (if applicable).

**d. Post-Construction Review**

A special permit for LDSM shall not close until a final inspection and approval of the site being stabilized and restored in accordance with the approved plan of the Planning Board and the LDSM Performance Bond has been placed by the Applicant/landowner.

- i. Removal of all non-permanent BMPs for erosion control, land disturbance, and/or stormwater management.
- ii. Onsite improvements such as landscaping, parking lots, driveways and roadways, sidewalks and trails, and all BMP and LID techniques have been installed and fully functioning.

**e. LDSM Performance Bond**

- i. The Applicant and/or landowner shall provide a LDSM Performance Bond prior to the issuance of a use and occupancy permit. The total amount of the bond shall equal \$5,000.00 or 20 percent, whichever is greater for the total amount of the BMPs and LID techniques installed on-site for erosion control and stormwater management.
- ii. The Applicant and/or landowner shall submit an annual maintenance report to the Planning Board and the Department of Public Works for the purposes of monitoring such BMPs.
- iii. Such LDSM Performance Bond shall be returned after five years. At the end of every two years, the Applicant can request 50 percent of the Bond be returned.

**g. The Planning Board may deny a Special Permit for Land Disturbance Special-Permit- and Stormwater Management if it determines ~~that~~ the following:**

- (1) The requirements of Section V.F herein are not met, or

- (2) The project violates or circumvents other provisions of ~~any City zoning the Zoning ordinance~~ Ordinance or regulation; or
- (3) The project received a variance issued by the Zoning Board of Appeals from the requirements of Section V.F. herein without first receiving a favorable recommendation from the Planning Board.

**7. Enforcement**

- a. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Inspectional Services (Building Department), the Planning Board, Department of Public Works, and/or City designee may enter upon privately owned property for the purpose of performing their duties under the LDSM Ordinance and associated permits and may make or cause to be made inspections, surveys, or sampling as the Planning Board, Department of Public Works, and/or City designee deems reasonably necessary.
- b. When the Department of Inspectional Services (Building Department), the Planning Board, Department of Public Works, and/or City designee determines that an activity is not being carried out in accordance with the requirements of the LDSM Ordinance, it shall issue a written notice of violation to the owner of the property. Persons receiving a notice of violation may be required to:
  - i. Halt all construction activities until there is compliance. A "stop work order" will be in effect until the Department of Inspectional Services (Building Department), the Planning Board, Department of Public Works, and/or City designee confirms that the activity is in compliance and the violation has been satisfactorily addressed.
  - ii. Maintain, install or perform additional erosion and sedimentation control measures;
  - iii. Monitor, analyze, and report to the Department of Inspectional Services (Building Department), the Planning Board, Department of Public Works, and/or City designee; and/or
  - iv. Remediate erosion and sedimentation resulting directly or indirectly from the activity.

Failure to address a notice of violation in the time specified therein may result in penalties in accordance with the enforcement measures authorized in the LDSM Ordinance.

- c. Penalty. Any person, who violates any provision of the LDSM Ordinance or permit issued thereunder, may be punished by a fine. Each day or part thereof that such violation occurs or continues shall constitute a separate offense, and each provision of the bylaw, regulations or permits violated, shall constitute a separate offense.
- d. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the City may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, Section 21D in which case the Department of Inspectional Services (~~Building Department~~), the Planning Board, and Engineering Department of Public Works, and/or ~~City designee~~ shall be the enforcing person. Each day or part thereof that such violation occurs or continues shall constitute a separate offense, and each provision of the bylaw, regulations or permits violated, shall constitute a separate offense.

**8. OCCUPANCY PERMIT**

a. Prior to the issuance of an Occupancy Permit or Final Project Approval, As Built plans are required and shall be submitted per Section VI.B of this Zoning Ordinance to Inspectional Services, Department of Public Works, Planning Board, and Conservation Commission. A certificate of Occupancy or Project Approval shall not be issued until the aforementioned departments review and approve the As Built drawings/documents.

9. Land Disturbance and Stormwater Management Documentation Submittal

All submittal requirements are located in Article 6 of the Planning Board Project Review Guidelines.

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