



Town of Reading Massachusetts

Community Planning and Development Commission

**Stormwater Management and
Erosion Control Regulations
December 6, 2021**

1 AUTHORITY AND PURPOSE

- 1.1 These Regulations are issued by the Reading Community Planning and Development Commission under the authority of the Reading Stormwater Management and Erosion Control Bylaw, Section 7.9 of the Reading General Bylaw.
- 1.2 The purpose of these Regulations is to effect the purposes of the Stormwater Management and Erosion Control Bylaw. The failure of these Regulations to address all aspects of the Bylaw, or a legal declaration of their invalidity, shall not act to suspend or invalidate the effect of the Bylaw.

2 DEFINITIONS

Words and terms defined in the Bylaw shall have the meaning set forth in the Bylaw; in addition, the following definitions shall apply to these Regulations:

- 2.1 Application: A Stormwater Permit Application.
- 2.2 Bylaw: The Stormwater Management and Erosion Control Bylaw, Section 7.9 of the Reading General Bylaw.
- 2.3 CPDC: The Reading Community Planning and Development Commission.
- 2.4 Community Development Director: The Reading Community Development Director or other employee designated by the CPDC to assist in the implementation of these regulations, or (where appropriate) that person's designee.
- 2.5 Offsite Mitigation: Pollutant removal practices implemented at a location not on the Property that achieve the required pollutant removal.
- 2.6 Permittee: Any person to whom a Stormwater Permit has been issued.
- 2.7 Property: The parcel(s) on which the activities proposed in a Stormwater Permit will take place.
- 2.8 USGS HUC12: Subwatershed with a unique 12-digit United States Geological Survey Hydrologic Unit Code.

3 PERMIT FEES

3.1 Permit Application Fee

- 3.1.1 Each Application shall be accompanied by the appropriate Permit Application Fee as set forth in the Stormwater Permit Fee Schedule promulgated by the CPDC. The Permit Application Fee is non-refundable.

3.2 Consultant Fee

- 3.2.1 Pursuant to Section 7.9.5.6 of the Bylaw and Chapter 44, Section 53G of the Massachusetts General Laws, each Stormwater Permit Application may also be subject to a Consultant Fee, which will be determined after an administratively complete Application is received by the Planning Division.
- 3.2.2 Determination of Need for Consultant Review, Selection of Consultant and Determination of Initial Consultant Fee

- 3.2.2.1 Conclusion of the public hearing on the Application, the Community Development Director or the CPDC may determine that review of the Application by an outside consultant is necessary for proper evaluation of the Application by the CPDC. Within three (3) business days of such determination, the Community Development Director shall notify the Applicant of this determination and shall forward a copy of the Application to an at any time between receipt of a complete Application and the individual with expertise in engineering and stormwater management (the "Consultant"). Selection of a Consultant shall be within the discretion of the Community Development Director, subject to the following requirements:

- 3.2.2.1.1 The Consultant must possess either (a) a college degree in science or engineering including coursework relevant to stormwater management, or (b) three years of experience in the field of stormwater management.

- 3.2.2.1.2 The Consultant must not have a conflict of interest that would

prevent him or her from making a fair and impartial technical evaluation of the Applicant's Application and supporting materials. Previous or concurrent engagement by the Town of Reading on other matters does not constitute a conflict of interest.

- 3.2.2.2 The Consultant shall provide a written scope of services and cost estimate to the Planning Division for some or all of the following, as directed by the Community Development Director: reviewing the Application and other documents submitted by the Applicant; providing written comments to the CPDC; recommending the amount of cash bond to be required based on estimated costs of completion of stormwater management measures; attending meetings of the CPDC; providing written responses to follow-up questions from the CPDC and comments by the Applicant; conducting inspections during construction; and any other tasks specified by the Community Development Director. The amount specified in such cost estimate shall be the initial Consultant Fee. The Consultant shall also provide a statement of qualifications.
- 3.2.2.3 Within seven (7) calendar days of notification of the Applicant of the determination of need for consultant review, the Community Development Director shall notify the Applicant of the selection of a Consultant and shall provide a copy of the scope of services, cost estimate and statement of qualifications received from the Consultant. Such notification shall be made by e-mail to the e-mail address specified by the Applicant in the Application.

