

## **SECTION 18.**

### **SOIL EROSION AND SEDIMENT CONTROL AND STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

#### **ARTICLE 1**

##### **Section 18.1. Purpose.**

The North Smithfield Town Council hereby finds that excessive quantities of soil are eroding from certain areas that are undergoing development for nonagricultural uses such as housing development, industrial areas, recreational facilities, and roads. This erosion makes necessary costly repairs to gullies, washed out fills, roads, and embankments. The resulting sediment clogs the storm sewers, road ditches, and muddies streams, leave deposits of silt in ponds and reservoirs and is considered a major water pollutant.

The purpose of this ordinance is to control the discharge of construction waste and prevent soil erosion and sedimentation from occurring as a result of nonagricultural development within the Town of North Smithfield by requiring the use of appropriate best management practices (BMP's) and proper provisions for water disposal, construction waste management, and the protection of soil surfaces during and after construction to reduce or eliminate the pollutants in stormwater discharges, in order to promote the safety, public health and general welfare of the Town.

##### **Section 18.2. Findings.**

- (1). The Town Council finds that excessive quantities of soil are eroding from certain areas of the Town which are undergoing development for certain nonagricultural uses such as housing developments, industrial areas, recreational facilities, commercial facilities, and roads.
- (2). Soil erosion occurring in areas undergoing nonagricultural development makes costly repairs necessary to gullies, washed-out fills, roads, and embankments. The resulting sediment clogs storm sewers and road ditches, and deposits silt into ponds, rivers, streams, and brooks.
- (3). Silt resulting from erosion threatens the water supply, as well as the recreational, aesthetic, and wildlife habitat values associated with these waters.
- (4). Construction debris, litter and spills also clog the storm water management system and contaminate surface and ground water. Other construction wastes including construction debris and chemicals, concrete truck washout, oil and grease, litter and sanitary waste may cause adverse impacts to water quality when discharge from a construction site.

### **Section 18.3. Authority.**

The Town Council shall grant the Building Official and/or his designee the authority necessary to administer this chapter under the provisions of G.L. 1956, § 45-46-1 et seq., Soil Erosion and Sediment Control.

## **ARTICLE II**

### **Section 18.4. Applicability.**

This ordinance is applicable to any situation involving any disturbance to the terrain, topsoil or vegetative ground cover upon any property within the Town of North Smithfield after determination of applicability by the Building Official or his or her designee based upon criteria outlined below. This section shall not apply to existing quarrying operations actively engaged in excavating rock. Compliance with the requirements as described herein shall not be construed to relieve the owner/applicant of any obligations to obtain necessary state or federal permits. Projects requiring review and approval from the Planning and/or Zoning Board shall receive Final approvals from the appropriate board prior to commencement of any land disturbing activities as described above.

## **ARTICLE III**

### **Section 18.5. Determination of applicability.**

It is unlawful for any person to disturb any existing vegetation, grades, and contours of land in a manner which may increase the potential for soil erosion and affect the quality and quantity of stormwater discharges associated with both the construction and post-construction activity, without first applying for a determination of applicability from the Building Official or his or her designee, except that the following activities shall be determined to be subject to the requirements of this ordinance: all activities disturbing a total area equal to or greater than one acre<sup>1</sup>, **including disturbances less than one acre if part of a larger common plan**; and any activity that requires permit approval by the Rhode Island Department of Environmental Management (RIDEM). Upon determination of applicability, the owner/applicant shall submit a stormwater pollution prevention plan (SWPPP) for approval by the Building Official or his or her designee. The application for determination of applicability shall describe the location, nature, character, and time schedule of the proposed land disturbing activity in sufficient detail to allow the Building Official or his or her designee to determine the potential for soil erosion and sedimentation resulting from the proposed project.

In determining the applicability of this Section to a particular land disturbing activity, the Building Official or his or her designee shall consider site topography, drainage patterns, soils, proximity to watercourses, and other such information as deemed appropriate by the Building Official or his or her designee.

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<sup>1</sup> Throughout this document, this term shall include disturbances less than one acre if part of a larger common plan.

