

## **Salem, New Hampshire**

### **CHAPTER 417 STORMWATER MANAGEMENT REGULATIONS**

#### **GENERAL REFERENCES – SALEM TOWN CODE**

Building Construction	See Chapter 210
Excavations	See Chapter 252
Site Plan Review Regulations	See Chapter 268
Subdivision Regulations	See Chapter 278
Sewer Use	See Chapter 398
Zoning	See Chapter 490

### **ARTICLE 1 GENERAL PROVISIONS**

#### **§ 417-101. Title and Authority.**

- A. These regulations shall be known as the STORMWATER MANAGEMENT REGULATIONS OF THE TOWN OF SALEM, NEW HAMPSHIRE, herein after referred to as “these Regulations”.
- B. These regulations are adopted under the authority granted by the Town Council of the Town of Salem under RSA 41:14-b, RSA 676 and RSA 147, and as otherwise authorized by law, pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and the Phase II ruling from the United States Environmental Protection Agency (EPA) as published in the Federal Register (December 8, 1999).

#### **§ 417-102. Purpose.**

- A. These regulations control the use of the municipal storm drain system in the Town of Salem, New Hampshire, hereinafter referred to as the “Town”, to protect water resources and the environment, and to safeguard the public health, safety, and welfare.
- B. These regulations, in conjunction with the Town’s Site Plan Review Regulations (Chapter 268) and Subdivision Regulations (Chapter 278), establish stormwater management standards for land disturbance activities and fulfill the obligations of the Town under the Clean Water Act (33 U.S.C. 1251 et seq.) and under the Town’s National Pollutant Discharge Elimination System (NPDES) Phase II General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (sometimes referred to herein as the “MS4 General Permit”).

#### **§ 417-103. Administration.**

The Municipal Services Department (the Department) shall administer and implement these regulations. Any powers granted to or duties imposed upon the Department may be delegated by the Director of Municipal Services to employees or agents of the Department.

#### **§ 417-104. Applicability.**

- A. Article II, Use of the Municipal Storm Drain System, shall be applicable to all discharges of stormwater from or to the Town of Salem, regardless of whether these discharges are to the municipal

storm drain system or directly to the environment. This includes all stormwater flow, whether discharged via point sources or nonpoint sources as defined herein.

- B. Article III, Construction and Post-Construction Stormwater Management, shall apply to any new development or redevelopment project which is subject to Site Plan Review per Chapter 268 and all activities that result in the disturbance of one or more acres of land or will disturb less than one acre of land, but are part of a larger common plan of development or sale that will disturb equal to or greater than one acre of land within a 10-year period.
- C. Article III, Construction and Post-Construction Stormwater Management, Section 417-304, Part B shall apply to owners and operators of all existing and proposed private parking lots with 10 or more spaces, and all existing and proposed private streets located within the watershed of a water body impaired for chloride.

#### **§ 417-105. Exemptions.**

Allowable non-stormwater discharges or land disturbance activities exempt from this Chapter are those specifically defined as such in the current and future reissuances of the MS4 General Permit.

#### **§ 417-106. Severability.**

The provisions of these Regulations are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of these Regulations.

#### **§ 417-107. Definitions.**

Definitions noted herein shall not extend to other chapters of the Salem Town Code, particularly, if a conflict in defined terms arises.

ABUTTER: See RSA 672:3

ALLOWABLE NON-STORMWATER DISCHARGES: Stormwater discharges as described in the MS4 General Permit, Part 1.4

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Examples of such changes include, but are not limited to, change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Shall mean the owner of record of the land, including any subsequent owner of record, or the duly authorized agent of any such owner.

AUTHORIZED ENFORCEMENT AGENCY: The Municipal Services Department, its employees or agents designated by the Town Council (hereafter *the TC*) to enforce these regulations.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

BIORETENTION: A water quality practice that uses vegetation and soils to treat stormwater runoff by

collecting it in shallow depressions, before filtering through an engineered soil media.

**BUILDING DRAIN:** The lowest horizontal piping of a plumbing system, which receives the discharge from the soil pipe, the waste pipe, and other pipes, inside the walls of the building, and conveys it to the building sewer, beginning 5 feet (1.5 meters) outside the inner face of the building wall.

**BUILDING SEWER:** The extension from the building drain to the public sewer connection at the public sanitary sewer as defined herein, or other permissible place of disposal.

