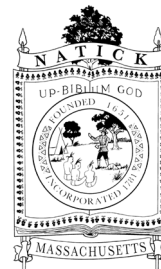


September 12, 2019

Prepared by:

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2019 Fall Town Meeting, Article 19 Responses to Finance Committee Questionnaire

1: Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.

Please see attached Appendix I for the motion. In summary, the motion proposes the following significant changes to Article 79A in the Town of Natick's General Bylaw: revisions to permit thresholds, clarifications and additions to exempt activities and the addition of a low impact development plan to the types of plans the Conservation Commission may require from applicants. Additional detail on each of these changes is provided below.

Minor edits are also proposed throughout the By-Law to resolve inaccuracies with existing language (e.g., reference the MA Stormwater Standards instead of the currently referenced MA Stormwater Policy, which is not the official name) and to capitalize defined terms.

While much of the language in the existing Article 79A would remain, codifying the proposed changes throughout the document require edits to every section, and Town Counsel recommends a "delete and replace" motion due to the complexity of the edits proposed.

Summary of Proposed Changes

1. Permit Thresholds

The current By-Law requires a Land Disturbance Permit only if 40,000 sq ft of land is disturbed. As such, the Conservation Commission only reviews a handful of Land Disturbance permits each year.

The proposed motion changes the thresholds required to apply for a permit and replaces the Land Disturbance Permit with two new permits:

- Minor Stormwater and Erosion Control Permit

This permit is for projects that meet one or more of the following criteria:

- ✓ Result in a Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.

- ✓ The construction of a new drainage facility or the alteration of an existing drainage facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
- ✓ The addition, on-site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.

Minor permits would be reviewed and approved by the Conservation Commission's Designated Agent, and would not be subject to a public hearing. If the applicant disagreed with the Agent's decision, he/she would have the opportunity to appeal a permit denial to the Conservation Commission in a public hearing.

For perspective, 3,000 square feet of land disturbance is typical for the construction of a new house, but extremely unusual for an addition. As such, staff estimate the addition of this permit would result in approximately 30 Minor Stormwater and Erosion Control Permit applications each year.

- Major Stormwater and Erosion Control Permit

This permit is for projects that exceed the criteria defined for Minor Permits. Projects that are subject to a Major Permit would follow a similar process as projects subject to the current By-Law. The Conservation Commission would be responsible for reviewing the application and making a decision, in conjunction with a public hearing. Because the proposed changes to the By-Law exempt projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions, the expectation is that this motion will result in very few additional Major Permits.

2. **Clarity and Addition of Exempt Activities**

The proposed By-Law would require best management practices (BMPs) are followed for all projects and add exemptions for:

- The reconstruction of a single family home within the current building footprint
- Logging in accordance with Dept of Conservation and Recreation Forest Cutting Plans
- Repair or replacement of damaged roofs
- The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

3. **Addition of Low Impact Development Plan**

The motion proposes the addition of a Low Impact Development (LID) Plan to the list of plans the Conservation Commission may require from an applicant. This provides applicants the flexibility to incorporate LID techniques into their design and to use nature-based solutions to comply with the Commission's regulation of this By-Law.

2. At a summary level and very clearly, what is the proposed purpose and objective of this Warrant Article and the accompanying Motion?

While a more detailed list of the By-Law's purpose and objectives are provided in the motion (see Appendix I), our ultimate objectives are to protect local water resources and reduce flooding.

3. Has this article or one of a very similar scope and substance been on a previous Warrant Article and what has been the actions taken by the Finance Committee, other Boards or Committees and Town Meeting?

The Town has an existing Stormwater and Erosion Control By-Law (Article 79A of the General Bylaw) that we seek to revise. Article 79A was unanimously recommended by the Finance Committee to Town Meeting and was approved at the 2006 Spring Annual Town Meeting.

Other Boards, including the Conservation Commission, the Stormwater Advisory Committee and the Board of Selectmen, and Town staff with stormwater expertise, including the Director of Public Works, Town Engineer, the Conservation Agent, Senior Planner of Community and Economic Development, and the Director of Health have reviewed the proposed changes and recommend their adoption.

