

**SECTION I**

**AMHERST STORMWATER REGULATION**

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## SECTION I

### AMHERST STORMWATER REGULATION

#### ARTICLE I -- Purpose and Goals

##### **Section 1.1 Purpose and Goals.**

The purpose of this Regulation is to control runoff and soil erosion and sedimentation resulting from site construction and development and to comply with US Environmental Protection Agency (EPA) Stormwater Management legislation. This Regulation covers areas including but not limited to: Urbanized Areas, Critical Areas and the area designated by the EPA as a Municipal Separate Storm Sewer System (MS4) area. Subdivisions and site plans shall include plans for managing stormwater and controlling erosion and sedimentation as provided below. Any errors or omissions in these Regulations shall not exempt applications from complying with applicable State and Federal Statutes. In the event of conflicting requirements, pursuant to NH RSA 676:14 the stricter standard applies as stated in the Conflict and Severability and Conflicting Provisions sections of Amherst's Ordinance and Regulations. The regulation shall become effective upon adoption by the Town of Amherst Board of Health, the Board of Selectmen, and the Planning Board, in accordance with the provisions of RSA 147, 41:11, RSA 674:16 &17 and 674:36 & 44.

##### **Section 1.2 Abbreviations/Definitions.**

Best Management Practices (BMP). A proven or accepted structural, non-structural, or vegetative measure; the application of which reduces erosion sediment, or peak storm discharge, or improves the quality of Stormwater runoff.

Board of Health (BOH). Town of Amherst Board of Health (comprised of the Board of Selectmen and the Health Officer). For purposes of this regulation BOH can also mean the Health Officer, Town of Amherst Planning Board, and/or their designated agent.

Certified Soil Scientist. A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

Critical Areas. Disturbed areas of any size within fifty (50) feet of any wetland; one hundred (100) feet of any Public Water Protection Wetland (as defined in Zoning Ordinance Section 4-11 Part C); disturbed areas exceeding two thousand (2,000) square feet in highly erodible soils; or, disturbed areas containing slope lengths exceeding twenty-five (25) feet on slopes greater than ten (10) percent.

Development. Any construction or land altering or grading activities other than for agricultural and silvicultural practices.

Disturbed Area. An area where the natural vegetation, including tree stumps, has been removed exposing the underlying soil, or vegetation has been covered.

Environmental Protection Agency (EPA). The Federal agency responsible for implementing Clean Water Act entities including the National Pollutant Discharge Elimination System (NPDES) program.

Erosion. The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Highly Erodible Soils. Any soil with an erodibility class (K factor) greater than or equal to 0.43 in any layer as found in Table 3-1 of the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.”

NOI. Notice of Intent as developed by the EPA.

NOT. Notice of Termination as developed by the EPA.

NPDES. National Pollutant Discharge Elimination System, as developed by the EPA.

Project Area. The area within the subdivision or site plan boundaries plus any areas with associated off-site improvements.

Sediment. Solid Material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

Stabilized. When the soil erosion rate approaches that of undisturbed soils. Soils which are disturbed will be considered stabilized when covered with a healthy, mature growth of grass, or good covering of straw mulch or other equivalent (seedless) mulch (at a rate of not less than two [2] tons/acre). Mulch is only a temporary measure; ultimately, the site needs vegetation.

Stormwater Management and Erosion Control Plan (SWMP). A plan which outlines project features, proposed temporary and permanent erosion control features, maintenance schedules and practices, and design basis used to establish both temporary and permanent design features.

Stormwater Pollution Prevention Plan (SWPPP). A plan required by the Environmental Protection Agency (EPA) that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in stormwater discharges and describes the interim and permanent stabilization practices for the site.

Stormwater Runoff. The water from precipitation that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.

Stream. Areas of flowing water occurring for sufficient time to develop and maintain defined channels; but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U.S. Geological Survey Maps.

Urbanized Area (UA). As defined by the Census Bureau, these are automatically designated Municipal Separate Stormwater System (MS4) areas (by the EPA), see Map 1. For the purposes of this Regulation, the UA will also include those areas currently zoned, or which are rezoned in the future, as Commercial, Limited Commercial, and General Office. The Zoning Map is on file at the Town of Amherst Community Development Office.

