

**\*\*\*NOTE: THIS DOCUMENT REPRESENTS THE ACTUAL WARRANT  
SIGNED BY THE BOARD OF SELECTMEN AND POSTED BY THE  
CONSTABLE AT SOUTHWICK TOWN HALL, SOUTHWICK POST  
OFFICE AND SOUTHWICK PUBLIC LIBRARY.\*\*\***

**SPECIAL TOWN MEETING  
COMMONWEALTH OF MASSACHUSETTS**

**March 16, 2009**

**6:30 p.m.**

Special Town Meeting, Monday, March 16, 2009, 6:30 p.m. at the Southwick Tolland Regional High School, Feedings Hills Road, in the Auditorium.

**HAMPDEN SS.** To either of the Constables of the Town of Southwick in the County of Hampden:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said town qualified to vote in elections and town affairs to meet and assemble at the SOUTHWICK-TOLLAND REGIONAL HIGH SCHOOL AUDITORIUM ON Monday, March 16, 2009 at 6:30 p.m. then and there for the Special Town Meeting and to act on the following articles:

**ARTICLE 1.** To see if the Town will vote to appropriate and transfer from available funds, and Water Salary Reserve the sum of \$40,420.00 for the following salary accounts

Selectmen's Administrative Assist.	\$1,200.00	DPW Water Super	\$ 500.00
Town Accountant	\$1,200.00	Asst. Town Accountant	\$1,200.00
Director of Assessment	\$1,200.00	Town Clerk/Treas./Collector	\$1,200.00
Asst. Clerk/Treas./Collector	\$1,200.00	Conservation Coordinator	\$ 750.00
Bldg./Grounds Supervisor	\$1,200.00	Custodians Salary	\$2,400.00
Part Time Town Hall	\$4,000.00	Police Confidential Assistant	\$1,200.00
Board of Selectmen's Secretary	\$ 900.00	Chief of Police	\$1,200.00
Library Director	\$1,200.00	PD Part Time Records Clerk	\$ 420.00
Assistant Librarian	\$1,200.00	Fire Chief	\$1,200.00
Library Part Time	\$2,000.00	Part Time Health Inspector	\$1,200.00
DPW Hwy Special Assistant	\$ 400.00	COA Part Time Staff	\$1,700.00
DPW Hwy Director	\$ 650.00	DPW Water Director	\$ 550.00
Building Inspector	\$1,200.00	DPW Water Special Assistant	\$ 400.00
COA Director	\$1,200.00	DPW Sewer Special Assistant	\$ 400.00
P/T Planner	\$ 500.00	Part Time Water Secretary	\$ 300.00
P/T Appeals Bd. Clerical	\$1,180.00	Part Time Plan.Bd.Secretary	\$ 150.00
Fire Department Secretary	\$1,200.00	Animal Control Officer & Part Time	\$1,900.00
DPW Hwy. Super	\$ 500.00	DPW Sewer Super	\$ 200.00
EMT	\$1,200.00	EMT Clerical	\$ 220.00

or to take any other action related thereto.

Requested by Board of Selectmen  
And Water Commissioners

**ARTICLE 1 Explanation.** *Transfer money from FY09 existing Salary Reserve for Wage Negotiations Account for the expenses for non union staff Cost of Living Adjustments/Market Adjustments for current year. Four (4) unions have already received COLA's for the current year.*

**ARTICLE 2.** To see if the Town will vote to appropriate and transfer from the FY09 Community Preservation Unreserved Fund \$225,000.00, a 20% local match for the purchase of an Agricultural Preservation Restriction ("APR") on over 82 acres of farmland along 118 College Highway owned by Benedict and Carolyn Nascimbeni. The APR is valued at \$1,125,000.00 Mr. Nascimbeni will be taking a loss a \$60,000.00 for a bargain sale ( $\$1,125,000.00 - \$60,000.00 = \$1,065,000.00$ ). The State of Massachusetts APR program will be paying \$840,000.00. The buildings with 2.2 acres shall be excluded from the APR.

The property is located on 4 maps: Map 152, parcel 1, 42 acres, Book 6600, Page 387, Map 151, parcel 7, 1.55 acres, Book 6600, Page 387 Maps 157 & 158, parcel 1 42.4 acres, Book 11075, Page 556 at the Hampden County Registry of Deeds, or take any other action relative thereto.

**"MOTION:** To see if the Town will vote to appropriate the sum of \$225,000.00 from the FY09 Community Preservation Unreserved Fund \$225,000.00, a 20% local match for the purchase of an Agricultural Preservation Restriction ("APR") on over 82 acres of farmland along 118 College Highway owned by Benedict and Carolyn Nascimbeni. The APR is valued at \$1,125,000.00 Mr. Nascimbeni will be taking a loss a \$60,000.00 for a bargain sale ( $\$1,125,000.00 - \$60,000.00 = \$1,065,000.00$ ). The State of Massachusetts APR program will be paying \$840,000.00. The buildings with 2.2 acres shall be excluded from the APR."

Requested by the Community Preservation Committee

**ARTICLE 2 Explanation.** *The CPC is requesting that the Town preserve 82 acres of farmland in perpetuity by buying the building rights in the form of an Agricultural Protection Restriction for the sum of \$225,000.00. The State has agreed pay \$840,000.00, to buy the building rights, and the Landowner has agreed to take a loss off \$60,000 on the APR appraisal price of \$1,125,000.00. When the APR is in place the property must remain as farmland in perpetuity.*

**ARTICLE 3.** To see if the Town will vote to appropriate and transfer the sum of \$24,000.00 from the FY 2009 Community Preservation Unreserved Funds for a 10% local match towards the purchase of an Agricultural Preservation Restriction ("APR") of over 34 acres of farmland along 166 Mort Vining Road, The APR is valued at \$240,000.00. The State of Massachusetts APR program is paying \$216,000. Project Site Hampden County Registry of Deeds, Book 6, Page 21, Assessors Map 144, Parcel 4 owned by Connie and Dorothy Coward recorded at the Hampden County Registry of Deeds, or take any other action relative thereto.