**Where less than a total of one acre is disturbed**, a particular land disturbing activity shall not be subject to the requirements of this ordinance if the Building Official or his or her designee finds that erosion resulting from the land disturbing activity is insignificant and represents no threat to adjacent properties or to the quality of any watercourse, as defined herein. The most current “Rhode Island Soil Erosion and Sediment Control Handbook” prepared by the U.S. Department of Agriculture Natural Resources Conservation Service, R.I. Department of Environmental Management, and R.I. State Conservation Committee shall be consulted in making this determination.

In making this determination, the building official will also take into consideration the sensitivity of the waterbody to which the site drains. A waterbody and its watershed will be considered sensitive if a Total Maximum Daily Load or Special Area Management Plan is written or under development for it, or it is included on RIDEM’s 303(d) list, or is included on RIDEM’s list of Special Resource Protection Waters (Appendix D of the Water Quality Regulations), or has been noted by the municipality to be of special concern.

The Building Official or his or her designee shall accept satisfactory evidence in writing from persons who have been conducting excavation and sand and gravel operations for more than one (1) year prior to the date of the determination of applicability. The evidence shall show that the excavation and the sand and gravel operations have been actively operating for five (5) years and that the procedures followed at the existing operations accomplish the objectives of the statute as such procedures prevent soil erosion and sedimentation from occurring and procedures regarding water disposal and soil surfaces promote the safety, public health and general welfare of the Town.

Exemptions. No determination of applicability is required for the following:

(1) Construction, alteration, or use of any additions to existing single-family or duplex homes or related structures, provided the grounds coverage of such addition is less than 1,000 square feet; such construction, alteration, and use does not occur within 100 feet of any watercourse or coastal feature; and the slopes at the site of land disturbance do not exceed 10%.

(2) Use of a home garden in association with on-site residential use.

(3) Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private and/or commercial agricultural or silvacultural purpose.

(4) Excavations for improvements other than those described in Subsection E(1) of this section which exhibit all of the following characteristics:

(a) Does not result in a total displacement of more than 50 cubic yards of material.

(b) Has no slopes greater than 10%.

(c) Has all disturbed surface areas promptly and effectively protected to prevent soil erosion and sedimentation.

(5) Grading, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots provided that all bare surface is immediately seeded, sodded or otherwise protected from erosive actions and all of the following conditions are met:

(a) The aggregate areas of such activity do not exceed 2,000 square feet.

(b) The change of elevation does not exceed two feet at any point.

(c) The grading does not involve a quantity of fill greater than 18 cubic yards except where excavated from another portion of the same parcel, and the quantity does not exceed 50 cubic yards.

(d) When the preexisting use is a gravel extraction operation, the property owner shall conduct the operation in a manner so as not to devalue abutting properties, to protect abutting property from wind erosion and soil erosion, from increased runoff, sedimentation of reservoirs and drainage systems, and to limit the depth of extraction so as not to interfere with the nearby water table. Where any portion of a proposed development requires approval under the Rhode Island Freshwater Wetlands Act (G.L. 2-1-15 et seq. 2.), as amended, and where said approval contains provision for soil erosion and sediment controls, that approved plan shall be a component of the overall SWPPP required hereunder for the development.

(6) Grading, filling, removal, or excavation activities and operations undertaken by the Town under the direction of the Director of Public Works for work on streets, roads, or rights-of-way dedicated to public use; provided, however, that adequate and acceptable erosion and sediment controls and controls for other construction wastes, are incorporated in engineering plans and specifications, are followed and employed. Appropriate controls shall apply during construction as well as after the completion of these activities. All such work shall be undertaken in accordance with the performance principles provided for in Article V, Section 18.11, and such standards and definitions as may be adopted to implement such performance principles.

#### **ARTICLE IV**

##### **Section 18.6. Provisions of plan - Procedures**

(1) To obtain approval for a land disturbing activity as found applicable by the building official or his or her designee under Article III, if the site is less than one (1) acre in size, an applicant shall file an erosion and sediment control plan.