### **Section 1.3 Applicability.**

- A. The applicant shall design and submit a custom construction stormwater management and erosion control plan to the Board of Health, or their agent, for any tract of land being developed, redeveloped or subdivided, (and to the Planning Board for any tract of land being subdivided or developed in a manner which would be subject to site plan review), where one or more of the following conditions are proposed:
1. A cumulative disturbed area exceeding twenty thousand (20,000) square feet.
  2. Construction or reconstruction of a street or road.
  3. A subdivision of more than three (3) building lots.
  4. Proposed work adjacent to a wetlands buffer.
  5. Disturbed critical areas (see Definitions).
- B. The applicant shall design and submit a custom permanent stormwater management and erosion control plan to the Board of Health, or their agent, for any tract of land being developed, redeveloped, or subdivided as described Section 1.4. This submission shall occur: for a subdivision at the Final Review Phase, during the Non-Residential Site Review process, as part of the Building Permit review, depending upon the scale of the project proposed, or as directed by the Board of Health or their designated agent.
- C. A waiver of this ordinance may only be granted by the Board of Health or their designated agent. The applicant must provide evidence to support the request for waiver due to size or character of the project or the natural conditions of the site.

### **Section 1.4 Design Standards.**

- A. Temporary/Construction Stormwater Management Design. The following standards shall be applied in planning for stormwater management and erosion control as related to construction: (Additionally, the Planning Board, by its adoption of this regulation, has incorporated the same by reference as a requirement of its subdivision and site plan regulations so that the plan and application contemplated hereunder should be presented to

the Planning Board in connection with any such application as well. Such submission to the Planning Board shall be in addition to any requirements relating to stormwater drainage system design that may also be contained in applicable subdivision and/or site plan regulations.)

1. All measures in the plan shall meet as a minimum the Best Management Practices set forth in the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Service (now the Natural Resources Conservation Service), August 1992, as amended from time to time. Additional BMPs are available at the following locations:
  - a. <http://www.des.state.nh.us/factsheets/wqe/wqe-6.htm> - NHDES Environmental Fact Sheet WD-WQE-6, (Soil Erosion and Sediment control on Construction Sites, 1996)
  - b. <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/menu.cfm> - EPA National Pollution Discharge Elimination System, (NPDES) (Stormwater Menu of Best Management Practices (BMPs).
  - c. [http://cfpub.epa.gov/npdes/stormwater/menuofbmps/con\\_site.cfm](http://cfpub.epa.gov/npdes/stormwater/menuofbmps/con_site.cfm) -EPA NPDES (Construction Site Stormwater Runoff Control).
2. Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation shall be done in a manner that minimizes soil erosion.
3. Appropriate erosion and sediment control measures shall be installed prior to soil disturbance.
4. The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than thirty (30) days shall be stabilized.
5. Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface waters shall be protected from sediment.
6. Off-site surface water and runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried without erosion through the project area. Integrity of downstream drainage systems shall be maintained.
7. Measures shall be taken to control the post-development peak rate of runoff so that it does not exceed pre-development runoff for the two (2) year, twenty-four (24) hour storm event and for additional storm event frequencies as specified in the design criteria of the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.”
8. Priority should be given to preserving natural drainage systems including perennial and intermittent streams, wetlands, swales, and drainage ditches for conveyance of runoff leaving the project area.

9. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days unless conditions dictate otherwise.
  10. Naturally occurring streams, channels, and wetlands shall be used for conveyance of runoff leaving the project area only after appropriate sedimentation control measures have been employed.
- B. Permanent Stormwater Management Design Criteria. The following standards shall be applied in planning for stormwater management and erosion control as related to long-term management of municipal water quality:
1. Under One (1) Acre of Disturbance.
    - a. Within the urbanized area (UA) will require a basic stormwater quality management system. At a minimum, all stormwater must pass through basic pretreatment (beyond catch basin sumps) prior to leaving the site.
    - b. Outside of the UA water quality measures will be required on a case-by-case basis.
  2. Over One (1) Acre of Disturbance.
    - a. Within the UA requires a well thought out, systematic, permanent stormwater quality management system. Latest technology and most up-to-date performance data must be considered when selecting permanent control measures. As noted above, catch basin sumps alone are not considered a valid water quality control measure. Mechanical devices may be required to supplement any proposal. Maintenance programs and schedules will be required as part of the proposal. Off-site water quality control measures may require long-term escrow funds to cover future maintenance expenses. Sites with appropriate separation to the seasonal high groundwater table must also consider groundwater recharge. All groundwater recharge systems will require on-site test pit and percolation test data to be submitted as part of the review.
    - b. Outside the UA requires a basic systematic permanent stormwater quality management system. Catch basin sumps alone are not considered a valid water quality control measure.
  3. Adjacent to the Wetlands Buffer (Any Size Disturbance).
    - a. Any new project adjacent to the wetlands buffer will require permanent water quality control measures.
    - b. Projects involving redevelopment or expansion will be considered on a case-by-case basis.
  4. Municipal Projects. All municipal projects will also consider inclusion of water quality control measures.
- C. Permanent Stormwater Management Technical Design Criteria.