**"MOTION:** To see if the Town will vote to appropriate the sum of \$24,000.00 from the FY 2009 Community Preservation Unreserved Funds for a 10% local match towards the purchase of an Agricultural Preservation Restriction ("APR") of over 34 acres of farmland along 166 Mort Vining Road, The APR is valued at \$240,000.00. The State of Massachusetts APR program is paying \$216,000. Project Site Hampden County Registry of Deeds, Book 6, Page 21, Assessors Map 144, Parcel 4 owned by Connie and Dorothy Coward recorded at the Hampden County Registry of Deeds."

Requested by the Community Preservation Committee

**ARTICLE 3 Explanation.** *The CPC is requesting that the Town preserve 34 acres of farmland in perpetuity by buying the building rights in the form of an APR. For the sum of \$24,000.00 from the Town, The State has agreed to pay \$216,000.00, to buy the building rights, APR value, of \$240,000.00. When the APR is in place the property must remain as farmland in perpetuity.*

**ARTICLE 4.** To see if the Town will vote to appropriate and transfer the sum of \$300,000.00 from the FY 2009 Community Preservation Unreserved Fund account to purchase 43.34 acres of property for the purpose of preserving a Historical Landmark as part of the M & M Trail and for the Preservation of Open Space. The Southwick Conservation Commission will obtain legal title to the property, as well as the Conservation Restriction. The property is located at 5 Rising Corners known as Book 16019 / Page 195 at the Hampden County Registry of Deeds, or take any other action relative thereto.

**“MOTION:** To see if the Town will vote to appropriate the sum of \$300,000.00 from the FY 2009 Community Preservation Unreserved Fund account to purchase 43.34 acres of property for the purpose of preserving a Historical Landmark as part of the M & M Trail and for the Preservation of Open Space. The Southwick Conservation Commission will obtain legal title to the property, as well as the Conservation Restriction. The property is located at 5 Rising Corners known as Book 16019 / Page 195 at the Hampden County Registry of Deeds.”

Requested by the Community Preservation Committee

**ARTICLE 4 Explanation.** *The CPC is requesting that the Town of Southwick preserve this property as open space in perpetuity by purchasing the 43.34 acres and placing a Conservation Restriction on it. The M&M trail is currently under Federal Status and will be maintained with funds designated for this purpose.*

**ARTICLE 5.** To see if the Town will vote to appropriate and transfer the sum of \$300,000; \$125,000 from the FY 09 Community Preservation Historical Reserves and \$175,000 from the FY 09 Community Preservation General Unreserved Fund in order that the Southwick Historical Society, Inc. relocate the Gillette Cigar Factory from 213 College Highway to 86 College Highway, and prepare the structure to function as a museum under a Historical Preservation Restriction. Approval of this appropriation would further authorize the Board of Selectmen, and the Community Preservation Committee, to execute any and all documents necessary to effectuate this project, including but not limited to a Community Preservation Act Grant Agreement and Deed Restriction. Said funds shall be spent by the Southwick Historical Society, Inc. in accordance with the terms and conditions of the Community Preservation Act Grant Agreement which shall contain specific provisions pertaining to the use of the funds to benefit the inhabitants of the Town of Southwick and prohibits the use of funds for any other projects of the Southwick Historical Society, Inc., or take any other action relative thereto.

**“MOTION:** To see if the Town will vote to appropriate and transfer the sum of \$300,000; \$125,000 from the FY 09 Community Preservation Historical Reserves and \$175,000 from the FY 09 Community Preservation General Unreserved Fund in order that the Southwick Historical Society, INC. move the Gillette Cigar Factory from 213 College Highway to 86 College Highway, and prepare the structure to function as a museum under a Historical Preservation Restriction. Approval of this appropriation would further authorize the Board of Selectmen, and the Community Preservation Committee, to execute any and all documents necessary to effectuate this project, including but not limited to a Community Preservation Act Grant Agreement and Deed Restriction. Said funds shall be spent by the Southwick Historical Society, Inc. in accordance with the terms and conditions of the Community Preservation Act Grant Agreement which shall contain specific provisions pertaining to the use of the funds to benefit the inhabitants of the Town of Southwick and prohibits the use of funds for any other projects of the Southwick Historical Society, Inc. or take any other action relative thereto.”

Requested by the Community Preservation Committee

**ARTICLE 5 Explanation.** *The CPC is requesting Town to appropriate and transfer the sum of \$300,000.00; \$125,000.00 from the FY09 Community Preservation Historical Reserves and \$175,000.00 from the FY09 Community Preservation General Unreserved Fund so the Southwick Historical Society, Inc. may move the Gillette Cigar Factory from 213 College Highway to 86 College Highway, and prepare the structure to function as a museum under a Historical Preservation restriction or take any other action relative thereto. The Factory will be maintained by the Southwick Historical Society, inc. and be made available to the public for Historic, cultural and social events.*

**ARTICLE 6.** To see if the Town will vote to appropriate \$1,000,000.00 or some other amount, to pay costs of rebuilding the box culvert/headwall/embankment over Great Brook on South Longyard Road, and for the payment of all other costs incidental and related thereto; to determine whether this amount should be raised by borrowing or otherwise, or to take any other action relative thereto.

**“MOTION:** That the sum of \$1,000,000.00 is hereby appropriated to pay costs of rebuilding the box culvert/headwall/embankment over Great Brook on South Longyard Road, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Selectmen is authorized to borrow said amount under and pursuant to Chapter 44, Sections 7(1) and 7(5) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.”