If the site is a total of one (1) acre or greater in size, they shall submit a Stormwater Pollution Prevention Plan (SWPPP), signed by the owner of the property, or authorized agent, on which the work subject to approval is to be performed. The plan or drawings, as described in Article V, shall include proposed erosion and sediment control and waste management measures to be employed by the applicant or the applicant's agent.

(2) R.I. Freshwater Wetlands Permit: Where any portion of a proposed development requires approval under any provision of the general laws approved by the general assembly or where the approval contains provisions for soil erosion and sediment controls, that approved plan shall be a component of the overall soil erosion and sediment control plan or SWPPP required under this ordinance for the development

(3) Construction General Permit: In those cases where a SWPPP is submitted, the applicant will also submit a copy of the Notice of Intent.

### **Section 18.7. Fees.**

(1) The Town may collect fair and reasonable fees from each applicant requesting approval of a SWPPP for the purpose of administering this ordinance.

(2) At the time of submission of a SWPPP to the Office of the Building Official or his or her designee, the applicant shall pay a filing fee. This fee is in addition to any required by the R.I. Freshwater Wetlands Act.

(3) The Building Official or his or her designee may waive the filing fee for an applicant who demonstrates that imposition of the filing fee will result in substantial hardship, or that the imposition of the filing fee will make unnecessarily difficult a project which should enjoy routine approval or which could be beneficial to soil, water, or land resources. Any such determination of waiving a filing fee shall be based upon documentation provided to the Building Official or his or her designee prior to the application for plan approval.

(4) The Building Official or his or her designee may waive the filing fee for an application or request filed by a Town office or agency.

(5) The Building Official or his or her designee may draw upon the fees for costs and expenses in processing applications, plans, and requests; copying plans, technical reports, and other documents for review; advertising, circulating, or otherwise publishing notices and information regarding applications and other matters pending; conducting hearings, meetings, field inspections and other professionally contracted reviews; and communicating with federal and state agencies, consultants and engineers, provided that only those costs and expenses are reasonably attributable to review, approval, disapproval, or other action on plans and determinations of applicability.

(6) This filing fee schedule (see Appendix A) has been determined by the Town to be commensurate with the expenses of providing these municipal services to applicants.

### **Section 18.8. Plan review.**

Within ten (10) days of the receipt of a completed SWPPP, the Building Official or his or her designee shall send a copy of the plan to the review authorities which shall include

the Public Works Department, the Planning Board, or Planning Department and Conservation Commission for the purpose of review and comment.

The Building Official or his or her designee shall also within the above time frame submit copies of the SWPPP to other local departments or agencies, including the Northern Rhode Island Conservation District, in order to better achieve the purposes of this section. Failure of the aforementioned review authorities to respond within forty-five (45) days of their receipt of the plan shall be deemed as no objection to the plan as submitted.

The time allowed for plan review shall be commensurate with the proposed development project, and shall be done simultaneously with other reviews.

### **Section 18.9. Plan approval.**

The Building Official or his or her designee shall take action in writing either approving or disapproving the SWPPP with reasons stated within ten (10) days after the Building Official or his or her designee has received the written opinion of the aforementioned review authorities.

In approving a SWPPP, the Building Official or his or her designee may attach such conditions deemed reasonably necessary by the aforementioned review authorities to further the purposes of this ordinance. The conditions pertaining to control measures and/or devices, may include, but are not limited to, the erection of walls, drains, dams, and structures, planting vegetation, trees and shrubs, furnishings, necessary easements, good housekeeping and spill prevention measures for construction waste; and specification of the methods for performance and timing of various kinds of work. The applicant/owner shall notify the Building Official or his or her designee in advance of his or her intent to begin clearing and construction work described in the SWPPP. The applicant shall have the SWPPP on the site during grading and construction.

Following receipt of a permit, the applicant/owner shall notify the Building Official or his designee at least 72 hours in advance of his intent to begin clearing and construction work on the site as described within the approved SWPPP.

Projects requiring review and approval from the Planning and/or Zoning Board shall receive Final approvals from the appropriate board prior to commencement of any land disturbing activities as described above.