1. All measures in the plan shall meet as a minimum the Best Management Practices set forth in the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire,” Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Service (now the Natural Resources Conservation Service), August 1992, as amended from time to time.
2. The design of proposed features must consider the following:
  - a. Existing and proposed methods of handling stormwater runoff so that there will be no increase in the amount of runoff that leaves the boundaries of the site. (The Board of Health may permit an increase in off-site stormwater runoff on submission of a detailed downstream study and on the recommendation of the Town.)
  - b. Engineering calculations used to determine drainage requirements based upon twenty-five (25) year storm frequency, twenty-four (24) hour duration shall be provided if the project will significantly alter the existing drainage patterns due to such factors as the amount of new impervious surfaces (such as pavement and building areas) being proposed. Closed drainage features must be sized for the ten (10) year storm frequency. Culverts, major ditches, swales, and detention facilities must be sized for the twenty-five (25) year storm frequency.
  - c. If the project will affect drainage flow to an existing roadway culvert, or if a detention or retention area is proposed, a minimum of a twenty-five (25) year storm shall be used to evaluate potential off-site effects. If a State owned or maintained culvert is affected by the development, State of New Hampshire Department of Transportation Guidelines shall be used for evaluation of the culvert.
  - d. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil area resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days.
  - e. Velocities of less than ten (10) feet per second are required prior to entering a sedimentation swale. The maximum design velocity within the swale shall be 1.0 feet per second during passage of the 10-year storm.
  - f. Flows less than ten (10) cubic feet per second are required prior to entering a sedimentation swale.
  - g. All slopes equal to or steeper than 2:1 adjacent to a public right-of way must have special stabilization details provided with the submission.
  - h. Velocities of ten (10) feet per second or less are desirable within a closed drainage system. Higher velocities may be allowed provided special design criteria have been used.
  - i. A minimum velocity of two feet per second (2 fps) is required within a closed drainage system.
  - j. Proposed riprap within a public right-of-way shall be paced a minimum of twelve (12) inches deep.
  - k. Seasonal high-water table elevations must be accounted for in all BMP design criteria.
  - l. Drainage design should follow the guidelines presented in the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and

Developing Areas in New Hampshire”, as published by the New Hampshire Department of Environmental Services, Rockingham County Conservation District and the USDA Soil Conservation Service, and additional guidelines published in the “Manual on Drainage Design for Highways”, as published by the State of New Hampshire Department of Transportation.

**Section 1.5 Application Submission.**

- A. The following minimum requirements apply to all projects, regardless of size. Additional requirements may be found in this Regulation and sections of the Site Plan Review and Subdivision Regulations.
1. Site drawing of existing and proposed conditions:
    - a. Locus map showing property boundaries.
    - b. North arrow, scale, date.
    - c. Property lines.
    - d. Easements.
    - e. Structures, utilities, roads (including names), and other paved areas.
    - f. Topographic contours.
    - g. Critical areas.
    - h. Surface water and wetlands, drainage patterns, and watershed boundaries.
    - i. Vegetation.
  2. Soils information for design purposes or for determining highly erodible soils shall be determined from a National Cooperative Soil Survey (NCSS) soil series map. A High Intensity Soil Map of the site, prepared in accordance with the Society of Soil Scientists of Northern New England (SSSNNE) Special Publication No. 1, can only be used for design purposes and not for determining highly erodible soils.
  3. Temporary and permanent stormwater management and erosion and sediment control BMPs.
  4. Areas and timing of soil disturbance.
  5. Schedule and procedures for the inspection and maintenance of all BMPs, during and after construction.
  6. Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.
  7. If infiltration or exfiltration is proposed as part of the drainage solution, test pit information regarding estimated seasonal high water table shall be provided at the elevation of the proposed infiltrating or exfiltrating device.

8. Calculations for the infiltration or exfiltration system. These calculations should account for frozen ground conditions, when the devices may not function at their optimal design.
9. Any other specific study, calculation, or investigation as requested by the Town.
10. The drainage plans and report shall be certified by a Licensed Professional Engineer, registered in the State of New Hampshire.
11. Stormwater and Erosion Control Permit Application, see Section 4.1 for sample.

### **Section 1.6 Completed Application Requirements.**

- A. The following shall be required in the final plan unless the project is deemed of sufficiently minimal impact to qualify for the minimum requirements specified in Section 1.4 (Design Standards) of this Regulation:
  1. Construction Drawings/Supporting Documents.
  2. Locus map showing property boundaries.
  3. North arrow, scale, date.
  4. Property lines.
  5. Structures, roads, utilities, earth stockpiles, equipment storage, and plan for stump and debris removal.
  6. Topographic contours at two (2) foot intervals.
  7. Critical areas.
  8. Within the project area and within two hundred (200) feet of project boundary surface waters, wetlands, and drainage patterns and watershed boundaries.
  9. Vegetation.
  10. Extent of one hundred (100) year flood plain boundaries if published or determined.
  11. Soils information for design purposes 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.
  12. Easements, existing and proposed.