Requested by the Board of Selectmen and  
DPW

**ARTICLE 6 Explanation.** *This article requests Town approval for the appropriation of funds to repair the Culvert headwall and retaining wall system that allows Great Brook to pass under South Longyard Road. The road has been closed to all but emergency vehicles since December 1, 2008 due to the failure of the headwall/retaining wall and undermining of the road bed.*

**ARTICLE 7.** To see if the town will vote to amend the Town of Southwick Zoning By-law map referenced in Section 185-5 of the code of the Town of Southwick by redesignating a portion of a certain parcel of land from the current zoning of R-40 to a zone of R-20-B, identified as said real estate in the Town of Southwick located on 76 Sunnyside Road in the County of Hampden in the Commonwealth of Massachusetts as shown on the Assessors Map B, Parcel 9. The subject property consists of 26.53 acres of land in Southwick, MA. The portion of the property for which we are requesting a zone change is 26.53 acres of land within the Town of Southwick as described in a Deed recorded in the Hampden County Registry of Deeds in Book 14646, Page 188. Said land is currently assessed to Mr. Lawrence Bannish.

Or take any other action relative thereto.

Requested by Mr. Lawrence Bannish

**ARTICLE 7 Explanation.** *Lawrence Bannish proposes to have the zone changed for property located at 76 Sunnyside Road from Residential R-40 to Residential R-20-B for the purpose of building an active adult community.*

**ARTICLE 8.** To see if the town will vote to amend the Town of Southwick Zoning By-law map referenced in Section 185-5 of the code of the Town of Southwick by redesignating a certain parcel of land from the current zoning of BR and R-40 to a zone of R20B from a point 1,400 feet west of College Highway to the western property line of said parcel. The eastern portion of the property, from College Highway to a point 1,400 feet west will remain as identified in Town of Southwick Zoning By-law Map. The subject parcel is identified as said real estate in the Town of Southwick located at 787 College Highway in the County of Hampden in the Commonwealth of Massachusetts as shown on the

Assessors Map B, Parcel 27 containing 64.64 acres of land as described in a Deed recorded in the Hampden County Registry of Deeds in Book 7660, Page 511. Said land is currently assessed to Mr. Paul Silan, c/o Mr. David Grimaldi and Mr. Robert Grimaldi.

Or take any other action relative thereto.

Requested by Mr. Paul Silan and Mr.  
Robert Grimaldi

**ARTICLE 8 Explanation.** *David Grimaldi and Robert Grimaldi propose to have the zone changed for the western portion (33.6 acres) of property located at 787 College Highway from Residential R-40 to Residential R-20-B for the purpose of building an active adult community.*

**ARTICLE 9.** To see if the Town will vote to amend various sections of Chapter 80 "Floor Drain Bylaw" of the Code of the Town of Southwick by deleting various language and replacing said language with the amended language as more fully set forth in this warrant article, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Southwick:

**Delete current §80-2. Definitions as follows:**

"Oil/Water Separator: A device designed and installed so as to separate and retain petroleum, based oil or grease, flammable wastes as well as sand and particles from normal wastes while permitting normal sewage or liquid wastes to discharge into the

drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps, and interceptors."

**Replace with §80-2. Definitions as follows:**

"Oil/Water Separator: A device designed and installed so as to separate and retain petroleum based oil or grease, flammable wastes as well as sand and particles from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps, and interceptors."

**Delete current §80-2. Definitions as follows:**

"Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Southwick. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and also include such products as solvents, thinners, and pesticides in quantities greater than normal household use."

**Replace with §80-2. Definitions as follows:**

"Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Southwick. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21E and the Massachusetts

Hazardous Waste Regulations promulgated at 310 CMR 30.000, and also include such products as solvents, thinners, and pesticides in quantities greater than normal household use.”

**Add new §80-2. DEFINITIONS as follows:**

“Wellhead Protection District: The area of land as described by a map entitled “Town of Southwick Commonwealth of Massachusetts Wellhead Protection District” prepared by Dodson Associates, Ltd. dated March 26, 2007, and any subsequent amendments thereto. A copy of said map is on file in the Town Clerk’s Office.”

All other provisions of §80-2. Definitions shall remain as approved by the Town on March 15, 2008, Special Town Meeting, Article 7.

**Delete current §80-3. PROHIBITIONS as follows:**

- “A. an industrial or commercial process area in Zone II of the Wellhead Protection Area
- B. a petroleum, toxic, or hazardous materials and/or waste storage area in Zone II of the Wellhead Protection Area.”

**Replace with §80-3. PROHIBITIONS as follows:**

- “A. an industrial or commercial process area in the Wellhead Protection District.
- B. a petroleum, toxic, or hazardous materials and/or waste storage area in the Wellhead Protection District.”

All other provisions of §80-3. Prohibitions shall remain as approved by the Town on March 15, 2008, Special Town Meeting, Article 7.

**Delete current §80-4. REQUIREMENTS FOR EXISTING FACILITIES as follows:**

- D. Upon complying with one of the options listed under Section IV.A.3., the owner/operator of the facility shall notify the Department of the closure of said system by
- E. filing the Department’s UIC Notification Form with the Department, and sending a copy to the Town of Southwick Department of Public Works.

**Replace with §80-4. REQUIREMENTS FOR EXISTING FACILITIES as follows:**

- D. Upon complying with one of the options listed under Section IV.A.3., the owner/operator of the facility shall notify the Department of the closure of said system by filing the Department’s UIC Notification Form with the Department, and sending a copy to the Town of Southwick Department of Public Works.

All other provisions of §80-4. REQUIREMENTS FOR EXISTING FACILITIES shall remain as approved by the Town on March 15, 2008, Special Town Meeting, Article 7.

**Delete current §80-5. EFFECTIVE DATES FOR ALL FACILITIES as follows:**

“The effective date of this by-law shall be the date of adoption by the Town of Southwick.”

**Replace with §80-5. EFFECTIVE DATES FOR ALL FACILITIES as follows:**

“The effective date of this by-law is governed by G.L. c. 40, §32.”