4. Why is it required for the Town of Natick and for the Town Agency sponsor(s)?

The cumulative impact of development in Natick, as currently regulated, is having a negative effect on local water bodies and our community's resilience.

Nearly every water body in Natick is categorized as impaired by the [Massachusetts Year 2016 Integrated List of Waters](#) (a publication prepared by MassDEP related to the Clean Water Act). The main source of pollution to these water bodies is stormwater, which flows directly into our lakes and rivers, untreated.

Without proper regulation, development will typically result in an increase in impervious surface, which results in an increase in stormwater runoff and higher stormwater peak flows. This can cause the transport of runoff containing phosphorus, pesticides, bacteria and chemicals from driveways into catch basins and straight into our waters. Coupled with rising levels of precipitation and the more frequent occurrence of high rainfall events, these higher stormwater peak flows can also increase area flooding.

At present, the Town of Natick, as led by the Conservation Commission, only regulates large development projects - those requiring more than 40,000 sq ft of land disturbance - for stormwater impacts. However, in a community that is largely built out, few projects meet that threshold, and, since Article 79A went into effect in 2006, less than 50 projects have required the Conservation Commission's review.

Indeed, as shown in Appendix II, only 10% of private parcels located in Natick are more than 40,000 sq ft in size, meaning 90% of parcels are not subject to the Conservation Commission's stormwater regulations. A more meaningful summary of this challenge becomes clear when parcels are categorized

by their ‘stormwater watershed’ or the water body the nearest catch basin drains into (see Appendix III). An analysis of Dug Pond, home to the Town’s only public beach, finds that only 3% of private properties have the minimum space required to potentially meet Article 79A’s threshold. The takeaway? Natick’s current regulations do not effectively protect Dug Pond, Lake Cochituate, the Charles River and our other local water bodies and lower thresholds are needed.

Updating our stormwater regulations to include a threshold that is more in line with our level of development is also consistent with the approach other communities are taking. A review of area stormwater bylaws found that every community treats stormwater differently. However, a correlation exists between land disturbance thresholds and a community’s level of development, as illustrated in the below table.

Community	Level of Development	Land Disturbance Threshold
Charlton	Low	43,560 sq ft
Franklin	Low	40,000 sq ft
Holliston	Low/Medium	10,000 sq ft
Hopkinton	Low	10,000 sq ft
Burlington	Medium	10,000 sq ft
Acton	Low/Medium	5,000 sq ft
Dedham	Medium	500 sq ft
Newton	High	400 sq ft

Given Natick’s highly developed nature, it makes sense for the Town to adopt regulations that optimize the Conservation Commission’s ability to regulate projects that result in a significant disturbance of land (e.g., the clearing of land for the construction of a new home) and take a more comprehensive and thoughtful approach to managing stormwater impacts. This is in line with communities that are similar to Natick in size and level of development.

The proposed changes will also update Natick’s regulations to reflect changing Federal regulations, such as the new Municipal Separate Storm Sewer System (MS4) permit, and will encourage the adoption of Low Impact Development (LID) techniques by providing a pathway to increase infiltration via nature-based solutions.

5. Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?

The article does not require funding and it is not expected to result in a need for additional staff.

6. Does this article act in any way in concert with, in support of, or to extend any prior action of Natick Town Meeting, Massachusetts General Laws or CMR's or other such legislation or actions? Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?

Yes, this article would extend prior action of Town Meeting in that it would amend an existing Town of Natick General By-Law, Article 79A, adopted in 2006.

7. How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive Master Plan, and community values as well as relevant state laws and regulations?

The proposed changes are in response to recommendations identified in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report. The changes also address the requirements of the new Municipal Separate Storm Sewer System (MS4) permit.

The proposed changes are not expected to have a significant impact on Natick's financials, however, they will result in additional permits and their associated fees. The Conservation Commission will establish the fee for relevant permits via the regulations it adopts to effectuate the purpose of this By-Law.

8. Who are the critical participants in executing the effort envisioned by the article motion?

Ultimately, the Conservation Commission and Conservation Agent are the most critical participants in executing the effort envisioned, and they are in favor of this article.