The applicant shall have an approved copy of the SWPPP on site for the duration of the project and shall be made available upon request.

### **Section 18.10. Appeals.**

*18.10.1. Administrative procedures.* If the finding made by the Building Official or his or her designee is unsatisfactory to the applicant/owner, the applicant/owner may file a written appeal. The appeal of plans for SWPPP shall be in the Zoning Board of Review

or other appropriate board of review, as determined by the Town Council. Appeal procedures shall follow current requirements for appeal to boards above. During the period in which the request for appeal is filed, and until such time as a final decision is rendered on the appeal, the decision of the Building Official or his or her designee shall remain in effect.

*18.10.2 Expert opinion.* The official or his/her designee and/or the Zoning Board of Review or other board of review, may seek technical assistance on any SWPPP. The expert opinion must be made available in the office of the Building Official or his or her designee as a public record prior to the appeals hearing.

## **ARTICLE V**

### **Section 18.11. Soil Erosion and Sediment Control Plan, and Stormwater Pollution Prevention Plan.**

Upon determination of applicability by the Building Official or his or her designee, the erosion and sediment control plan and/or SWPPP shall be prepared by a registered engineer, or landscape architect or a Certified Erosion, Sediment and Stormwater Inspector (by CPESC, Inc) and copies of the plan shall be submitted to the Building Official or his or her designee.

The SWPPP shall include sufficient information about the proposed activities and land parcel(s) to form a clear basis for discussion and review and to assure compliance with all applicable requirements of this section. The SWPPP for proposed activities disturbing a total of one (1) acre or greater shall be prepared in conformance with the requirements for a Storm Water Pollution Prevention Plan (SWPPP), as provided in the RI Department of Environmental Management's General Permit for Storm Water Discharge Associated with Construction Activity. For sites disturbing less than one acre, the plan shall be consistent with the data collection, data analysis, and plan preparation guidelines in the current "Rhode Island Soil Erosion and Sediment Control Handbook", prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service, R.I. Department of Environmental Management and R.I. State Conservation Committee, and at a minimum, shall contain:

(1) A brief narrative describing the proposed land disturbing activity and the soil erosion and sediment control measures, waste management measures, and stormwater management measures to be installed to control erosion and mitigate any change in water quality and quantity that could result from the proposed activity. Supporting documentation, such as a drainage area, existing site, and soil maps shall be provided as required by the Building Official or his or her designee.

(2) Construction drawings in detail commensurate with the size of the project, sensitivity of the potentially impacted waterbody and distance to water and/or storm water system. These drawings will illustrate existing and proposed contours, drainage features, and vegetation; limit of clearing and grading, the location of soil erosion and sediment control and storm water management measures, detail drawings of measures; stock piles and borrow areas; waste collection and burial areas; concrete truck wash out sites; sequence

and staging of land disturbing activities; and other such information needed for construction.

(3) A schedule showing the sequence of construction and inspection and maintenance of erosion and sediment control and waste control measures.

(4) All applicants shall provide other information or construction plans and details as deemed necessary by the Building Official or his or her designee for thorough review of the plan prior to action being taken as prescribed in this section.

(5) Withholding or delay of this information in whole or in part may be reason for the Building Official or his or her designee to judge the application as deficient and shall serve as grounds for disapproval.

(6) If the application is deemed to be incomplete by the Building Official or his designee, he shall send a letter of deficiency to the applicant within seven days from the date of submission citing those sections of the application which are incomplete.

(7) Erosion and sediment controls.

A description, including construction details appropriate to the site, for both vegetative and structural practices. Vegetative BMPs are designed to preserve existing vegetation where attainable and revegetate open areas as soon as practicable after grading or construction. Structural BMPs divert flows from exposed soils, filter runoff, store flows or otherwise limit runoff from coming into contact with exposed, unvegetated areas of the site and to prevent sediments and/or other pollutants from leaving the site.

(8) Post-construction stormwater management.