**BUILDING STORM DRAIN:** The lowest horizontal piping of a storm drain system, which receives the discharge from roof drains, foundation drains, sump pumps, and other surface and ground water collection pipes; but not from sewage, soil and other waste pipes; inside the walls of the building and conveys it to the building storm drain, beginning 5 feet (1.5 meters) outside the inner face of the building wall.

**BUILDING STORM SEWER:** The extension from the building storm drain to the connection to the municipal storm drain system as defined herein, or other permissible place of disposal.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended.

**CLEARING:** Any activity that removes the vegetative surface cover.

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter, grass clippings, leaves, debris and sanitary waste at a location that may adversely impact water quality.

**DEPARTMENT:** The Municipal Services Department of the Town of Salem, New Hampshire.

**DIRECTOR:** The Director of Municipal Services Department for the Town of Salem, New Hampshire, or his/her designee.

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or New Hampshire from any source.

**DOWNSPOUT:** A pipe which conveys water from the roof of a building into a building storm drain or into or onto the ground. Also called a roof drain or roof leader.

**DRY WELL:** A pit or underground cavity having porous walls installed with bottom above the Estimated Seasonal High Water Table (ESHWT) to drain surface water and storm drainage into underground strata.

**EASEMENT:** Authorization by a property owner for use of all or any designated part of the property by another for a specified purpose. An easement may be declared, either by depiction on the final plan or by separate documents, and be recorded in the Registry of Deeds, and unless specifically limited in time shall be considered permanent and shall run with the affected land.

**EPA:** The United States Environmental Protection Agency.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**FILTRATION:** The process of physically or chemically removing pollutants from runoff. Stormwater treatment practices that capture and store stormwater runoff and pass it through a filtering media such as sand, organic material, or the native soil for pollutant removal. Stormwater filters are primarily water quality control devices designed to remove particulate pollutants and, to a lesser degree, bacteria and nutrients.

**FLOOD:** Shall mean a temporary rise in a streamflow that results in the water overtopping its banks into the adjacent floodway and floodplain.

**FLOOR DRAIN:** An intended drainage point in an otherwise impervious floor which serves as the point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

**GRADING:** Changing the level or shape of the ground surface.

**GROUNDWATER:** Water beneath the surface of the ground.

**GROUNDWATER RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**GRUBBING:** The act of clearing land surface by digging up roots and stumps.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of these regulations.

**ILLICIT DISCHARGE:** Any discharge to a municipal storm drain system that is not composed entirely of stormwater including, but not limited to: illegal sanitary sewer or floor drain connections, illegal dumping, improper disposal of waste, sanitary wastes infiltrating from failing sewer service pipes or septic systems.

**IMPAIRED WATERS:** Those water bodies not meeting water quality standards. Pursuant to Section 303(d) of the Clean Water Act, each state prepares a list of impaired waters (known as the 303(d) list) which is presented in the state's Integrated Water Report as Category 5 waters. Those impaired waters for which a TMDL has been approved by US EPA and is not otherwise impaired, are listed in Category 4A.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, compacted gravel areas, sidewalks, and rooftops.

**INFILTRATION:** The process of runoff percolating into the ground (subsurface materials). Stormwater treatment practices designed to capture stormwater runoff and infiltrate it into the ground over a period of days.

**INTERCONNECTION:** The point where the Town's MS4 discharges to another MS4 or other storm drain system, through which the discharge is conveyed to waters of the United States or to another storm drain system and eventually to a water of the United States.

**LAND DISTURBANCE ACTIVITY:** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material and any activity that removes or alters the natural vegetative soil cover of land therefore making it susceptible to erosion.

**LOT:** A parcel of land capable of being occupied by one principal use that is adequately sized to meet the minimum requirements for use, building coverage, and area.

**LOW IMPACT DEVELOPMENT (LID):** A site planning and design strategy that emphasizes conservation and use of natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydraulic conditions. LID is applied at the parcel and subdivision scale and uses design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** A publicly-owned conveyance or system of conveyances that discharges to waters of the U.S. and is designed or used for collecting or conveying storm water, is not a combined sewer, and is not part of a publicly-owned treatment works. Common names include storm sewer system and drainage system.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):** The surface water quality program authorized by Congress as part of the 1987 Clean Water Act. This is EPA's program to control the discharge of pollutants to waters of the United States.

**NATURAL OUTLET:** Any outlet into a watercourse, pond, ditch, lake or other body or surface or groundwater.

**NATURAL RESOURCE:** Natural wealth of the Town, consisting of land, air, soils, vegetation, mineral deposits, water, wildlife, and wildlife habitat. Natural resources consist of two main types: renewable and non-renewable. Renewable resources include wildlife and natural vegetation. Non-renewable resources are those that cannot be replaced, or that can only be replaced over extremely long periods of time.