3.2.3 Appeal of Selection of Consultant

- 3.2.3.1 Pursuant to Chapter 44, Section 53G of the Massachusetts General Laws, the Applicant may appeal the selection of a Consultant to the Reading Select Board. The grounds for such an appeal shall be limited to claims that the Consultant selected has a conflict of interest or does not possess the minimum required qualifications set forth in Section 3.2.2.1.1 of these Regulations.
- 3.2.3.2 To appeal the selection of a Consultant, the Applicant shall, within seven (7) calendar days of the date that the Community Development Director sends the selection notification e-mail, send by certified mail or hand deliver a letter to the Reading Select Board, with a copy to the CPDC. The letter shall state the specific grounds for the appeal and provide evidence of the Consultant's alleged conflict of interest or lack of qualifications.
- 3.2.3.3 If the Reading Select Board, upon consideration of such an appeal, directs the Community Development Director to select another Consultant, the Community Development Director shall do so, repeating the procedure specified in Section 3.2.2. In the event that no decision on the appeal is made by the Reading Select Board within one month following the submission of the appeal, the selection made by the Community Development Director shall stand.
- 3.2.3.4 The required time limits for action upon an Application by the CPDC (if any) shall be extended by the duration of any such appeal regarding the selection of a Consultant to review the Application.
- 3.2.3.5 Any of the following shall constitute a final Consultant selection decision:
 - 3.2.3.5.1 Selection by the Community Development Director that is not appealed by the Applicant within seven (7) calendar days of the date of the Community Development Director's selection notification e-mail;
 - 3.2.3.5.2 Issuance by the Reading Select Board of a written decision upholding the Community Development Director's selection; or
 - 3.2.3.5.3 Failure of the Reading Select Board to issue a written decision on the appeal of the selection of a Consultant within one month

of the submission of the appeal.

3.2.4 Payment and Administration of Consultant Fee

3.2.4.1 Within seven (7) calendar days of the date that the selection of a Consultant has become final as set forth in Section 3.2.3.5, the Applicant shall submit the initial Consultant Fee to the Planning Division. The Planning Division shall then engage the Consultant.

3.2.4.2 The Consultant Fee shall be deposited in a special account established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, shall be used by the Planning Division solely to pay the Consultant for services in connection with the Application. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the Applicant or to the Applicant's successor in interest, and a final report of said account shall be made available to the Applicant or to the Applicant's successor in interest.

3.2.5 Additional Consultant Fee

3.2.5.1 During review of the Application, the CPDC may determine that additional consulting services are required from the Consultant. In that event, the CPDC shall specify the additional services needed and explain why they are necessary. The CPDC shall request a scope of services and cost estimate from the Consultant. Such cost estimate shall be an additional Consultant Fee. The Community Development Director shall notify the Applicant of the additional Consultant Fee and shall provide the Applicant a copy of the scope of services and cost estimate. Within seven (7) calendar days of this notification, the Applicant shall submit the additional Consultant Fee to the Planning Division.