A description of measures that will be installed during the construction project to control pollutants in stormwater discharges that will occur at the site after the construction operations have been completed. These measures shall reflect best practices as described in the most recent RIDEM Stormwater Design and Installation Standards Manual. Maintenance activities for these measures shall be described in accordance with Subsection 18.15 below.

Other controls.

(a) Waste disposal: A description of the other controls, including construction details appropriate for the site, to eliminate the discharge of other construction wastes found on the construction site. All types of waste generated at the site shall be disposed of in a manner consistent with state law and/or regulations.

(b) Good housekeeping: Good housekeeping measures to provide for the minimization of exposure of construction debris to precipitation and for the proper disposal of such debris shall be specified.

(c) Spill prevention: Areas where potential spills can occur shall be identified. The potential for spills to enter the stormwater drainage system shall be eliminated wherever feasible.

(d) Maintenance: A description of procedures to maintain, in good and effective operating condition, vegetation, stormwater control measures, and other protective measures, identified in the site plan.

(e) Cost estimate: A description of the cost required to implement all control measures as shown on the plan.

(f) Other information: Other information or construction plans and details as deemed necessary by the Building Official or his designee for thorough review of the plan prior to action being taken as prescribed in this article.

### **Section 18.12. Performance principles.**

The contents of the SWPPP shall clearly demonstrate how the principles, outlined below, have been met in the design and are to be accomplished by the proposed development project.

(1) Pursue Low Impact Design (LID) to the maximum extent possible. LID site planning and design strategies must be used to the maximum extent possible in order to reduce the generation of water runoff volumes for both new and redevelopment projects. In the event any of the following LID strategies are rejected as infeasible at a site, the specific rationale for rejection must be provided by the applicant. LID design includes the following:

- a. Protect as much undisturbed open space as possible to maintain pre-development hydrology and allow precipitation to naturally infiltrate into the ground.
- b. Maximize the protection of natural drainage areas, streams, surface waters, and wetlands;
- c. Minimize land disturbance including clearing and grading;
- d. Minimize soil compaction;
- e. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers, and pesticides;
- f. Minimize impervious surfaces;
- g. Minimize the decrease in the “time of concentration” from pre-construction to post construction, where “time of concentration” means the time it takes for runoff to travel from the hydraulically most distant point of the drainage area to the point of interest within a watershed;
- h. Infiltrate precipitation as close as possible to the point it reaches the ground using vegetated conveyance and treatment systems;
- i. Break up or disconnect the flow of runoff over impervious surfaces; and

- j. Provide source controls to prevent or minimize the use of exposure of pollutants into stormwater runoff at the site in order to prevent or minimize the release of those pollutants into stormwater runoff.
- (2) The site selected shall show due regard for natural drainage characteristics and topography.
- (3) To the extent possible, steep slopes shall be avoided.
- (4) The grade of slopes created shall be minimized.
- (5) Post-development runoff rates should not exceed pre-development rates, consistent with other storm water requirements which may be in effect. Any increase in storm water runoff shall be retained and recharged as close as feasible to its place of origin by means of detention ponds or basins, seepage areas, subsurface drains, porous paving, or similar technique.
- (6) Original boundaries, alignment, and slope of watercourses within the project locus shall be preserved to the greatest extent feasible.
- (7) In general, drainage shall be directed away from structures intended for human occupancy, municipal or utility use, or similar structures.
- (8) All drainage provisions shall be of such a design and capacity so as to adequately handle storm water runoff, including runoff from tributary upstream areas which may be outside the locus of the project.
- (9) Drainage facilities shall be installed as early as feasible during construction prior to site clearance, if possible.
- (10) Fill located adjacent to watercourses shall be suitably protected from erosion by means of rip-rap, gabions, retaining walls, vegetative stabilization, or similar measures.
- (11) Temporary vegetation and/or mulching shall be used to protect bare areas and stock-piles from erosion during construction; the smallest areas feasible shall be exposed at any one time; disturbed areas shall be protected during the non-growing months, November through March.
- (12) During the growing season, April through October, permanent vegetation shall be placed immediately following fine grading.
- (13) Trees and other existing vegetation shall be retained whenever feasible; the area beyond within the dripline shall be fenced or roped off to protect trees from construction equipment.