**NEW DEVELOPMENT:** Any construction activities or land alteration resulting in a total land disturbance area greater than 1 acre (or smaller activities that are part of a larger common plan of development disturbing greater than 1 acre) on a site that has not previously been developed to include impervious cover.

**NONPOINT SOURCE:** Any source of water pollution that does not meet the legal definition of "point source" in section 502(14) of the Clean Water Act.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**OIL TRAP:** A receptacle designed to separate petroleum-based oil and grease, from water. Also referred to as an oil-water separator.

**OPERATION AND MAINTENANCE (O&M) PLAN:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**OUTFALL:** The discernible, confined, and discrete point at which stormwater is discharged from a municipal or private storm drain system to waters of the U.S.

**OWNER:** A person who alone, or jointly with others, has the legal title to any premises or has care, charge or control of any premises as agent, executor, administrator, trustee, lessee or guardian of the estate of the holder of legal title.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the State of New Hampshire or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POINT SOURCE:** Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**POLLUTANT:** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, sewage sludge, garbage, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

**POLLUTANT LOAD:** The amount of a pollutant that is introduced into a water body measured in units of concentration or mass per time (i.e. concentration (mg/l) or mass (lbs/day)).

**POLLUTANT OF CONCERN:** A pollutant which causes or contributes to a violation of water quality standards.

**POLLUTION:** The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which may not create an actual hazard to the public health, but which does adversely and unreasonably affect such waters for domestic use.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**RECEIVING WATERS:** Any watercourse, river, pond, wetland, ditch, lake, aquifer, ocean or other body of surface water or groundwater that receives a discharge of wastewater, stormwater or effluent.

**REDEVELOPMENT:** Any construction, land alteration, or improvement of impervious surfaces resulting in a total land disturbance area greater than 1 acre (or smaller activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development.

**ROOF DRAIN OR ROOF LEADER:** See Downspout.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SANITARY SEWER:** A pipe or conduit that carries sewage and to which discharges from storm, surface and groundwater are not permitted.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land disturbance activities are, were, or will be performed.

**SLOPE:** The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL:** Any earth, sand, rock, gravel, or similar material.

**STABILIZATION:** The use, singly or in combination, of mechanical, structural, or vegetative methods to prevent or retard erosion.

**STORM DRAIN** (sometimes termed "Storm Sewer"): A conveyance which carries storm and surface waters and drainage, but excludes wastewater and industrial wastes.

**STORMWATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.

**STORMWATER MANAGEMENT:** Regulatory, structural, administrative, managerial, maintenance, physical and chemical measures or devices that are designed to remove pollutants from and control the quantity of stormwater discharges. Non-structural measures and low-cost structural devices are often referred to as best management practices or BMPs.

**STREET:** The public way that lawfully exists and is maintained for vehicular traffic. The word "street" shall include the entire right-of-way.

**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**SUBDIVISION:** Shall mean the division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.

**SURFACE WATER:** All water appearing on the earth's surface exposed to the atmosphere, such as rivers, lakes, streams, and oceans.

**TOTAL MAXIMUM DAILY LOAD (TMDL):** A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive while still meeting water quality standards, and allocation of that amount to the pollutant's sources.

**TOWN:** The Town of Salem, New Hampshire.

**TOTAL SUSPENDED SOLIDS (TSS):** The total amount of soil particulate matter which is suspended in the water column.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment.

**WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

**WATER QUALITY LIMITED WATER:** Any water body that does not meet applicable water quality standards, including but not limited to waters listed in categories 5 or 4b on the most recent EPA-approved New Hampshire Integrated Report of waters listed pursuant to the Clean Water Act sections 303(d) and 305(b).

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERSHED:** An area of land that drains down slope until reaching a common point, in many cases a river, stream, lake, pond, wetland or other water body. Also called a drainage area or drainage basin.