All other provisions of §80-5. EFFECTIVE DATES FOR ALL FACILITIES shall remain as approved by the Town on March 15, 2008, Special Town Meeting, Article 7.

**Delete current §80-6. PENALTIES as follows:**

“Failure to comply with provisions of this by-law will result in the levy of fines of not less than \$200.00, but no more than \$1,000.00. Each day’s failure to comply with the provisions of this by-law shall constitute a separate violation.”

**Replace with §80-6. PENALTIES as follows:**

“Failure to comply with provisions of this by-law will result in the levy of fines of not less than \$200.00, but no more than \$300.00. Each day’s failure to comply with the provisions of this by-law shall constitute a separate violation.”

All other provisions of §80-6. PENALTIES shall remain as approved by the Town on March 15, 2008, Special Town Meeting, Article 7.

**Delete current §80-8. ADMINISTRATION as follows:**

“The provisions of this by-law shall be administered and enforced through inspection by the Southwick Building Department in conjunction with the state of Massachusetts Department of Environmental Protection.”

**Replace with §80-8. ADMINISTRATION as follows:**

“The provisions of this by-law shall be administered and enforced through inspection by the Southwick Building Department.”

Or take any other action relative thereto.

Requested by Building Department, Board  
of Health And DPW

**ARTICLE 9 Explanation.** *This article requests town approval for changes to the previously accepted Floor Drain by law. The changes are required after review of the by law by the Massachusetts Department of Environmental Protection (DEP), and Attorney General’s Office.*

**ARTICLE 10.** To see if the Town of Southwick will vote to amend the Town of Southwick Zoning By-Law by adding a new §185-36.1 entitled “Erosion and Sediment Control for Stormwater Management” as follows and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Southwick:

**§ 185-36.1. Erosion and Sediment Control for Stormwater Management.**

**A. Purpose.**

- (1) The purpose of this bylaw is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Southwick by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff, and to promote adherence to permit filing requirements for the U.S.

Environmental Protection Agency (EPA) mandated National Pollutant Discharge Elimination System (NPDES) Phase II Program.

(2) The proper management of stormwater runoff will meet the following objectives:

- (a) Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs, streams, and other bodies of water or wetlands in order to meet or exceed federal water quality standards;
- (b) Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
- (c) Minimize the volume and rate of stormwater which is discharged to rivers, streams, reservoirs, lakes, and storm sewers that flows from any site during and following development;
- (d) Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
- (e) Provide for the non-polluted recharge of groundwater aquifers and maintain the base flow of streams;
- (f) Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
- (g) Maintain or reduce pre-development runoff characteristics after development to the extent feasible;
- (h) Minimize damage to public and private property from flooding; and
- (i) Ensure that these management controls are properly maintained.

B. Authority. The Planning Board shall administer and implement this bylaw. Enforcement will be by the Building Department only. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents, or to the Director of the Department of Public Works or the Building Department or the Conservation Commission after review by the Board of Selectmen.

C. Definitions. Unless otherwise expressly stated, the following definitions describe the meaning of the terms used in this bylaw:

AGRICULTURAL ACTIVITY – Same definition as definition in Chapter 140 of the Southwick Code Right to Farm bylaw

AUTHORIZED ADMINISTRATIVE AGENCY -- The Planning Board, its employees or its agents designated to administer this bylaw.

AUTHORIZED ENFORCEMENT AUTHORITY -- The employees or designated agent of the Building



Department.

**ADVERSE IMPACT** -- Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**BEST MANAGEMENT PRACTICES (BMP)** -- The best technologies currently available at that point in time. These include, but are not limited to, structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be non-structural practices that reduce pollutants at their source. Some examples of BMPs are described in a stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

**CONSTRUCTION ACTIVITY** -- The disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

**DESIGN STORM** -- A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate.

**DETENTION** -- The temporary storage of storm runoff which is used to control the Peak Discharge rates, and which provides gravity settling of pollutants.

**DISTURBANCE** -- Any land clearing, grading, bulldozing, digging or similar activities.

**DRAINAGE AREA** -- An area contributing runoff to a consolidated flow of water as measured in a horizontal plane.

**DRYWELL** -- An in-ground device designed to capture and leach stormwater from an inflow pipe and used for drainage areas. Drywells do not redirect flow to other structures other than through a designed overflow device properly directed to other on-site structures.

**EASEMENT** -- A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

**FLOW ATTENUATION** -- Prolonging the flow time of runoff to reduce the peak discharge.

**GRANDFATHERED** -- Exempt from new legislation, restrictions, or requirements.

**HYDROLOGY MODEL** -- Methodology used to determine quantity and circulation of surface and subsurface water at and near a particular site and determined by the Southwick Conservation Commission to be the best available current technology.

**IMPERVIOUS SURFACES** -- Any areas, such as pavement or rooftops, which prevent the infiltration of water into the soil.

**INFILTRATION** -- The downward movement of water from the surface to the subsoil.

**INFILTRATION TRENCH** -- A stormwater management excavation filled with stone rip rap which removes both soluble and particulate pollutants. Infiltration Trenches are not intended to trap coarse sediments.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) -- As authorized by the Clean Water Act, is a permit program that controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

NRCS -- The United States Department of Agriculture Natural Resources Conservation Service (formerly the Soil Conservation Service).

OUTFALL -- The terminus of a storm drain or other stormwater structure where the contents are released.

PEAK DISCHARGE -- The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

PERMEABLE SOILS -- Soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

PERSON -- Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof.

RETENTION -- The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

START OF CONSTRUCTION -- The first land-disturbing activity associated with a development, including land preparation such as: clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

SWALE -- A depression or wide shallow ditch used to temporarily store, route, or filter runoff.