(14) Construction wastes will be managed to reduce the potential for stormwater runoff to mobilize them and contaminate surface or ground water. The storage, disposal, or use as fill of material containing asphalt, concrete, construction debris or stumps, even if determined to be non-hazardous, is prohibited.

(15) All areas damaged during construction shall be resodded, reseeded, or otherwise restored. Where soil compaction has occurred through storage of materials or use of equipment, soil infiltration shall be restored through use of soil amendments or other means. Monitoring and maintenance schedules, where required, shall be predetermined.

(16) All controls installed or used to achieve compliance with this SWPPP must be properly operated and maintained at all times.

(17) Sediment controls, stormwater measures, and other controls shall protect downstream water bodies from adverse water quality and quantity impacts resulting from the construction activities.

(18) Groundwater recharge: Stormwater must be recharged to maintain baseflow at pre-development recharge levels to the maximum extent practicable.

(19) Water quality: Stormwater runoff from a site must be adequately treated before discharge.

(20) Pollution prevention: All development sites require the use of source control and pollution prevention measures to minimize the impact that the land use may have on stormwater runoff quality.

## **ARTICLE VI. ENFORCEMENT**

### **Section 18.13. Performance bond.**

Before approving a SWPPP, the Building Official or his or her designee may require the applicant/owner to file a surety company performance bond or deposit of money or negotiable securities or other method of surety, as specified by the Building Official or his or her designee. When any land disturbing activity is to take place within one hundred feet (100') of any watercourse or within an identified flood hazard district, or on slopes in excess of ten percent (10%), the filing of a performance bond or deposit of money or negotiable securities or other method of surety as specified by the Building Official or his or her designee shall be required. The amount of the bond, as determined by the Public Works Department, or in its absence, the Building Official or his or her designee, shall be sufficient to cover the cost of implementing all control measures as shown on the plan.

The bond or negotiable security filed by the applicant shall be subject to approval of the form, content, amount, and manner of execution by the Public Works Director and the Town Solicitor.

A performance bond for a SWPPP for a subdivision may be included in the performance bond of the subdivision. The posting of the bond as part of the subdivision performance bond does not, however, relieve the owner of any requirement(s) of this ordinance.

**Section 18.13.1. Notice of default on performance secured by bond.**

(1) Whenever the Building Official or his or her designee shall find that a default has occurred in the performance of any term(s) or condition(s) of the bond or in the implementation of measures secured by the bond, written notice thereof shall be made to the applicant and to the surety of the bond by the Town Solicitor. The notice shall state the nature of default, work to be done, the estimated cost thereof, and the period of time deemed by the Building Official or his or her designee to be reasonably necessary for the completion of the work.

(2) Failure of the applicant to acknowledge and comply with the provisions and deadlines outlined in such notice of default shall mean the institution, by the Town Solicitor, without further notice of proceedings whatsoever, of appropriate measures to utilize the performance bond to cause the required work to be completed by the Town, by contract or by other appropriate means as determined by the Town Solicitor.

*18.13.2. Notice of default on performance secured by certified check.* If a certified check has been posted by the applicant, notice and procedure shall be the same as provided for in the preceding Section 18.15.2.

*18.13.3. Release from performance bond conditions.* The performance bonding requirement shall remain in full force and effect for twelve (12) months following completion of the project, or longer if deemed necessary by the Building Official or his or her designee.

**Section 18.14. Approval-Expiration-Renewal.**

A. Expiration. Every approval granted herein shall expire at the end of the time period set forth in the conditions. The developer shall fully perform and complete all of the work required within the specified time period.

B. Renewal. If the developer is unable to complete the work within the designated time period, he or she shall, at least thirty (30) days prior to the expiration date, submit a written request for an extension of time to the Building Official or his or her designee, setting forth the reasons underlying the requested time extension. If the extension is warranted, the Building Official or his or her designee may grant an extension of time up to a maximum of one year from the date of the original deadline. Subsequent extensions under the same conditions may be granted at the discretion of the Building Official or his or her designee.