4 PERMIT APPLICATION PROCESS

4.1 In accordance with the Checklist for a Stormwater Permit provided by the CPDC, the Applicant shall submit to the Planning Division four (4) paper copies and one (1) electronic copy of a completed Application package, along with one additional set of full-size copies of the required site plans. One (1) of the paper copies of the Application package shall include full-size (24x36") copies of the required site plans, and three (3) of the paper copies of the Application package shall include half-size (11x17") copies of the required site plans. All plans must be to scale. Materials should be double-sided whenever possible. The Stormwater Permit Application package shall include:

4.1.1 A completed Application form (as provided by the CPDC) with original signatures of the Applicant and the Property owner or owners;

4.1.2 A narrative describing the incorporation of Low Impact Development strategies as defined in the Bylaw;

4.1.3 An Erosion and Sediment Control Plan as specified in the Bylaw (including the required site plan);

4.1.4 A Stormwater Management Plan as specified in the Bylaw (including the required site plan) subject to the following additional requirements:

4.1.3.1 Hydrologic calculations shall use the precipitation data for Massachusetts provided in the National Oceanic and Atmospheric Administration's Atlas 14, Volume 10, or newest volume.

4.1.3.2 For sites that will discharge stormwater (directly or indirectly) to impaired waters in which phosphorus has been identified as a source of impairment (including all sites within the Aberjona River watershed), the Stormwater Management Plan shall specify Best Management Practices that are optimized for phosphorus removal and shall provide calculations of phosphorus loading and phosphorus removal.

- 4.1.3.3 For sites that will discharge stormwater (directly or indirectly) to impaired waters in which solids have been identified as a source of impairment (including all sites within the Aberjona River watershed), stormwater management systems for areas of commercial and industrial land use area draining to the impaired waterbody shall incorporate designs that allow for shutdown and containment where appropriate to isolate the system in the event of an emergency spill or other unexpected event.
- 4.1.3.4 Stormwater management systems on new development sites shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site. Pollutant removal is calculated based on average annual loading and not on the basis of any individual storm event. Average annual pollutant removal requirements are achieved through one of the following methods:
- 4.1.4.4.1 Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016)¹ or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then the Massachusetts Stormwater Handbook may be used to calculate BMP performance; or
- 4.1.4.4.2 Retaining the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the new development site; or
- 4.1.4.4.3 Meeting a combination of retention and treatment that achieves the above standards; or
- 4.1.4.4.4 If permitted by the CPDC in its sole discretion, utilizing offsite mitigation that meets the above standards within the same USGS HUC12 subwatershed as the new development site.
- 4.1.3.5 Stormwater management systems on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post-construction load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site. Average annual pollutant removal requirements are achieved through one of the following methods:
- 4.1.4.5.1 Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then the Massachusetts Stormwater Handbook may be used to calculate BMP performance; or
- 4.1.4.5.2 Retaining the volume of runoff equivalent to, or greater than, 0.8 inch multiplied by the total post-construction impervious surface area on the redeveloped site; or
- 4.1.4.5.3 Meeting a combination of retention and treatment that achieves the above standards; or
- 4.1.4.5.4 If permitted by the CPDC in its sole discretion, utilizing offsite mitigation that meets the above standards within the same USGS HUC12 subwatershed as the redevelopment site.

¹ Available at <https://www.epa.gov/npdes-permits/stormwater-tools-new-england> under "Stormwater BMP Pollutant Removal Tools and Information."

- 4.1.5 An Operation and Maintenance Plan as specified in the Bylaw;
- 4.1.6 A certified list of owners of property within 300 feet of the Property; and
- 4.1.7 Payment of the Permit Application Fee.
- 4.2 The signature of the Property owner on the Application Form shall constitute permission for members of the CPDC, the Community Development Director, Town employees within the Planning Division, and other employees or agents of the Town authorized by the CPDC or the Community Development Director to enter onto the Property for the purpose of verifying the information in the application or inspecting for compliance with permit conditions at any time between submission of the Application and approval of the final as-built plan.
- 4.3 All applications for CPDC permits and approvals for the same project shall be submitted at the same time to allow coordinated review of the applications. Upon request of the Applicant with an explanation of the reasons for the request, this requirement may be waived at the sole discretion of the Community Development Director.
- 4.4 After receiving the Application, the CPDC shall review the Application and determine whether all required elements (as set forth in Section 4.1 and the Bylaw) have been included. Within ten (10) days of receipt of an Application, the Community Development Director shall either notify the Applicant by e-mail that the Application is incomplete (specifying what required elements are missing) or that the Application is administratively complete.
- 4.5 Upon determination that the Application is administratively complete, the Community Development Director shall:
 - 4.5.1 Set a date for the public hearing on the Application (at the next available CPDC meeting that allows sufficient time for public notice);
 - 4.5.2 Submit a public notice of the hearing to a newspaper (to be published at least one week before the hearing);
 - 4.5.3 Mail notice of the public hearing to the certified list of owners of property within 300 feet of the Property (at least one week before the hearing);
 - 4.5.4 Send notice of the hearing and a copy of the Application materials to other Town departments as appropriate; and
 - 4.5.5 Forward a copy of the Application to each member of the CPDC.
- 4.6 The Planning Division shall make a copy of the Application available for public review during business hours and shall, if feasible, post a copy of the Application on the Town website.