9. What steps and communication has the sponsor attempted to assure that:

- **Interested parties were notified in a timely way and had a chance to participate in the process**
- **Appropriate Town Boards & Committees were consulted**
- **Required public hearings were held**

Each of the below Boards/individuals has reviewed and expressed their support for the proposed changes. Many have been active participants in the crafting of this motion. Other external stakeholders, including Mass Audubon's Shaping the Future of Your Community program, MassDEP, and the Environmental Partners, Natick's MS4 consultant were provided with a draft of proposed changes and their feedback was incorporated.

- Conservation Commission
- Board of Selectmen
- Conservation Agent, Marianne Iarossi and former Conservation Agent, Victoria Parsons
- Senior Planner, Community & Economic Development, Ted Fields

- Building Commissioner, David Gusimini
- Director of Public Health, James White
- Director of Public Works, Jeremy Marsette, P.E.
- Town Engineer, William McDowell, P.E.

Members of the public were made aware of the Town's intent to pursue changes to the existing Stormwater By-Law, Article 79A, at the Planning Board's meeting on May 22, 2019 and at the Board of Selectmen's August 5, 2019 meeting. Following that meeting, Town staff were contacted by a local developer to discuss proposed changes, which were viewed as favorable by the developer.

10. Since submitting the article have you identified issues that weren't initially considered in the development of the proposal?

No.

11. If this Warrant Article is not approved by Town Meeting what are the consequences to the Town and to the sponsor(s)? Please be specific on both financial and other consequences?

Natick will be at risk of further polluting local water bodies and flooding.

APPENDIX I

2019 FALL ANNUAL TOWN MEETING

Article 19

Amend Article 79A of the Town of Natick By-Laws:
Stormwater Management and Erosion Control

WARRANT

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

MOTION:

Move that the Town vote to amend the Natick Town ByLaws, Article 79A "Stormwater Management and Erosion Control By-Law," as follows:

- (1) Delete Sections 1 through Section 16, as follows, in their entirety:

“Section 1 Purpose

A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. erosion of stream channels;
4. alteration or destruction of aquatic and wildlife habitat;
5. flooding; and,
6. overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

1. protect water resources;
2. require practices that eliminate soil erosion and sedimentation;
3. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. protect groundwater and surface water from degradation;
6. promote infiltration and the recharge of groundwater;
7. maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
8. prevent pollutants from entering the municipal storm drain system;
9. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;

10. ensure adequate long-term operation and maintenance of structural stormwater best management practices;
11. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. comply with state and federal statutes and regulations relating to stormwater discharges; and
13. establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ABUTTER: The owner(s) of land abutting the activity.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: 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: Any "person" as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or agents designated to enforce this By-Law.

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

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

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR: A Registered Professional Engineer or other trained professional selected by the Conservation Commission and retained by the holder of a Minor Land Disturbance Permit or a Full Land Disturbance Permit to periodically inspect the work and report to the Conservation Commission.

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.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

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

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

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, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including without limitation: clearing, grubbing, grading, digging, cutting, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS ENDANGERED SPECIES ACT: (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying

stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Natick.

OPERATION AND MAINTENANCE PLAN: A plan describing 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 point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: A person with a legal or equitable interest in property.

PERMITTEE: The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth 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 means of 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: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source that is considered toxic or detrimental to humans or the environment and may be introduced into the municipal storm drain system or into any water, watercourse or waters of the Commonwealth.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESPONSIBLE PARTIES: owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility.

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

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing 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.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

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

TSS: Total Suspended Solids. Material, including but not limited to trash, debris, and sand suspended in stormwater runoff.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

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

WETLAND RESOURCE AREA: Area specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and in the Town of Natick Wetland Protection By-law.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp are defined in M.G.L. Chapter 131, Section 40, and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended.

Section 4 Applicability

This By-Law shall apply to all land-disturbing activities within the jurisdiction of the Town of Natick. Except as permitted by the Conservation Commission, or as otherwise provided in this By-Law, no person shall perform any activity that results in land disturbance of 40,000 square feet or more.

A. Regulated Activities - Regulated activities shall include, but not be limited to:

1. Land disturbance of greater than 40,000 square feet, associated with construction or reconstruction of structures.
2. 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 40,000 square feet or more of land,
3. Paving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff,
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet,
5. Any other activity altering the surface of an area exceeding 40,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR
6. Construction or reconstruction of structures where more than 40,000 square feet of roof drainage is altered.