**WETLANDS:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Common names include marshes, swamps and bogs.

## **ARTICLE II** **USE OF THE MUNICIPAL STORM DRAIN SYSTEM**

### **§ 417-201. Duty to Prevent the Introduction of Pollutants.**

- A. The intent is to provide for the general health, welfare and safety of the public, as well as protect the environment, by regulating discharges to the municipal storm drain system, and to control the introduction of pollutants into the municipal storm drain system in order to comply with the requirements of the MS4 General Permit.
- B. All persons shall take reasonable and appropriate protective actions to prevent any discharge, including accidental discharges, in violation of this chapter or any federal or state laws or regulations. No person shall directly or indirectly dump, discharge or cause to be discharged into any catch basin, manhole or other component of the municipal storm drain system or directly to the environment, any pollutants, as defined herein.
- C. No person shall discharge, throw, sweep into, drop, sprinkle, scatter, put, place, or otherwise introduce rubbish, filth or other solid waste of any kind that may be collected and transported by runoff to any public or private storm drain system or natural outlet.
- D. Any person determined by the Department, or its designee, to be responsible for the direct or indirect discharge of any of the above substances directly or indirectly to the municipal storm drain system or directly to the environment may be held responsible for its removal, paying the cost for such removal, or for paying any penalties assessed by local, state, or federal agencies. Authority to enforce rules and levy fines is granted to the Town via the Clean Water Act through RSA 41:14-b, RSA 676 and RSA 147 and as otherwise authorized by law.

### **§ 417-202. Sewage - Stormwater Separation.**

- A. The plumbing of any existing or new building shall be constructed so as to keep all stormwater and allowable non-stormwater discharges, as defined in the MS4 General Permit, separate from sanitary sewage and industrial wastes.
- B. Where separate storm drains and sanitary sewers are provided, and the Director has determined that on-site retainage of stormwater is not possible, building storm drains may be connected to a municipal storm drain system on a case by case basis following required review, approval, and permitting (See Building Storm Drains and Connection). Connection of a building storm drain to a public or private sanitary sewer is prohibited.
- C. Connection of a building sewer to a municipal or private storm drain system is prohibited.

### **§ 417-203. Building Storm Drains and Connections.**

This section governs connections to the municipal storm drain system. Direct connections to the municipal storm drain system shall be avoided whenever possible in favor of on-site infiltration. This procedure provides for the orderly disposition of requests as they occur, weighing the merits of each on an individual

basis rather than trying to address the matter with an all-encompassing policy, which because of the individual nature of the problems presented, will necessitate periodic exception to these Regulations.

- A. After investigating the feasibility of on-site infiltration, owners of a building or buildings situated upon any street, easement or right-of-way through which a municipal storm drain system has been constructed may make voluntary application to the Department to construct and maintain building storm drains, private drains and appurtenances through their premises in their entirety from such structures to the municipal storm drain system as may be necessary to convey the stormwater from the property to the municipal storm drain system. This includes sump pumps, basement drains, foundation drains, stormwater piping and other similar pipe conveyances.
- B. No unauthorized person(s) shall uncover, make any connections with or opening into or use, alter or disturb any municipal storm drain system or appurtenance thereof without first obtaining a written permit.
- C. No person shall make illicit connections directly or indirectly to a building drain or municipal storm drain system.
- D. Any person included within the provisions of this section, who refuses to make a permit application to the Department for the construction of such building storm drains or private drains and connecting the same to the municipal storm drain system or neglects to make such permit application within the space of 14 days after written notice from the Director, shall be subject to enforcement action pursuant to RSA 676:17, RSA 147:1, RSA 147:2 and as otherwise authorized by law, as determined appropriate by the enforcement agent.
- E. Any person proposing a new connection into the municipal storm drain system shall make such application at least 45 days prior to the proposed connection. As part of the Application, the Applicant must provide an analysis to demonstrate that the municipal storm drain system can accept the proposed stormwater runoff (both peak flow rate and volume). If the capacity of the municipal storm drain system is not adequate to accommodate the entire proposed stormwater runoff, then only the portion thereof that can be adequately accommodated shall be connected and/or the Applicant shall be required to improve the downstream system to provide adequate capacity. This provision may be waived by and at the discretion of the Director, or its designee, when considering a single residential lot or incidental site improvements.
- F. There shall be 2 classes of storm drain connection permits. The first permit class shall be for connections from one- and two-family residential properties. The second permit class shall be for connections from all other uses. The owner or his agents shall submit information for the Department to review as part of their application for an Engineering Permit.
  - (1) If the proposed connection is associated with a one- or two-family residential dwelling, the application shall include:
    - i. A description of the stormwater management approach.
    - ii. A diagram which generally shows major property features in relation to the street, the location of the proposed connection to the municipal storm drain system, and the general route of the proposed pipe leading to the connection point. These features may be hand-drawn, computer-generated, or taken from publicly available maps and/or satellite imagery, but do not need to be prepared by an Engineer or

Surveyor. They should, however, adequately depict the concept being proposed to the Department.