5 CPDC REVIEW

- 5.1 The CPDC shall hold a public hearing on the Application. The hearing may be combined with the hearing for any other permit or approval for the same project that is within the jurisdiction of the CPDC; in that event, the public notices may be combined as well. The CPDC shall accept comments from the public in writing and at the hearing.
- 5.2 The Applicant shall submit all additional information requested by the CPDC to issue a decision on the Application.
- 5.3 The CPDC may:
 - 5.3.1 Approve the Application and issue a Stormwater Permit if it finds that the proposed plans will protect water resources and meet the objectives and requirements of the Bylaw;
 - 5.3.2 Approve the Application and issue a Stormwater Permit with conditions, modifications or restrictions that the CPDC determines are required to ensure that the project will protect water resources and meet the objectives and requirements of this Bylaw; or
 - 5.3.3 Disapprove the Application and deny a Stormwater Permit if it finds that the proposed plans will not protect water resources or fail to meet the objectives and requirements of the Bylaw.
- 5.4 Conditions that may be imposed by the CPDC in a Stormwater Permit that survive the approval of the final as-built plan and are sufficient to ensure adequate long-term operation and maintenance of stormwater control measures, including both structural and nonstructural controls, shall include, but are not limited to:
 - 5.4.1 A requirement to notify the CPDC or their designee before significant site milestones, such as installation of erosion and sediment control measures or

completion of site clearing.

- 5.4.2 A requirement to conduct and document periodic inspections of all control measures (before, during and/or after construction) and submit reports to the CPDC or their designee.
 - 5.4.3 A requirement to post, before the start of land disturbance activity, a cash bond or other surety to secure the performance of the Permittee's obligations under the Stormwater Permit.
 - 5.4.4 A requirement to record notice of the Operation & Maintenance Plan with the Registry of Deeds (or the Land Court for registered land).
 - 5.4.5 A requirement to establish a dedicated source of funding for long-term operation and maintenance of stormwater control measures.
 - 5.4.6 A requirement to submit an annual certification documenting the work that has been done over the last 12 months to properly operate and maintain the stormwater control measures.
- 5.5 Conditions of the Stormwater Permit apply to the Permittee and all owners of the Property.
- 5.6 The Permittee shall notify the CPDC in writing of any change or alteration of a land-disturbing activity authorized in a Stormwater Permit before the change or alteration occurs. If the proposed change or alteration is minor, the Community Development Director, after coordinating with the Town Engineer or Conservation Administrator, or both, may authorize such change or alteration in writing with a copy to the CPDC. Otherwise, the Community Development Director shall forward the notification of change or alteration to the CPDC. If the CPDC determines that the change or alteration is significant, it may require the Permittee to apply for an amendment to the Stormwater Permit.
- 5.7 The Approval of the Stormwater Permit shall lapse two (2) years after the date of its issuance if construction pursuant thereto has not begun; provided however, that the CPDC may grant an extension of the two (2) year period, for a maximum of one (1) year, upon a finding of good cause, including the need to obtain other local, state, and federal permits duly applied for, at the written request of the applicant, if submitted to the CPDC at least thirty (30) days prior to the expiration of the two (2) year period.
- 5.8 The CPDC may, upon application by the Permittee, amend a Stormwater Permit. Any such amendment shall conform to the requirements of the Bylaw and these Regulations.