13. Areas of soil disturbance, including calculation of square footage disturbed.
14. Areas of cut and fill, including existing and proposed elevations.
15. Locations of earth stockpiles.
16. Locations of equipment storage and staging.
17. Stump disposal.
18. Highlighted areas of poorly and very poorly drained soils.
19. Highlighted areas of poorly and/or very poorly drained soils proposed to be filled.
20. Locations, descriptions, details, and design calculations for all structural, non-structural, permanent, and temporary erosion and sedimentation control measures and BMPs.
21. Identification of all permanent control measures.
22. Identification of permanent snow storage areas.
23. Identification of snow management measures during construction.
24. Construction schedule.
25. Earth movement schedule.
26. Temporary (additional) detention and/or sediment control facilities may be designed to accommodate the storm most likely to occur during the anticipated duration of construction (e.g., construction duration of two years requires a two-year frequency storm evaluation).
27. A proposed schedule for the inspection and maintenance of all measures.
28. Identification of all permanent control measures and responsibility for continued maintenance.

B. Stormwater Management Report Section Including:

1. Design calculations for all temporary and permanent structural control BMP measures.
2. A proposed schedule and procedural details for the inspection and maintenance of all BMPs, during and after construction.
3. Identification of all permanent control measures and responsibility for continued maintenance.

4. Drainage report with calculations showing volume, peak discharge, and velocity of present and future runoff for the ten (10) year, twenty-four (24) hour storm event.
5. Plans showing the entire drainage area affecting or being affected by the development of the site. Proposed lot boundaries and drainage areas shall be clearly shown on the plan.
6. The direction of flow of runoff through the use of arrows shall clearly be shown on the plan.
7. The location, elevation, and size of all existing and proposed catch basins, drywells, drainage ditches, swales, retention basins, and storm sewers shall be shown on the plan.
8. When detention structures are planned to reduce future condition peak discharge, the soil cover complex method shall be used to compute the runoff volume and peak discharge for designing the structure. The design will conform to the criteria outlined for those types of structures given in the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire”.
9. Copies of pertinent State and Federal Permits.
10. An example Stormwater Management Plan table of contents follows:
  - a. Project Overview
  - b. Owner.
  - c. Address of development.
  - d. Location of the site.
  - e. Description of receiving waters.
  - f. Nature and purpose of the land disturbing activity.
  - g. Limits of disturbance.
  - h. Construction schedule.
  - i. Existing conditions summary.
  - j. Define topography, drainage patterns, soils, ground cover, critical areas adjacent areas, upstream areas draining through site, existing development, existing stormwater facilities, on- and off-site utilities, construction limitations, buffers, wetlands, streams, sensitive areas, and other pertinent features.
  - k. Include an existing conditions plan (drawing) showing the above existing conditions and labeled per the narrative above.
  - l. Off-site analysis.
  - m. Describe the tributary area (include at least one-quarter (¼) mile downstream), drainage channels, conveyance systems, and downstream receiving waters.
  - n. Review existing or potential problems resulting from the development including, but not limited to, sedimentation, erosion, water quality issues, chemical spills.
  - o. Demonstrate that development of the site will not affect the downstream systems negatively.
  - p. Demonstrate adequate capacity of the downstream system to handle flow conditions after development.
  - q. As applicable, include an off-site drainage plan (the plan may be part of the existing conditions plan)

- r. Special reports, studies, maintenance information.
- s. As applicable, include test pit log forms, soil conditions data, and wetland delineation information.
- t. As applicable, include information regarding long-range maintenance of any closed drainage systems, detention/retention facilities, etc.
- u. Appendix (include copies of all tables, graphs, and charts, test pit and percolation test data used in any of the above calculations).

### **Section 1.7 Responsibility for Installation/Construction.**

- A. The applicant and the applicant's engineer (or technical representative) shall schedule and attend a mandatory preconstruction meeting with the Town at least two (2) weeks prior to commencement of construction. Two (2) copies of the SWPPP (if required), SWMP, associated construction documents, and Notice of Intent (if required) must be provided at that time. All documents must bear the seal and signature of the registered Professional Engineer preparing the documents. Prior to commencement of construction, the Board of Health will confirm that the documents submitted meet the conditions of plan approval. An appropriate notation will be made on the "official" construction set used by the Health Officer.
- B. The Town reserves the right to prepare and request the applicant's acknowledgement of a preconstruction checklist.
- C. The applicant 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.
- D. The Board of Health shall require a bond or other security in an amount and with surety conditions satisfactory to the Board, providing for the actual construction and installation of such measures within a period specified by the Board of Health and expressed in the bond or the surety.
- E. The Town may require the owner or his authorized agent to deposit in escrow with the Town an amount of money sufficient to cover the costs for inspection and any professional assistance required for compliance site monitoring.
- F. Site development shall not begin before the stormwater management and erosion control plan receives conditional approval from the BOH or their designated agent. Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the plan.
- G. Commercial and Industrial Development and/or Redevelopment.