#### D. Applicability

- (1) Prior to the issuance of any Special Permit or site plan approval or development permit for any proposed development listed below, a Southwick Stormwater Management Permit, an EPA Stormwater Management Permit filing, or a waiver of the requirement for a stormwater management permit from the Town of Southwick, must be approved by the Planning Board. Any waiver approval shall be with the concurrence of the Enforcement Agent which will be deemed approved if the enforcement agent fails to respond in writing after receipt of written notice of waiver from the Planning Board within twenty (20) days. No person shall, on or after the effective date of the bylaw, initiate any land clearing, land grading, earth moving or development activities without first complying with this bylaw. The following uses and activities shall be required to submit drainage reports, plans, construction drawings, specifications and as-constructed information in conformance with the requirements of this bylaw:
  - (a) Multi-family or single family residential development that will disturb greater than or equal to one acre;
  - (b) Any new commercial, industrial, and institutional structures under the same ownership, which disturb greater than or equal to 1 (one) acre.
  - (c) Redevelopment or additions to existing commercial, industrial, and institutional uses which disturb greater than or equal to 1 (one) acre.

- (d) Subdivisions or construction activities of any kind disturbing greater than or equal to one acre; and
  - (e) Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs one or more acres.
- (2) The Planning Board, with the prior concurrence of the DPW Director, Building Department, and Conservation Commission, which concurrence will be deemed given if such agencies fail to respond in writing after receipt of written notice of waiver from the Planning board within twenty (20) days, may issue a waiver of any or all of the requirements of this bylaw for a project that will, in its judgement, generate minimal stormwater, erosion or sedimentation, and will have minimal impact on the municipal stormwater system. The waiver may be rescinded by the Planning Board or its designates upon the recommendation of the DPW Director, Building Inspector, or Conservation Commission if during construction it is found that construction activities create adverse impacts from stormwater runoff. Except for agricultural uses, the issuance of any waiver may only be granted for sites disturbing less than one acre and do not affect the municipal stormwater system or flow into territorial waters of the United States.

#### E. Exemptions

- (1) To prevent the adverse impacts of stormwater runoff, the Southwick Planning Board has developed a set of performance standards (described in Section I) that must be met at new development sites. These standards apply to construction activities as described under Section D.1. The following activities shall be exempt from these stormwater performance standards and need not file an application for Stormwater Management Permit:
- (a) Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resources Conservation Service (NRCS);
  - (b) Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation;
  - (c) Minor additions or modifications to existing structures, which disturb less than one acre of land;
  - (d) Developments that do not disturb more than one acre of land, provided that they are not part of a larger common development plan;
  - (e) Repairs to any stormwater treatment system deemed necessary by the Southwick Conservation Commission and/or the Department of Public Works; and
  - (f) Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Southwick Health Agent, Department of Public Works, Conservation Commission, or Building Department.

The language herein is exclusive of what the Federal government will require. The Planning Board or its designee may review the exempt status under this bylaw and require a Southwick Stormwater Management Permit if any of the exempt activities are not in compliance with applicable exemption requirements (i.e. agriculture BMP's, Forest Management Plan) or are found to have a significant impact on the municipal stormwater system, a neighboring property or a receiving water.

#### F. Stormwater design manual

- (1) A stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) is hereby incorporated by reference as part of this bylaw, and shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this bylaw.
- (2) This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.
- (3) The latest issue of the Stormwater Management handbook as published on the date of the application for a permit under this By-Law shall be applied.

G. Permit procedures and requirements

(1) Approval of stormwater management permit required

- (a) No land owner or land operator shall receive any of the building, grading, or other land development permits required, or commence land disturbance activities as defined in Section D and E, without approval of a Stormwater Management Permit and meeting the requirements of this bylaw, and evidence of an approved stormwater permit from the U.S. EPA.

(2) Application requirements

- (a) Application for approval of a Stormwater Management Permit shall include the following:

- [1] A stormwater management plan shall be submitted to the Southwick Planning Board for review and approval for any proposed development specified in Section D.1. Three copies of the application and stormwater management plan shall be submitted, and clearly labeled. The plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed during the entire development process. The plan shall serve as the basis for all subsequent construction.
- [2] An erosion and sediment control plan as defined in Section H of this bylaw, which shall contain sufficient information to describe the nature and purpose of the proposed development.
- [3] An Operation and Maintenance Plan for post-construction management of stormwater control facilities that meets Standard 9 of DEP's Stormwater Policy.
- [4] A non-refundable permit review fee of two-hundred fifty dollars (\$250.00).
- [5] An additional fee of \$100 per construction site shall be paid upon application for a building permit for on-site stormwater management inspections during and after construction.

- (b) Any waiver request from the requirements contained herein shall be submitted to, and may be granted, by the Southwick Planning Board with the prior written notice and concurrence of the DPW Director, Building Department, and Conservation Commission, Such concurrence will be deemed given if such agencies fail to respond in writing after twenty (20) days after receiving notice of waiver request from the Planning Board

### (3) Procedures for Review and Approval of Stormwater Permits

- (a) The procedures for review and approval of stormwater management plans shall be consistent with the Special Permit approval process, as appropriate to the use as further described herein, except that approval shall be by vote of a majority of the Planning Board members present at a meeting at which a quorum is present.
- (b) The plan shall be circulated to the Building Department, Conservation Commission, and Department of Public Works to determine compliance with the requirements of this bylaw prior to approval. Said bodies shall submit written comments and recommendations to the Planning Board.
- (c) The Planning Board will attempt to make the Storm Water Permit approval process concurrent with any other public hearing or process. The Stormwater Permit approval process shall be concurrent with the Planning Board public hearing process. The Planning Board shall hold a public hearing within sixty five (65) days of the filing of a complete application and take final action within ninety (90) days from the close of the hearing unless such time is extended by agreement between the applicant and the Planning Board. Notice of the public hearing shall be given by publication in a local paper of general circulation, by posting and by first-class mailings to abutters at least fourteen (14) days prior to the hearing.