B. Erosion and Sedimentation Control Requirement - A project which includes land disturbance of less than 40,000 s.f. shall be considered to be in conformance with this By-Law if soils or other eroded matter have been or will be prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulation to the By-Law.

C. Exempt Activities - The following activities are exempt from the requirements of this By-Law:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act.
2. Repair of septic systems when required by the Board of Health for the protection of public health and compliance with Section 4, Paragraph B.
3. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.

4. The construction of fencing that will not alter existing terrain or drainage patterns.
5. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
6. Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.

Section 5 Administration

The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law may be delegated in writing by the Conservation Commission to its employees or agents.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 40,000 or more square feet of land. The site owner or his agent shall apply for the permit with the Conservation Commission. While application may be made by a representative, the permittee must be the owner of the site.

A. **Applications** - An application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the Regulations adopted by the Conservation Commission and shall be accompanied by payment of the appropriate application and review fees.

B. **Fees** - Fees shall be established by Conservation Commission to cover expenses connected with public notice, application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The applicant for a Land Disturbance Permit may be required to cover the costs of said consultant through an account established pursuant to GL. c. 44§53G.

C. **Information Requests** - The Conservation Commission may request such additional information as is necessary to enable the Conservation Commission to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

E. **Coordination with Other Boards** - On receipt of a complete application for a Land Disturbance Permit the Conservation Commission shall distribute one copy each to the Planning Board, Department of Public Works, Board of Health, and the Building Inspector for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Land Disturbance Permit

until it has received reports from said agencies or until said agencies have allowed twenty (20) days to elapse after receipt of the application materials without submission of a report thereon.

F. **Entry** - Filing an application for a land disturbance permit grants the Conservation Commission or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) days of receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall hold a public hearing and shall take final action within thirty (30) days from the close of the hearing unless such time is extended by agreement between the applicant and the Conservation Commission. Notice of the public hearing shall, at least seven (7) days prior to said hearing, be given by publication in a local paper of general circulation, and by posting. The Conservation Commission shall be responsible for publishing the notice in the local newspaper and posting the notice at the Town Hall. The Conservation Commission shall make the application available for inspection by the public during business hours at the Town of Natick Conservation Office.

H. **Action** - The Conservation Commission may:

1. **Approve** the Application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this By-Law;
2. **Approve the Application and issue a permit with conditions**, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and complies with the requirements of this By-Law; or
3. **Disapprove** the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this By-Law. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

I. **Project Changes** - The permittee, or his or her agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in Part II or Part III of the Regulations adopted by the Conservation Commission under this by-law, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities, the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

Section 8 Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the information listed in the Regulations adopted by the Conservation Commission for administration of this By-Law.

Section 9 Stormwater Management Plan

The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this By-Law.

Section 10 Operation and Maintenance Plans

A. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent storm water management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance plan shall include any requirements deemed necessary by the Conservation Commission to insure compliance with said plan, including without limitation a covenant. The Conservation Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. Once approved by the Conservation Commission the Operation and Maintenance Plan shall be recorded at the South Middlesex Registry of Deeds by the permittee, shall run with the land, shall remain on file with the Conservation Commission and shall be an ongoing requirement. The Operation and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

B. Changes to Operation and Maintenance Plans

1. The owner(s) of the stormwater management system must notify the Conservation Commission or its agent of changes in ownership or assignment of financial responsibility.
2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility. Once the amended Plan is signed the Conservation Commission shall file it at the Registry of Deeds at the expense of the current owner(s).

Section 11 Inspection and Site Supervision

A. **Preconstruction Meeting** - Prior to clearing, excavation, construction, or any land disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with

the Conservation Commission or its designated agent to review the permitted plans and proposed implementation.

B. Commission Inspection - The Conservation Commission or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Agent of the Conservation Commission at least three (3) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Rough Grading has been substantially completed;
3. Final Grading has been substantially completed;
4. Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
5. Close of the Construction Season; and
6. Final landscaping (permanent stabilization) and project final completion.

C. Permittee Inspections - The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Conservation Commission or designated agent in a format approved by the Conservation Commission. The Conservation Commission may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its designated agent.