- iii. All applications shall be supplemented with data or other information considered pertinent in the judgment of the Director, or its designee.
- (2) If the Application involves a subdivision, a non-residential site plan, a condominium or multi-family residential complex with more than two units, or otherwise involves connection to the municipal storm drain system by any Applicant other than the owner of a single or two-family residential dwelling, the Application shall comply with drain design requirements as included in the Town's Subdivision Regulations (Chapter 278).
  - i. Proposed connections to the municipal storm drain system that are being reviewed by the Department as part of a larger project under the regulatory authority of the Planning Board Subdivision and/or Site Plan Review regulations are not required to submit a separate application for connection to the municipal storm drain system.

G. All costs and expenses incidental to the permitting, installation and connection of the building storm drain shall be borne by the owner. This includes fees associated with third-party technical reviews, when required. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building storm drain.

H. The Applicant for the storm drain connection shall notify the Department when the building storm drain is ready for inspection and connection to the municipal storm drain system. The connection of an approved storm drain shall be made under the supervision of the Department or its authorized representative. If the Applicant fails to make such notifications, any and all costs to uncover the connection as necessary for inspection shall be borne by the Applicant.

I. No storm drain shall be laid within the limits of any public street, except by an experienced drain layer who is insured and bonded for the type of work being conducted. The Applicant shall be held liable for any expense to the Town on account of any imperfect work within the street limits done by him, his employees, or his agents.

J. The storm drain connection permit shall be denied, revoked, or suspended if the Director, or its designee, determines that the discharge, whether singly or in combination with others, is or may cause or contribute to a water quality problem, or may cause or contribute to a violation of the MS4 General Permit. Where testing is required, it shall be in accordance with Chapter 398-12.

#### **§ 417-204. Use of the Municipal Storm Drain System.**

A. Unless identified by the Department as significant sources of pollutants or as causing or contributing to a violation of water quality standards, discharges to municipal storm drain systems authorized by these Regulations are those specifically permitted under the MS4 General Permit and noted as follows:

- (1) Discharges composed entirely of stormwater.
- (2) Non-stormwater discharges for which the owner has obtained a NPDES Permit or NPDES Permit Exclusion from EPA, and a building storm drain permit.
- (3) Allowable non-stormwater discharges specifically defined as such in the MS4 General Permit.

- B. No person shall directly or indirectly discharge or cause to be discharged any pollutants, as defined herein and by federal and state surface water quality standards, to any building storm drain, municipal storm drain system or natural outlet.
- C. No person shall directly or indirectly discharge or cause to be discharged any sewage or any other waters not composed entirely of stormwater into a building storm drain or municipal storm drain system except as provided otherwise below.
- D. Each person shall provide reasonable and appropriate protection from any discharge, including accidental discharges, in violation of these Regulations or any federal or state laws or regulations.

#### **§ 417-205. Emergency Suspension of Municipal Storm Drain System Access.**

The Town may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Town of Salem may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment. The Town shall not assume liability or expenses associated with actions to prevent or minimize harm, when a person fails to comply with an emergency suspension order.

#### **§ 417-206. Discharges Exceeding Standards.**

- A. If any stormwater or other waters proposed to be discharged to the municipal storm drain system or the environment contain substances in excess of local, federal or state surface water quality standards, the Town shall:
  - (1) Reject the discharge through permit suspension, and
  - (2) Require treatment to an acceptable condition before discharge to the municipal storm drain system or natural outlet.
- B. If the Town permits the treatment prior to discharge to the municipal storm drain system or the environment, the owner shall, at their own expense, design, construct and maintain a system to reduce such substances to a concentration of no greater than federal and state water quality standards prior to connection to the municipal storm drain system or natural outlet.

#### **§ 417-207. Accidental Discharges.**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal storm drain system or the environment, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of non-hazardous material, the reporting person shall notify the Municipal Services Department no later than the next business day. The reporting person shall provide written confirmation of all telephone or in-person notifications within 3 business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 5 years.

### **§ 417-208. Protection from Damage.**

No unauthorized person shall maliciously, willfully, or negligently break or damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal storm drain system. No person shall obstruct or in any way interfere with the flow through same. No person shall prevent access to or in any manner place obstructions which prevent the ready operation, replacement, or repair of any appurtenance of the municipal storm drain system. Any person violating this provision shall be subject to arrest under criminal charges of disorderly conduct, trespassing, and/or general destruction of property pursuant to the provisions of applicable federal, state and local laws.