1. The applicant, owner, and owner's legally designated representative (if any) shall all hold responsibility for implementing the stormwater management and erosion control plan.

#### H. Residential Development and Redevelopment.

1. The applicant is responsible for implementing the stormwater management and erosion control plan. There are two (2) ways for the applicant to be removed from the responsible party (in the Town's jurisdiction):
  - a. The applicant completes the project in a satisfactory manner and files a Notice of Termination (NOT) with the EPA in accordance with the terms of the Federal requirements.
  - b. The applicant passes legal responsibility of 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 legal basis to require compliance by the new entity.

#### I. Individual Homeowner Development.

1. Once the homeowner has taken control of a subdivided property, the homeowner bears responsibility for compliance with the approved stormwater management and erosion control plan. If the homeowner is contracting building services to another person or entity, the homeowner may choose to pass legal responsibility of compliance to the contracted entity. If the responsibility is not passed, the homeowner remains the responsible party and must comply with the terms of the original plan.

### **Section 1.8 Plan Approval and Review.**

- A. The Board of Health, Health Officer or their designated agent shall indicate approval of the stormwater management and erosion control plan, as filed, if it complies with the requirements and objectives of this regulation. If applicable, such approval shall be a component of subdivision or site plan approval, but shall not relieve the applicant of the need to comply with requirements relating to stormwater drainage systems design that may also be contained in other applicable subdivision and/or site plan regulations.
- B. Final approval shall be contingent upon collection of any required fees or escrow amounts related to technical review of any stormwater management and erosion control plan prepared under this Regulation.

### **Section 1.9 Maintenance Inspection and Maintenance Security.**

- A. A narrative description of ongoing construction and operational maintenance requirements for water quality measures required by stormwater management and erosion and sediment

control plans after final Board of Health approval shall be recorded on the deed, and any accompanying development agreements or covenants, to the property on which such measures are located. The narrative shall be in the form of a typical site plan management, development agreement, or as otherwise set forth by the Board of Health. The description so prepared shall comply with the requirements of RSA 478:4-a, as detailed below:

1. The Registry of Deeds shall not accept a deed or instrument for filing and recording unless it recites the following information:
    - a. The latest mailing address of the grantees named in the deed or instrument;
    - b. In the first sentence of the first description paragraph, the names of all municipalities in which the property is located;
    - c. The name of each person signing the deed or instrument as a party to the transaction printed or typewritten under the signature.
  2. All documents shall be suitable for reproduction as determined by the Hillsborough County Registry of Deeds, which shall provide document standards as amended and adopted by the New Hampshire registers of deeds. The standards and any amendments thereto shall include a statement of their effective date, and shall be posted in and distributed by all registries of deeds for at least sixty (60) days prior to such effective date.
  3. In the event of any changes in Registry procedure or requirements, RSA 478:4-a shall supersede the above requirements, and the applicant shall fulfill those requirements.
- B. There shall further be a copy of the maintenance requirements on site during construction activity. During the time of construction, a log and report must be submitted to the Town twice each month, and within forty-eight (48) hours of any storm event with greater than one (1) inch of rainfall. This report shall detail all inspections; any actions taken per the construction stormwater management and erosion control plan, including the reasons for doing so, dates of action, and follow up action required. After construction, this copy of the maintenance requirements shall be given to a responsible party, either at the maintenance/management company, or in the Homeowners' Association. This party will be responsible for preparing a yearly log and report, to be submitted to the Town no later than the close of business on the last business day in January. This report shall contain all of the information required in the bi-weekly reports.
- C. If the applicant, manager or owner is unable to adequately provide the required maintenance activities, 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. The Board of Health may require inspections to verify ongoing maintenance of water quality protection measures. Such inspections shall be performed by the Board of Health or their designee at reasonable times to the landowner. The applicant, manager, or owner shall bear the cost of these inspections, and shall pay in a manner acceptable to the Town.

- E. If permission to inspect is denied by the landowner, the Board of Health or their designee shall secure an administrative inspection warrant from the district or superior court under RSA 595-B.