### **Section 18.15. Maintenance of measures.**

Maintenance of all erosion-sediment control devices under this ordinance shall be the responsibility of the owner. The erosion-sediment control measures and controls for other wastes shall be maintained in good condition and working order on a continuing basis. Watercourses originating and located completely on private property shall be the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.

### **Section 18.16. Liability of applicant.**

Neither approval of a SWPPP nor compliance with any condition of this Section shall relieve the owner/applicant from any responsibility for damage to persons or property, nor impose any liability upon the Town for damages to persons or property.

## **ARTICLE VII**

### **Section 18.17. Inspections.**

*18.17.1. Periodic inspections.* The provisions of this ordinance shall be administered and enforced by the Building Official or his or her designee. All work shall be subject to periodic inspections by the Building Official or his or her designee. All work shall be performed in accordance with an inspection and construction control schedule approved by the Building Official or his or her designee, who shall maintain a permanent file on all of his or her inspections.

The owner or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be conducted by a properly trained professional recognized as a Certified Erosion, Sediment and Storm Water Building Official or his or her designee (CESSWI) by the Certified Professional in Erosion and Sediment Control (CPESC, Inc). All inspections shall be documented in written form and submitted to the building official as requested.

The building official or his or her designee will perform a minimum of two (2) inspections; one during construction and one after final stabilization of the site. The developer or owner shall notify the building official of the installation of erosion and sediment control measures, in order for an inspection to be performed during the construction phase of the project. The building official or his/her designee will confirm that wastes are controlled and that the erosion and sediment control practices are installed as planned, meet the needs of the site and conform with the RI Erosion & Sediment Control Handbook.

**18.17.2. Final inspection.**

(1) Upon completion of all work, the developer shall notify the Building Official or his or her designee that all grading, drainage, erosion and sediment control measures and devices, vegetation and ground cover plantings, and controls for other wastes have been completed in conformity with the approval; all attached plans, specifications, and conditions; and other applicable provisions of this article.

(2) Upon notification of the completion by the owner, the Building Official or his or her designee shall make a final inspection of the site in question and shall prepare a final summary inspection report of its findings which shall be retained in the Office of the Building Official or his or her designee and in the Department of Public Works permanent inspections file.

(3) The applicant/owner may request the release of his/her performance bond from the Building Official or his or her designee twelve (12) months after the final site inspection has been completed and approved. In the instance where the performance bond has been posted with the recording of a final subdivision, the bond shall be released after the Building Official or his or her designee has been notified by the Town Planner of successful completion of all plat improvements by the applicant/owner.

**Section 18.18. Approval under state Freshwater Wetlands Act.**

Where any portion of a proposed development requires approval under the state Freshwater Wetlands Act and where the approval contains provisions for soil erosion and sediment controls, that approved plan shall be a component of the overall SWPPP required by this article for the development.

**ARTICLE VIII NOTIFICATION**

**Section 18.19. Notification, non-compliance.**

If, at any stage, the work-in-progress and/or completed under the terms of an approved SWPPP does not conform to the plan, a written notice from the Building Official or his or her designee to comply shall be transmitted by certified mail to the owner. The notice shall set forth the nature of the temporary and permanent corrections required and the time limit within which corrections shall be completed as set forth in Section 16.2.2. Failure to comply with the required corrections within the specified time limit shall be considered in violation of this section, in which case the performance bond or cash or negotiable securities deposit shall be subject to notice of default, in accordance with Section 18.15.2.

**Section 18.20. Penalties.**

*18.20.1. Revocation of suspension of approval.* The approval of a SWPPP under this Section may be revoked or suspended by the Building Official or his or her designee and all work on the project halted for an indefinite time period by the Building Official or his

or her designee after written notification is transmitted by the Building Official or his or her designee to the developer for one or more of the following reasons:

- (1) Violation of any condition of the approved plan or specifications pertaining thereto.
- (2) Violation of any provision of this chapter or any other applicable law, ordinance, article, rule, or regulation related to the work or site of work.
- (3) The existence of any condition or the performance of any act constituting or creating a nuisance, hazard, or endangerment to human life or the property of others or contrary to the spirit or intent of this chapter.