### (4) Criteria for Review of Stormwater Permits

- (a) In addition to other criteria used by the Southwick Planning Board in making permit decisions, for the uses specified in this bylaw, the Department of Public Works must provide a written report that the Stormwater Management Plan submitted with the permit application meets the following criteria:
  - [1] The Stormwater Management Plan and the Erosion and Sediment Control Plan are consistent with the Purposes and Objectives of this Bylaw in Section A.
  - [2] The Stormwater Management Plan meets the Performance Standards described in Section I.
  - [3] The Erosion and Sediment Control plan must meet the Design Requirements in Section J.
  - [4] All necessary State and Federal permits, including an EPA Stormwater Permit, have been obtained.

### (5) Planning Board Action

- (a) The Planning Board shall render a written decision consisting of either:
  - [1] Approval of the Stormwater Management Permit Application based upon a determination that the proposed plan meets the purposes in Section A and the standards in Section I

and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;

[2] Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the Planning Board which will ensure that the project meets the purposes in Section A and the standards in Section I and adequately protects water resources, set forth in this bylaw; or

[3] Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the purposes in Section A and the standards in Section I or adequately protect water resources, as set forth in this bylaw.

(b) Failure of the Planning Board to take final action upon an Application within the time specified above shall not relieve the applicant's responsibility to meet NPDES reporting requirements.

#### (6) Inspections

(a) No plan will be approved without adequate provision for inspection of the property before development activity commences. The applicant shall arrange with the Southwick Building Department, or other agents designated by the Planning Board through its permitted land use decision on the specific site for scheduling the following inspections:

[1] Initial Inspection: prior to the commencement of work,

[2] Erosion Control Inspections: after site clearing, rough grading and final grading to ensure erosion control practices are in accord with the plan,

[3] Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures, and

[4] Final Inspection: when all work, including construction of stormwater management facilities and landscaping, have been completed.

(b) The Southwick Planning Board or its agents shall inspect the work and either approve it explicitly in writing or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan within fourteen (14) days of the inspection date. The applicant shall promptly correct any portion of the work which does not comply or the applicant will be subject to the bonding provisions of Section L or the penalty provisions of Section M. The Town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

(c) The project applicant or designated representative is required to perform self-inspection of the construction site every two weeks and after a rain event of ½ inch or more to ensure that construction phase erosion control procedures are effective and in accordance the Southwick Stormwater Permit issued in accordance with this bylaw. Inspection reports must be kept on-site with a copy of the Stormwater Permit for review by Town enforcement authorities at any time.

#### (7) Right-of-Entry for Inspection

- (a) When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system or sanitary sewer, the filing of an application shall be deemed as the property owner's permission to the Southwick Planning Board, Department of Public Works, Building Department, Conservation Commission or their agents for the right to enter the property at reasonable times and in a reasonable manner for the purpose of the inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this bylaw is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this bylaw.

#### (8) Permit Review Fees

- (a) The fee for review of any Stormwater Permit application shall be \$250 Dollars and submitted to the Town Clerk. All of the monetary contributions shall be credited to an appropriate stormwater revolving account and shall be made prior to scheduling the public hearing. An additional fee of \$100 per construction site shall be paid upon application for a building permit to be used for on-site stormwater management, inspections during and after construction. The revolving account funds will be used to offset direct labor costs associated with permit review and site inspections. Any residual funds may be used for stormwater management infrastructure engineering or improvements.

#### H. Stormwater management and erosion control plan

- (1) The application for a Stormwater Management Permit shall consist of submittal of a stormwater management and erosion control plan, prepared by a professional engineer licensed by the Commonwealth of Massachusetts, which meets the design requirements provided by this bylaw.
- (2) The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff.
- (3) The plan must be designed to meet the Massachusetts Stormwater Management Standards as set forth in Section I of this bylaw and the DEP Stormwater Management Handbook Volumes I and II as amended from time to time. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan.
- (4) The minimum information submitted for support of a stormwater management plan shall be as follows:
  - (a) A locus map;
  - (b) The existing zoning and land use at the site;
  - (c) The proposed land use;
  - (d) The location(s) of existing and proposed easements;
  - (e) The location of existing and proposed utilities;
  - (f) The site's existing & proposed topography with contours at 2 foot intervals;
  - (g) The existing site hydrology;

- (h) A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which storm water flows;
- (i) Delineation of 100-year flood plains, if applicable;
- (j) Estimated seasonal high groundwater elevation (November to April) in areas to be used for storm water retention, detention, or infiltration;
- (k) The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
- (l) A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths;
- (m) Locations of stockpiled construction materials including stockpiled soils and any proposed incremental movement of these stockpiles;
- (n) Locations of construction trailers;
- (o) Construction road details and locations;
- (p) Location of other wastes such as discarded building materials, concrete wash out, chemicals, fuel, porta potties, and litter that will be generated and how will they be protected from stormwater; and
- (q) A description and drawings of all components of the proposed drainage system including:

[1] Pre-construction Phase:

- [a] Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization; and
- [b] Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.

[2] Construction Phase:

- [a] All measures for the detention, retention or infiltration of water;
- [b] All measures for the protection of water quality, including proposed locations of silt fencing and hay bales;
- [c] Notes on drawings specifying materials to be used, construction specifications, and typicals;
- [d] A description of construction activities and waste materials expected to be stored on-site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response consistent with those allowed in zoning district; and
- [e] A maintenance schedule for the period of construction.

[3] Post-Construction Phase:



- [a] The structural details for all components of the proposed drainage systems and storm water management facilities;
- [b] Notes on drawings specifying materials to be used, construction specifications, and typicals;
- [c] Expected hydrology with supporting calculations; and
- [d] Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.