### **Section 1.10 Enforcement and Penalties.**

- A. The purpose of this article is to enact locally the administrative and enforcement procedures set forth in RSA Title LXIV, specifically RSA 676:15, 16, 17, 17-a and 17-b, of the existing planning and land use statutes.
- B. RSA Title LXIV, (64), specifically RSA 676:15, 16, 17, 17-a and 17-b, authorizes the following penalties and remedies for enforcement of the provisions of this regulation:
  - 1. Injunctive relief in accordance with RSA 676:15.
  - 2. Fines and penalties in accordance with RSA 676:17.
  - 3. Issuance of a cease and desist order in accordance with RSA 676:17-a.
  - 4. Pleas by mail for local land use citations in accordance with RSA 676:17-b.
- C. Any violation of the requirements of this Regulation shall be subject to enforcement by the Health or Zoning Code enforcement officer, or their designated agent for the Town of Amherst, who shall be empowered to take any action authorized by the provisions of RSA Title LXIV, or any other applicable law or regulation.
- D. Prior to taking any other action, the Town shall issue a Notice of Violation (see Section 4.2).

### **Section 1.11 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 Water Supply and Pollution Control Division for "...any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff ...". 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.
- B. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the EPA or by the State under authority delegated pursuant to 33 USC, section 1342 (b) that authorizes the discharge of pollutants to waters of the United States.

- C. For a cumulative disturbance of one (1) acre of land that 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 permit will be required. Consult EPA for specific rules. This EPA permit is in addition to any state or local permit required. To apply, the entity or individual responsible for construction site operations shall file a Notice of Intent (NOI) with the EPA postmarked at least 24 hours prior to work beginning. EPA will respond within two (2) weeks with a written permit, provided the NOI meets their criteria. A sample NOI is provided in Section 4.3.

### **Section 1.12 Post-Construction Operation.**

#### **A. Stormwater Discharges Associated with Commercial/Industrial Activities.**

1. Each commercial and industrial facility approved under this Regulation is required to perform annual site inspections (at a minimum). The site inspection must be documented and at a minimum should include: review of stormwater flow paths, condition of any sediment or contaminant control devices, water quality notations, corrective actions and time frames if unacceptable water quality runoff is noted, and the name and position of the inspector. All records of the inspections must be made available to the Town of their designee upon request.

#### **B. Notification for Spills or Other Non-Stormwater Discharges.**

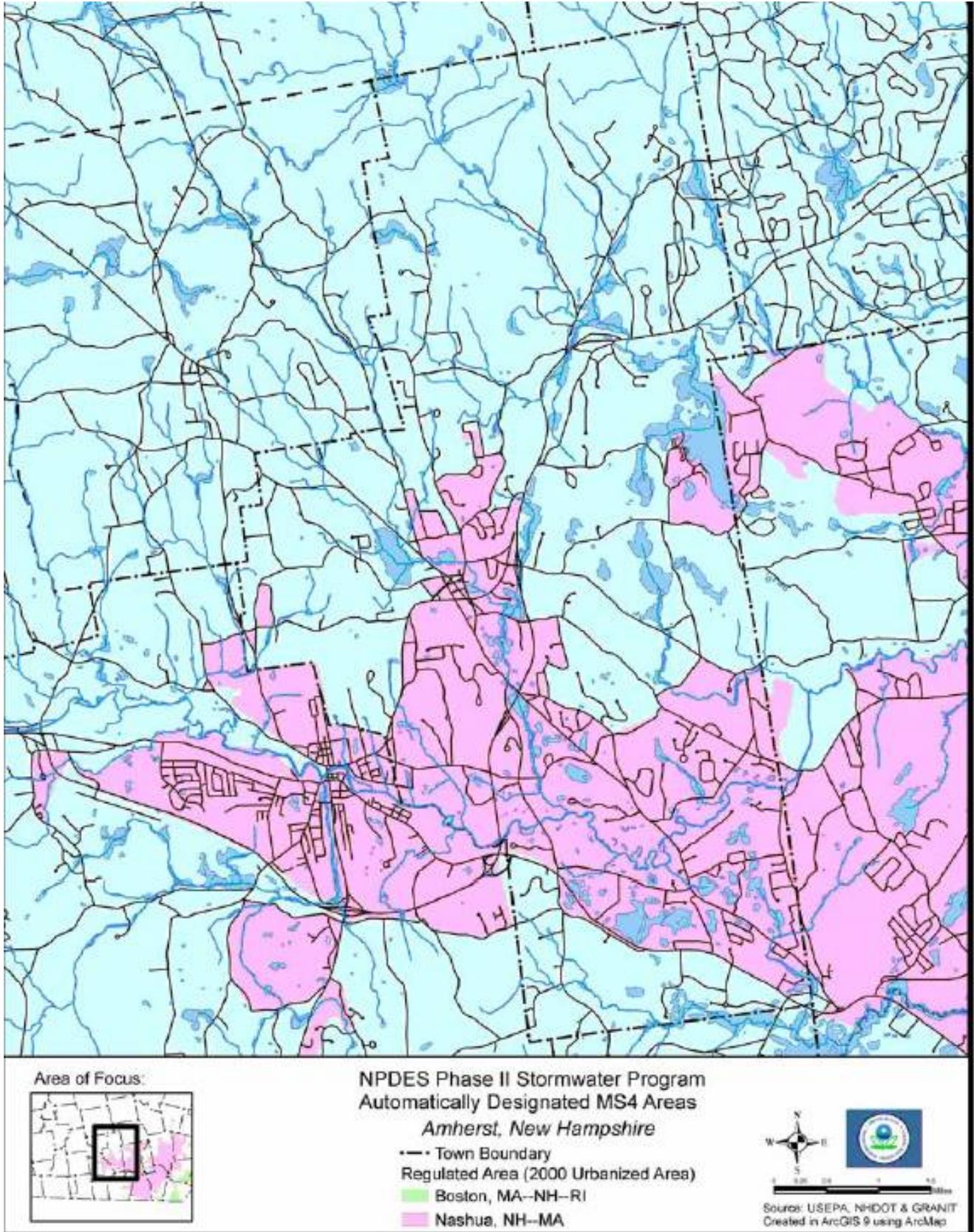
1. As soon as any person responsible for a facility, site, activity, or operation has information of any known or suspected release of pollutants or non-stormwater discharges which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Town of Amherst’s municipal 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 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.) If the substance poses an immediate health or safety concern, the Town of Amherst Emergency Services must immediately be notified. If the substance does not pose an immediate concern, the Town of Amherst Board of Health should be notified. This notification should be made as soon as possible, however, no later than twenty-four (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.