## **ARTICLE III CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT**

### **§ 417-301. Stormwater Management during Construction.**

- A. Article III, Construction and Post-Construction Stormwater Management, shall apply to any new development or redevelopment project which is subject to Site Plan Review per Chapter 268 and all activities that result in the disturbance of one or more acres of land or will disturb less than one acre of land, but are part of a larger common plan of development or sale that will disturb equal to or greater than one acre of land within a 10-year period. In addition to the requirements included herein, requirements for stormwater management during construction are included in Chapter 268, Site Plan Review Regulations and Chapter 278, Subdivision Regulations.
- B. Proper erosion and sedimentation controls shall be used at construction sites during land disturbance activities to ensure that pollutants are not introduced into stormwater. All construction or development activities shall incorporate design standards for erosion and sedimentation control which at a minimum reflect the recommendations of the New Hampshire Storm Water Manual (Volumes I, II, III), December 2008 and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (“The Green Book”) prepared for the NH Department of Environmental Services by the Rockingham County Conservation District in cooperation with the USDA Soil Conservation Service, August 1992 as amended. Specific requirements included in the Section 278-6:9, Erosion Control, of the Subdivision Regulations shall also apply to projects that fall under Site Plan Review and any disturbance of land.
- C. All construction debris, including, but not limited to, discarded building materials, concrete truck wash out, chemicals, litter and sanitary waste, shall be disposed of in a proper manner that complies with all federal and state regulations. These wastes shall not be discharged to the municipal storm drain system.

### **§ 417-302. Stormwater Management for New Development and Redevelopment Projects.**

- A. All new development and redevelopment sites must retain and treat stormwater runoff onsite. All BMPs must be designed in accordance with applicable sections of N.H. Code Admin. R. Part Env-Wq 1500 to retain the water quality volume to the maximum extent practicable. Channel protection and peak runoff control shall be considered, where applicable, to proactively address concerns about stream bank erosion and flooding which may cause both water quality violations and significant property damage or loss of life.
- B. Stormwater management and erosion and sedimentation control practices shall be located outside specified buffer zones (e.g. wetlands buffers) unless otherwise approved by the Department.

Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered.

- C. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.
- D. All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions: trees, grasses, shrubs and other native plants in sufficient numbers and density to prevent soil erosion and to achieve water quality treatment requirements in accordance with the applicable sections of N.H. Code Admin. R. Part Env-Wq 1500.
- E. Salt storage areas shall be fully covered with permanent or semi-permanent measures and loading/offloading areas shall be located and designed to not drain directly to receiving waters and maintained with good housekeeping measures in accordance with New Hampshire Department of Environmental Services (NHDES) published guidance. Runoff from snow and salt storage areas shall enter treatment areas before being discharged to receiving waters or allowed to infiltrate into the groundwater.
- F. Low Impact Development (LID) site planning and design strategies must be used to the maximum extent practicable (MEP) to reduce stormwater runoff volumes, protect water quality, and maintain predevelopment site hydrology. LID techniques that preserve existing vegetation, reduce the development footprint, minimize or disconnect impervious area, promote infiltration, and use enhanced stormwater BMPs shall be incorporated into landscaped areas. Capture and reuse of stormwater is strongly encouraged. The applicant shall include written narrative and documentation of LID techniques evaluated during the site design process as part of the project drawings, narrative, and calculations submitted with Site Plan Review or Subdivision applications. All employed LID techniques shall be made apparent in the as-built drawings submitted to the Town.
- G. All redevelopment projects must additionally be designed in accordance with the treatment standards set forth in N.H. Code Admin. R. Part Env-Wq 1500. These design standards are to be used to supplement Chapter 268 Site Plan Review Regulations. If these conditions cannot be met onsite, offsite mitigation may be substituted within the same USGS HUC10 (USGS Hydrologic Unit Code 10) delineated watershed or similar watershed as the development site. Written documentation supporting the request must be provided if off-site stormwater mitigation is proposed.
- H. Redevelopment that disturbs greater than one acre and is exclusively maintenance and improvement of existing roadways is exempt from the requirements of this section. Roadway maintenance or improvements that increase the amount of impervious area on the redevelopment site are subject to the requirements of this section.
- I. As-built drawings shall be submitted to the Municipal Services Department in accordance with the Site Plan Review Regulations (Chapter 268) and Subdivision Regulations (Chapter 278) within 6 months after completion of construction. Drawings shall depict all on-site controls designed to manage the stormwater associated with the site post construction.