*18.20.2. Other penalties.* In addition, thereto, whenever there is a failure to comply with the provisions of this Section, the Town shall have the right to notify the applicant/owner that he must cease work immediately and/or has twenty-four (24) hours from the receipt of notice to temporarily correct the violations and thirty (30) days from receipt of notice to permanently correct the violations.

Should the applicant/owner fail to take the temporary corrective measures within the twenty-four (24) hour period and the permanent corrective measure within the thirty-day (30) period, the Town shall then have the right to take whatever actions it deems necessary to correct the violations and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The lien shall be enforced in a manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded with the records of land evidence of the Town, and the lien shall incur legal interest from the date of recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this Section, including revocation of the performance bond or assessment of a lien on the property by the Town.

A reinspection fee shall be required

## **ARTICLE IV. DEFINITIONS**

### **Section 18.21. Definitions of Selected Terms.**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant: Any person(s), corporation, or public or private organization proposing a development which would involve disturbance to the natural terrain as herein defined.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, solid waste disposal, or drainage from raw materials storage.

Construction wastes: Solid and/or liquid wastes generated from the construction/site development process. This includes, but not limited to, discarded building materials, concrete truck washout, chemicals, litter, sanitary wastes, and fill material containing asphalt and concrete.

Cut: An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

Development project: Any construction, reconstruction, demolition, or removal of structures, roadways, parking, or other paved areas, utilities, or other similar facilities, including any action requiring a building permit by the Town.

Disturbed area: An area in which the natural vegetative soil cover has been removed or altered and, therefore, susceptible to erosion.

Erosion: The removal of mineral and/or organic matter by the action of wind, water, and/or gravity.

Excavate: Any act by which earth, sand, gravel, rock, or any other similar material is dug into, cut, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

Fill: Any act by which earth, sand, or other material is placed or moved to a new location aboveground. The fill is also the difference in elevation between a point of existing undisturbed ground and a designed point of higher elevation of the final grade.

Gabion: A rectangular or cylindrical wire mesh cage (wire basket) filled with rock and used as a protecting agent, revetment, etc., against erosion.

Land disturbing activity: Any physical land development activity which includes such actions as clearance of vegetation, moving or filling of land, removal or excavation of soil or mineral resources, or similar activities.

Limit of disturbance: Line delineating the boundary of the area to be disturbed during a development or redevelopment project. Area outside this boundary shall not be touched.

Multifamily: Any site, property, building, structure intended for use by more than one family, including but not limited to apartments, condominiums, duplexes, and townhouses.

Reinspection Fee: The fee charged to the applicant or owner for repeated inspections necessitated by any oversight in the compliance with the approved soil erosion sediment control plan.

Sediment: Solid material, both mineral and/or organic, that is in suspension, is being transported, or have been moved from its site or origin by wind, water, gravity or ice as a product of erosion.

Soil amendment: Any material, such as compost, lime, animal manures, crop residues, etc., that is worked into the soil. Generally pertains to materials other than fertilizers.

Stormwater Pollution Prevention Plan —SWPPP: The (approved) document required before any person may cause a disturbance to the natural terrain within the Town as herein regulated. The document may also be referred to as "SWPPP."

Runoff: The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow and including seepage flows that do not enter the soil but run off the surface to the land. Also, that portion of water that is not absorbed by the soil, but runs off the land surface.

Watercourse: The term watercourse shall be held to mean any tidewater or coastal wetland at its mean high water level, and any freshwater wetland at its seasonal high water level, including but not limited to, any river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow, or any other standing or flowing body of water. The edge of the watercourse as herein defined shall be used for delineation purposes.

#### **Section 18.22. Severability.**

If any provision of this ordinance or any rule or determination made hereunder, or application hereof to any person, agency, circumstances is held invalid by a court of competent jurisdiction, the remainder of this ordinance and its application to any person, agency or circumstances shall not be affected thereby. The invalidity of any section or section of this ordinance shall not affect the validity of the remainder of this Section.