## **ARTICLE II -- MAPS**

### **Section 2.1 Mandatory Regulated MS4s in Urbanized Areas – Map.**

Municipal Separate Storm Sewer Systems (MS4s) within “urbanized areas” (UA), as defined by the Bureau of Census, fall under mandatory regulation under EPA Phase II Stormwater Management Regulations: Within the UA’s, all roads and streets and associated drainage systems, both open and closed, fall under regulation. Map 1 depicts the two (2) urbanized areas in Amherst. The northern area is within the Nashua, New Hampshire UA and the southern area is within the Boston, Massachusetts, New Hampshire, and Rhode Island UA. All land in Amherst shall comply with this Regulation.

#### **Map 1: Town of Amherst “Urbanized Areas”**



**ARTICLE III**

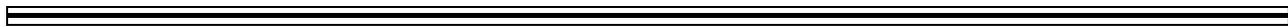
**ARTICLE III -- CERTIFICATION OF ADOPTION**

**Section 3.1 Certification of Adoption:**

1. We, the undersigned do hereby attest that this amendment to the (Subdivision Regulations and Non-Residential Site Plan Review Regulations) was adopted by a majority vote of the Amherst Planning Board at their duly noticed public meeting on:

Date \_\_\_\_\_

Chairperson, Planning Board \_\_\_\_\_



2. This Regulation was recorded with the Amherst Town Clerk on:

Date \_\_\_\_\_

3. A summary of this Regulation was published in the Milford Cabinet on \_\_\_\_\_ (date), with a notice of where the Regulation was posted in Town.

4. This Regulation was posted at \_\_\_\_\_ and \_\_\_\_\_ (two Public Places) as of \_\_\_\_\_ (date).



**Town Clerk**

5. Effective Date: \_\_\_\_\_

Signature (Town Clerk) \_\_\_\_\_

### ARTICLE IV -- APPLICATIONS

#### **Section 4.1 Sample Stormwater Permit Application:**

Failure to provide all required materials and information could result in the review of this application being delayed for consideration. The applicant certifies to the truth of the following facts as part of his/her application.

Name of Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone/Fax Numbers: \_\_\_\_\_

Name of Engineer/Surveyor/Agent: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone/Fax Numbers: \_\_\_\_\_

Address (including Map & Lot) of Property for which permit is requested:  
\_\_\_\_\_

Type of Request:  Commercial/Industrial       Subdivision

Single Lot Development       Municipality/Utility

Name(s) and address(es) of Owner(s) if different from Applicant:  
\_\_\_\_\_  
\_\_\_\_\_

Description of the project for which a Stormwater and Erosion Control Permit is requested. Include development name, type, start date, and total square footage of land to be altered/cleared. Attach additional sheets as necessary.  
\_\_\_\_\_  
\_\_\_\_\_

Required forms (submit ten copies of all supporting materials):

Legal Description       Drainage & Erosion Control Plan

Stormwater Management Plan Calculations & Drawings

I have reviewed Section XXXX of the Town of Amherst Zoning Ordinance regarding Stormwater and Erosion Control. For residential construction, the Town of Amherst Community Development Office must be contacted for inspection within one business day of rough grading completion.