6 AS-BUILT PLAN

- 6.1 Within 60 days of the completion of construction of the project, the Permittee shall submit to the CPDC a record plan detailing the actual stormwater management system as installed. The as-built plan must depict all on-site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site. Such plan shall be provided both in hard copy and as an electronic file.
- 6.2 Upon review of the as-built plan, the CPDC may approve it or may direct the Permittee to take any actions necessary to correct the plan or to comply with any outstanding requirements of the Stormwater Permit.

7 SURETY

- 7.1 Pursuant to Chapter 44, Section 53G $\frac{1}{2}$ of the Massachusetts General Laws, if the CPDC requires a Permittee to post a cash bond to secure the performance of its obligations under a Stormwater Permit, the CPDC shall specify the amount of such cash bond based on an estimate of the cost to perform such obligations. Before commencing construction, the Permittee shall deposit such sum with the Town Treasurer. The Town Treasurer shall deposit such sum in a special account in the municipal treasury and shall be kept separate and apart from all other monies. Any interest earned on the account shall be added to the funds in the account.
- 7.2 At the time that the cash bond is deposited, the Permittee shall also submit to the CPDC an authorization signed by the Property owner for any authorized Town employee or agent to enter onto the property, after providing written notice as set forth below, to complete any requirements of the Stormwater Permit.

- 7.3 Upon fulfillment of all requirements of the Stormwater Permit (except those that survive the submission of the as-built plan) and submission of the as-built plan to the CPDC, the Permittee may submit a written request to the CPDC for return of the cash bond.
- 7.4 The CPDC shall review such written request and shall make a determination as to whether all requirements of the Stormwater Permit (except those that survive the submission of the as-built plan) have been met. If so, the CPDC shall authorize the Treasurer to return the cash bond, plus any interest earned, to the Permittee. If the CPDC determines that any requirements of the Stormwater Permit have not been met, it may authorize the expenditure of all or portion of the cash bond to complete such requirements. The CPDC shall return to the Permittee any portion of the special account monies that remain after completion of all requirements.
- 7.5 The CPDC may, in its sole discretion, release a portion of a cash bond upon written request by the Permittee after partial completion of a phased project.
- 7.6 If, at any time after issuance of a Stormwater Permit, the CPDC determines that the Permittee has not completed requirements of the Stormwater Permit in a timely manner, it may issue a written order to the Permittee to complete specified requirements by a specified deadline. The CPDC shall provide a copy of such written order to the Property owner(s). If the Permittee does not complete such requirements by the specified deadline, the CPDC or any authorized Town employee or agent may enter onto the Property to complete such requirements, and the CPDC may authorize the expenditure of all or a portion of the cash bond to perform this work.

8 WAIVER

- 8.1 The CPDC may waive strict compliance with any requirements of these Regulations, where such action is allowed by federal, state and local law and the Town's NPDES stormwater discharge permit, is in the public interest, and is not inconsistent with the purpose and intent of the Bylaw and these Regulations. In making this determination, the CPDC shall consider whether:
 - 8.1.1 The purposes of the Bylaw and these Regulations will be protected;
 - 8.1.2 Strict application of the requirement to be waived would undermine the public interest;
 - 8.1.3 Specific substitute requirements can be adopted that will result in substantial protection of the public health, safety, convenience and welfare; and
 - 8.1.4 Any activity made possible by the waiver will not violate the provisions of any state or federal law (including the Town's NPDES stormwater discharge permit) or local bylaw or be materially inconsistent with the Bylaw.