### **§ 417-303. Maintenance, Cleaning and Inspection of Private Storm Drain Systems**

- A. The owners of private storm drain systems, stormwater management systems, and BMPs shall be responsible for the long-term maintenance of all such systems in accordance with N.H. Code Administrative Rules Part Env-Wq 1500. Prior to Site Plan or Subdivision approval, a separate written

operation and maintenance plan for stormwater management practices shall be submitted for review by the Department and acceptance by the Planning Board. The plan must provide guidance to the party responsible for maintenance in understanding how the system functions and detail the routine maintenance activities needed to ensure proper functioning on a perpetual basis. The plan shall clearly identify inspection activities, schedules, record keeping requirements, and contingency measures for ensuring the long-term proper function of the stormwater system. The plan shall identify each BMP used on the site and its specific maintenance activities and schedules.

- B. The Applicant shall provide the Planning Board with a covenant, signed by the owners(s) of the site on which new development or redevelopment has occurred, that identifies long-term operation and maintenance requirements. The covenant shall include all maintenance easements required to access and inspect the stormwater treatment practices. The covenant shall also include the Town's right, at its discretion, to perform necessary inspection and maintenance to ensure proper functioning of the stormwater system and back-charge the owner(s) for all such work, including reasonable attorney's fees in accordance with Article V of these Regulations. The covenant shall run with the land and be recorded by the Applicant, at Applicant's sole expense, at the Rockingham County Registry of Deeds (RCRD).
- C. Drainage easements established as part of a new development or redevelopment project are subject to the requirements of paragraph B.
- D. The maintenance schedule in the operation and maintenance plan may be amended to achieve the purposes of these Regulations by mutual agreement of the Planning Board and owner(s) and persons with operational responsibility. Amendments must be in writing and signed by all parties. Such amendments to the covenant shall also be filed at RCRD with reference to the original document book and page.
- E. In general and in accordance with paragraph B of this section, whenever such systems become clogged, broken, obstructed, out of order, unfit for drainage purposes, or detrimental to the municipal storm drain system or to the receiving water, the owner, agent and/or person having operational responsibility of the storm drain system shall, when directed by written notice from the Town, remove, reconstruct, alter, clean or repair the system, as the conditions thereof require. In case of neglect or refusal to comply with such notice within 5 days after the same is given, the Town may cause the system to be removed, reconstructed, repaired, altered or cleaned, as may be deemed expedient, at the expense of the owner, agent, and/or person having operational responsibility of the storm drain system, who shall also be liable to pay penalties provided for in this chapter.
- F. The owner(s) of storm drain systems shall maintain a written record describing the date and type of all cleaning, maintenance and inspections performed, and the identity and qualifications of the person who performed such tasks. Records shall be maintained for 5 years and shall be made available for inspection and copying by the Municipal Services Department. By July 31<sup>st</sup> of each year, the owner shall submit to the Municipal Services Department, Engineering Division a written record of the date and type of all maintenance, cleaning, and inspection performed during the prior reporting period (July 1<sup>st</sup> through June 30<sup>th</sup>). Records shall be specific to the site, system, and work performed. The Municipal Services Department, Engineering Division may reject any records that are not site specific or deemed incomplete and those records shall be resubmitted with the proper information.

**§ 417-304. Discharges to Impaired or Water Quality Limited Waters.**

- A. In areas where there are direct discharges to impaired or water quality limited waters or where there are discharges to these waters through the municipal storm drain system, the Town shall have the authority to implement additional controls or requirements to reduce pollutant loads. The Town may require treatment prior to discharge to the municipal storm drain system or the environment. This includes requiring the owner, at the owner's expense, to design, construct and maintain a system to reduce pollutants of concern to a concentration of no greater than federal and state water quality standards prior to discharge to the municipal storm drain or natural outlet.
- B. Any owner or operator of a private street or parking lot with 10 or more parking spaces, whether part of existing, new or redevelopment, located within the watershed of a water body impaired for chloride and draining to the municipal storm drain system is subject to the requirements of Appendix F, Part I and Appendix H, Part IV of the MS4 General Permit.
- C. Any stormwater BMP constructed or employed within the watershed of a water body impaired for phosphorous shall be optimized for phosphorous removal. Selection of each BMP shall be supported by a rationale included in the site plan design narrative to substantiate its use.
- D. Any stormwater BMP designed on commercial or industrial land use area within the watershed of a water body impaired for solids, metals or oil and grease 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.