#### I. Stormwater management performance standards

- (1) Minimum Control Requirements -- Projects must meet the Standards of the Massachusetts Stormwater Management Policy as updated or amended. These Standards are:
  - (a) No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth.
  - (b) Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
  - (c) Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.
  - (d) For new development, stormwater management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:
    - [1] Suitable nonstructural practices for source control and pollution prevention are implemented;
    - [2] Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
    - [3] Stormwater management BMPs are maintained as designed.
  - (e) Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (MA DEP Stormwater Management Volume I: Stormwater Policy Handbook, as updated or amended). The use of infiltration practices without pretreatment is prohibited.
  - (f) Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (Stormwater Management Volume I: Stormwater Policy Handbook, as updated or amended). Critical areas are Outstanding Resource Waters (ORWs), shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies.
  - (g) Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.

- (h) Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
  - (i) All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.
- (2) When the proposed discharge may have an impact upon a sensitive receptor, including streams, storm sewers, and/or combined sewers, the DPW may require an increase in these minimum requirements, based on existing stormwater system capacity.
- (3) Stormwater Management Measures
- (a) Stormwater management measures shall be required to satisfy the minimum control requirements and shall be according to the following order of preference:
    - [1] Infiltration, flow attenuation, and pollutant removal of runoff on-site to existing areas with grass, trees, and similar vegetation and through the use of open vegetated swales and natural depressions.
    - [2] Use of stormwater on-site to replace water used in industrial processes or for irrigation.
    - [3] Stormwater detention structures for the temporary storage of runoff which is designed so as not to create a permanent pool of water.
    - [4] Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water.
    - [5] Retention and evaporation of stormwater on rooftops or in parking lots.
  - (b) Infiltration practices shall be utilized to reduce runoff volume increases. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for rejecting each practice based on site conditions.
  - (c) Best Management Practices shall be employed to minimize pollutants in stormwater runoff prior to discharge into a separate storm drainage system or water body.
    - (d) All stormwater management facilities shall be designed to provide an emergency overflow system, and incorporate measures to provide a non-erosive velocity of flow along its length and at any outfall.
  - (e) The designed release rate of any stormwater structure shall be modified if any increase in flooding or stream channel erosion would result at a downstream dam, highway, structure, or normal point of restricted stream flow.

(4) Specific Design Criteria

Additional policy, criteria, and information including specifications and design standards may be found in the Stormwater Design Manual Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

- (a) Infiltration systems

- [1] Infiltration systems shall be equipped with clean stone and/or filter fabric adjacent to the soil or other sediment removal mechanisms.
  - [2] Infiltration systems greater than 3 feet deep shall be located at least 10 feet from basement walls where feasible.
  - [3] Due to the potential for groundwater contamination from dry wells, they shall not be an acceptable method for management of runoff containing pollutants.
  - [4] Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any drinking water supply well. This distance may be increased by the Health Agent based on hydrogeologic conditions.
  - [5] Infiltration systems shall not be used as sediment control basins during construction unless specific plans are included to restore or improve the basin surface.
  - [6] Infiltration basins shall be constructed with a three foot minimum separation between the bottom of the structure and the seasonal high groundwater elevation, as determined by a certified soil evaluator.
  - [7] Provisions shall be made for safe overflow passage, in the event of a storm which exceeds the capacity of an infiltration system.
- (b) Retention and detention ponds shall be designed and constructed in accordance with the criteria of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).
  - (c) The applicant shall give consideration in any plan to incorporating the use of natural topography and land cover such as natural swales, and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water.
  - (d) The Planning Board shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case by case review of stormwater management plans by the an agent of the Planning Board.
  - (e) The applicant shall consider public safety in the design of any stormwater facilities. The banks of detention, retention, and infiltration basins shall be sloped at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore. Basins shall have a 4:1 slope to a depth two feet below the control elevation. Side slopes must be stabilized and planted with vegetation to prevent erosion and provide pollutant removal. The banks of detention and retention areas shall be designed with sinuous rather than straight shorelines so that the length of the shoreline is maximized, thus offering more space for the growth of vegetation.
  - (f) Where a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.
  - (g) All applicants for projects which involve the storage or use of hazardous chemicals shall incorporate handling and storage Best Management Practices that prevent such chemicals from contaminating runoff discharged from a site into infiltration systems, receiving water bodies or storm drains, and shall include a list and quantity of such chemicals in the application.

- (h) Runoff from parking lots shall be treated by oil and water separators or other Town-approved controls to remove oil and sediment.
- (i) The basic design criteria methodologies, and construction specifications, subject to the approval of the Planning Board and Director of the Department of Public Works, shall be those generally found in the most current edition of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

J. Design requirements for erosion and sediment control plan

(1) The design requirements of the Erosion and Sediment Control Plan are:

- (a) Minimize total area of disturbance;
- (b) Sequence activities to minimize simultaneous areas of disturbance;
- (c) Minimize peak rate of runoff in accordance with the MA DEP Stormwater Policy;
- (d) Minimize soil erosion and control sedimentation during construction. Prevention of erosion is preferred over sedimentation control;
- (e) Divert uncontaminated water around disturbed areas;
- (f) Maximize groundwater recharge;
- (g) Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
- (h) Prevent off-site transport of sediment;
- (i) Protect and manage on and off-site material and equipment storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
- (j) Comply with all applicable Federal, State and local laws and regulations, including but not limited to, waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
- (k) Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species;
- (l) Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 7 days after construction activity has temporarily or permanently ceased on that portion of the site;
- (m) Properly manage on-site construction and waste materials; and
- (n) Prevent off-site vehicle tracking of sediments.

## K. Maintenance

### (1) Operation, Maintenance and Inspection Agreement

- (a) Prior to issuance of any building permit for which stormwater management is required, the Planning Board shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town, the Health Agent, or its designated representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:

[1] The name(s) of the owner(s) for all components of the system

[2] Maintenance agreements that specify:

[a] the names and addresses of the person(s) responsible for operation and maintenance;

[b] the person(s) responsible for financing maintenance and emergency repairs;

[c] a maintenance Schedule for all drainage structures, including swales and ponds;

[d] a list of easements with the purpose and location of each;

[e] the signature(s) of the owner(s); and

[f] title reference for the land or lands in question and reference to recorded plans or plans to be recorded in the Hampden County Registry of Deeds.