I further grant the right-of-entry onto this property, as described above, to the designated personnel of the Town for the purpose of inspecting and monitoring for compliance with the aforesaid ordinance.

Signature of Applicant \_\_\_\_\_

Date of Submission \_\_\_\_\_

**Section 4.2 Town of Amherst Notice of Violation:**

**TOWN OF AMHERST  
NOTICE OF VIOLATION**

Dear Property Owner: \_\_\_\_\_

You are hereby informed that based on an inspection performed by the local administrator on \_\_\_\_\_ (date), your property does not comply with the requirements of the Town of Amherst Subdivision Regulations (Zoning Ordinance Article IX Section B) / Non-Residential Site Plan Review Regulations (Zoning Ordinance Article IX Section C) or plans approved thereunder. You are hereby served written notice and instructed to correct the violations listed below:

A copy of the inspection report, which details the nature of the violation at hand, is enclosed.

Actions or conditions which violate the requirements of this Regulation or plans approved under this Regulation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. The minimum that needs to be done to correct the violation(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. The violation must be corrected by: \_\_\_\_\_ (date)

d. The property owner was forwarded a copy of this report on \_\_\_\_\_ (date).

e. The original has been filed in the \_\_\_\_\_ Department on \_\_\_\_\_ (date).

f. A copy of the inspection report is attached: Yes: \_\_\_\_ No: \_\_\_\_

Sincerely, \_\_\_\_\_  
Amherst Health Officer





Have stormwater discharges from your project/site been covered previously under an NPDES permit?  YES  NO

If yes, provide the Tracking Number if you had coverage under EPA's CGP or the NPDES permit number if you had coverage under an EPA individual permit:

**C. Updated Discharge Information**

Does your project/site discharge stormwater into a Municipal Separate Storm Sewer System (MS4)?  YES  NO

Are there any surface waters within 50 feet of your project's earth disturbances?  YES  NO

**Receiving Waters and Wetlands Information: (Attach a separate list if necessary)**

Provide the name(s) of the first surface water that received stormwater directly from your site and/or from the MS4:	Provide the names of any impaired waters to which you discharge and the pollutant(s) for which they are impaired		Provide the names of any waters to which you discharge for which there is an EPA approved or established TMDL, the name of the TMDL, and the pollutant(s) for which there is a TMDL		
	Surface water name:	Pollutant(s) causing the impairment:	Surface water name:	TMDL name:	Pollutant(s) for which there is a TMDL:

**Impaired Waters**

Describe the methods you used to complete the above table:

Are any of the surface waters to which you discharge designated by the state or tribal authority under its antidegradation policy as a Tier 2 (or Tier 2.5) water (water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water) or as a Tier 3 water (Outstanding Natural Resource Water)? (See Appendix F).

YES  NO

If yes, name(s) of receiving water(s) and its designation (Tier 2, Tier 2.5 or Tier 3): \_\_\_\_\_

**D. Updated Chemical Treatment Information**

Will you use polymers, flocculants, or other treatment chemicals at your construction site?  YES  NO

If yes, will you use cationic treatment chemicals\* at your construction site?  YES  NO

If yes, have you been authorized to use cationic treatment chemicals by your applicable EPA Regional Office in advance of filing your NOI?  YES  NO

If you have been authorized to use cationic treatment chemicals by your applicable EPA Regional Office, attach a copy of your authorization letter and include documentation of the appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards.

Please indicate the treatment chemicals that you will use:

\*Note: You are ineligible for coverage under this permit unless you notify your applicable EPA Regional Office in advance and the EPA office authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards.

**E. Updated Stormwater Pollution Prevention Plan (SWPPP) Information**

Has the SWPPP been prepared in advance of filing this NOI?  YES  NO

**SWPPP Contact Information:**

First Name, Middle Initial, Last Name:

Organization Name:

Phone:  -  -  Exl.  Fax (optional):  -  -

E-mail:



## ARTICLE V -- REFERENCES

### **Section 5.1 References.**

Environmental Protection Agency (EPA). 2007. *Developing Your Stormwater Pollution Prevention Plan, A Guide for Construction Sites (Interim)*. [www.epa.gov/npdes/swpppguide](http://www.epa.gov/npdes/swpppguide)

Environmental Protection Agency (EPA). [www.epa.gov/npdes/stormwater](http://www.epa.gov/npdes/stormwater)

New Hampshire Department of Agriculture, Markets, and Food. 2008. *Manual of Best Management Practices (BMP's) for Agriculture in New Hampshire*. (As Amended.)