#### **§ 417-305. Discharges to Drinking Water Sources**

- A. All storm drain system outfalls shall be prohibited from directly discharging to a surface or groundwater drinking water supply source. Any discharge located near a source protection area must meet the minimum setback requirements from a water supply well and an intake site as defined in N.H. Code Admin. R. Part Env-Wq 1500
- B. In groundwater protection areas and water supply intake protection areas, infiltration and filtration practices shall be designed to provide additional vertical separation from seasonal high-water table in accordance with N.H. Code Admin. R. Part Env-Wq 1500.

### **ARTICLE IV APPLICATION AND INSPECTION FEES**

#### **§ 417-401. Fees**

- A. Projects subject to Site Plan Review or Subdivision Regulations shall follow the permit application and inspection fee structure as established in the Planning Board process.
- B. Permit and inspection fees for land disturbance activities occurring outside of the Site Plan Review or Subdivision Regulations are subject to the conditions of this paragraph. Each applicant shall submit an Application Fee established by the Town Council connected with the review and approval of land disturbance activities, storm drain system improvements and/or LID design plans. Where deemed necessary and appropriate the Application Fee may also include technical review fees sufficient to cover professional review services for the project. The Director is authorized to retain a licensed Professional Engineer or other professional consultant in review of any or all aspects of these plans. Applicants must pay review fees before the review process may begin. A separate escrow account shall be established for site inspections. Inspection fees will vary depending on the project and shall be determined prior to issuance of any permits.

## ARTICLE V ENFORCEMENT AND PENALTIES

### **§ 417-501. Powers and Authority**

- A. The Director and other duly authorized employees or agents of the Town bearing proper credentials shall be permitted to enter all properties after 24 hours written notice to the property owner for the purposes of inspection, observation, and testing in accordance with the provisions of this Chapter. As a condition of Planning Board approval, the owner, his/her/its successor and assigns shall consent to inspections by the Director or its duly authorized employees, agents, or designees. If inspection is denied, the Town may determine the Owner is in violation of the inspection conditions of any permits issued pursuant to this Chapter as authorized by law, and take any other actions authorized in RSA Chapter 676, or otherwise in law or equity, to enforce the provisions of this Chapter.
- B. The Director and other duly authorized employees or agents of the Town bearing proper credentials shall be permitted to enter all private properties after 24 hours written notice to the property owner through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, testing, repair, and maintenance of any portion of the municipal storm drain system lying within said easement. All entry and subsequent work (if any) on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- C. The Director and other duly authorized employees or agents of the Town bearing proper credentials shall be permitted to make tests of the storm drain systems, including smoke and dye tests, and shall be permitted to perform reasonable visual inspections inside buildings in order to test for illicit connections to the municipal storm drain system.

### **§ 417-502. Enforcement.**

The Town Council or its agent shall be responsible for the enforcement of this chapter, including violation notices and enforcement orders, and may pursue all civil and criminal remedies for such violations.

### **§ 417-503. Violations and Penalties.**

- A. Any person, firm, partnership or corporation found to be in violation of any provision of this chapter or causing or contributing to violation of any provision of the MS4 General Permit, shall be served by the Town with written notice stating the nature of the violation and providing a 14 day period for the satisfactory correction thereof. The offender shall, within the period of time as stated in said notice, permanently cease all violations. The Town may, after informal notice to the person discharging to the municipal storm drain system, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of persons or any discharge presenting, or which may present, an endangerment to the environment, or which threatens to interfere with the operation of the municipal storm drain system in accordance with the MS4 General Permit. Actions which may be taken by the Town include ex parte temporary judicial injunctive relief, entry on private property to halt such discharge, blockage of a municipal storm drain system to halt such discharge, or demand of specific action by the person.
- B. Any person who shall continue any violation beyond the time limit provided for shall be subject to enforcement action for each violation, as determined appropriate by the enforcement agent and as

authorized by law. Separate fines will be levied for individuals and a corporation or an unincorporated association. Each day in which any such violations shall continue shall be deemed a separate offense. See, RSA 31:39, RSA 149-I:6 and RSA 676:17.

**§ 417-504. Liability.**

Any person, firm, partnership or corporation violating any of the provisions of this chapter shall become liable to the Town of Salem for any expense, loss, or damage occasioned by the Town by reason of such violation.

**§ 417-505. Regulations and Authority of Others.**

No provision of this chapter shall be deemed to contravene or render ineffective any valid federal or state laws, regulations, or standards pertaining to, or permitting agency having jurisdiction over public health, safety and welfare, and the environment or the proper and safe operation of municipal storm drain system. When duplicate provisions are in effect, the more stringent shall govern.