[3] Stormwater management easements as necessary for:

[a] access for facility inspections and maintenance;

[b] preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and

[c] direct maintenance access by heavy equipment to structures requiring regular cleanout.

[4] Stormwater management easement requirements

[a] The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.

[b] Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Town.

[c] Easements shall be recorded with the Registry of Deeds prior to issuance of a Certificate of Completion.

[5] Changes to Operation and Maintenance Plans

[a] The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.

[b] The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the Planning Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.

(b) Prior to the release of the security and/or granting a certificate of occupancy, this agreement shall be recorded by the applicant and/or owner in the land records of the Registry of Deeds and the Planning Board is provided with evidence of the recording in the Registry of Deeds.

(c) The agreement shall also provide that, if after written notice to owner by the Director of the Department of Public Works, Health Agent, or designated representative, to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within thirty days, the Town may perform or contract all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties and such costs and penalties shall constitute a municipal lien on the property.

## (2) Maintenance Responsibility

(a) The owner of the property on which work has been done pursuant to this bylaw for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

(b) A maintenance schedule shall be developed for any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

(c) Records of installation and maintenance shall be maintained by the property owner and shall be made available to Town officials by request. These records shall be stored by the property owner for a minimum of five years.

(d) Failure to maintain any stormwater management facility shall be subject to the enforcement and penalties identified in Section M herein.

## L. Security For Performance

(1) The Town or its agents shall require from the developer a Security for Performance, or other means of security acceptable to the Town prior to the issuance of any building permit for the construction of all subject uses listed in Section D requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility computed by the developer and reviewed by the Department of Public Works. The security so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this bylaw and other applicable laws and regulations, and any time limitations..

(2) The Security shall not be fully released without:

- (a) Final inspection and approval of the completed work by the Director of the Department of Public Works, the Building Department, and the Conservation Commission;
- (b) Submission of "As-built" plans;
- (c) Certification of completion by the Planning Board of the stormwater management facilities being in compliance with the approved plan and the provisions of this bylaw; and
- (d) Proof that the operations and maintenance inspection agreement has been recorded in land records at the Registry of Deeds.

M. Enforcement and Penalties

(1) Violations

Any development activity that has commenced or is conducted contrary to this bylaw may be restrained by injunction or otherwise abated in a manner provided by law.

(2) Notice of Violation

When the Authorized Enforcement Authority determines that an activity is not being carried out in accordance with the requirements of this bylaw, it shall issue a written notice of violation to the owner of the property. Failure to maintain proper maintenance and installation records, as detailed in Section K, shall constitute a violation of this bylaw.

The notice of violation shall contain:

- (a) the name and address of the owner applicant;
- (b) the address when available or the description of the building, structure, or land upon which the violation is occurring;
- (c) a statement specifying the nature of the violation;
- (d) a description of the remedial measures necessary to bring the development activity into compliance with this bylaw and a time schedule for the completion of such remedial action;
- (e) a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
- (f) a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(3) Stop Work Orders

Persons receiving a notice of violations may be required to halt all construction activities or correct under the supervision of a designated representative of the Authorized Enforcement Authority. This "stop work order" will be in effect until the Planning Board or agents designated by the Planning Board confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this bylaw.

(4) Non-Criminal Disposition

As an alternative to criminal prosecution, the Board of Selectman may elect to utilize the non-criminal disposition procedure set forth in Southwick's Town By-Laws Section 1-5 or

Massachusetts General Laws Ch.185 Sec. 1-6. The Planning Board shall be the enforcing entity. The Planning Board will give the owner or violator written notice of a violation of this By-Law and a time frame for bringing a project or property into compliance with this By-Law. However, if such owner or operator fails to bring the project or property into compliance by the date specified with the written notice, then the penalty for the 1st violation shall be \$100 per day; the penalty for the 2nd violation shall be \$200 per day; and the penalty for the 3rd and subsequent violations shall be \$300 per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If action is not taken by the property owner within 30 days, this shall become a civil or criminal penalty.

(5) Criminal and Civil Penalties

Any person who violates any provision of this bylaw, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300 for each day such violation occurs or continues or subject to a civil penalty which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.

(6) Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Authorized Enforcement Authority may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(7) Holds on Occupancy Permits, Licenses or Other Municipal Permits

Occupancy permits, Licenses or other Municipal Permits will not be granted until corrections to all stormwater practices have been made and accepted by the Planning Board and the maintenance and inspection agreement has been recorded at the Registry of Deeds.

N. Severability

- (1) The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

or to take any other action thereto.

Requested by  
Southwick Planning Board

**ARTICLE 10 Explanation.** Amend the code of the Town of Southwick, Zoning, by adopting § 185-36.1. Erosion and Sediment Control for Stormwater Management to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Southwick by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff, and to promote adherence to permit filing requirements for the U.S. Environmental Protection Agency (EPA) mandated National Pollutant Discharge Elimination System (NPDES) Phase II Program .

Given under our hands at said Southwick this 27<sup>th</sup> day of February the year of the Lord two thousand and nine.

BOARD OF SELECTMEN



\_\_\_\_\_ Roger B. Cataldo, Chairman

\_\_\_\_\_ Arthur G. Pinell, Vice Chairman

\_\_\_\_\_ David A. St. Pierre, Clerk

HAMPDEN SS.,

Pursuant to the within warrant I have notified and warned the inhabitants of the Town of Southwick by posting up attested copies of the same three (3) public places in said Town fourteen (14) days before the date thereof, as within directed.

Constable of Southwick, MA

\_\_\_\_\_  
Kelly Magni

A TRUE COPY  
ATTEST:

TOWN CLERK, SOUTHWICK, MA

\_\_\_\_\_  
Michelle L. Hill, Town Clerk

POSTED: TOWN HALL, POST OFFICE, AND LIBRARY