D. Access Permission - To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

Section 12 Surety

The Conservation Commission may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to insure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 13 and issued a certificate of completion.

Section 13 Final Reports

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (P.E.) or Registered Professional Land Surveyor certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

Section 14 Enforcement

A. The Conservation Commission or an authorized agent of the Conservation Commission shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

1. The Conservation Commission or an authorized agent of the Conservation Commission may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include:

- a. a requirement to cease and desist from the land-disturbing activity until there is compliance with the By-Law and provisions of the land-disturbance permit;
- b. maintenance, installation or performance of additional erosion and sedimentation control measures;
- c. monitoring, analyses, and reporting;
- d. remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

C. **Criminal Penalty** - Any person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 300.00 for each offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in which case the Conservation Commission or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 15 Certificate of Completion

The Conservation Commission will issue a Certificate of Completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Completion shall be recorded at the Registry of Deeds by the Owner(s).

Section 16 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law.”

(2) Insert the following text in its entirety:

“Section 1 Purpose

A. Increased volumes of Stormwater, contaminated Runoff from Impervious Surfaces, and Soil Erosion and Sedimentation are major causes of:

- 1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- 2) contamination of drinking water supplies;
- 3) Erosion of stream channels;
- 4) alteration or destruction of aquatic and wildlife habitat;
- 5) flooding; and,
- 6) overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified Sedimentation from Land Disturbance activities and polluted Runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the Disturbance of Land and the creation of Runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

- 1) protect water resources;
- 2) require practices that minimize or eliminate Erosion and Sedimentation and maintain Sediment on construction sites;
- 3) control the volume and rate of Stormwater resulting from Land Disturbance Activities in order to minimize potential impacts of flooding;
- 4) require practices to manage and treat Runoff generated from new development and redevelopment, with a preference for Low Impact Development techniques;
- 5) promote infiltration and the recharge of groundwater;
- 6) maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
- 7) ensure that Erosion, Sedimentation, and Runoff are minimized through Site planning, design and implementation;
- 8) ensure adequate long-term operation and maintenance of Best Management Practices;
- 9) require practices to control Construction and Waste Materials that may cause adverse impacts to water quality;
- 10) comply with state and federal statutes and regulations, including the Municipal Separate Storm Sewer System (MS4) Permit, relating to Stormwater discharges; and
- 11) establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of Runoff flowing from the area. Such changes include: 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: Any Person requesting a Stormwater and Erosion Control Permit.

APPLICATION: A standard form for application as issued by the Conservation Commission and any other documentation, which shall include, but shall not be limited to, plans, charts, drawings, specifications, narratives, or any other documents or pieces of information required by applicable federal, state or local laws, rules and/or regulations, submitted in connection with a Stormwater and Erosion Control Permit, as applicable, and as defined in the regulations promulgated by the Conservation Commission in support of this By-Law.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce the quantity of, or improve the quality of Runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or Site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction Site.

CLEARING: Any activity that removes the vegetative surface cover.

DESIGNATED AGENT: The Conservation Agent or any person or entity designated by the Conservation Commission to assist in the administration, implementation and enforcement of this By-Law and its regulations. The designation of a person or entity other than the Conservation Agent shall be made in writing upon a majority vote of the Conservation Commission.

DRAINAGE FACILITY: Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage or infiltration.

ENVIRONMENTAL SITE MONITOR: A registered and professional engineer (P.E.) or other trained professional selected by the Conservation Commission and retained by the holder of a Stormwater and Erosion Control Permit to periodically inspect the work and report to the Conservation Commission or Designated Agent, as applicable.

EROSION: The wearing away of the ground surface by natural or artificial forces and the subsequent detachment and transportation of Soil.

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

GRUBBING: The act of Clearing ground surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying ground. Impervious Surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops. Impervious Surface also includes Soils, gravel driveways, and similar surfaces with a Runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including, without limitation, Clearing, Grubbing, Grading, digging, cutting, removal of vegetation, excavation, placement of fill, resurfacing and construction that causes a change in the position or location of Soil or a change in the patterns of drainage and/or infiltration of water.

LOW IMPACT DEVELOPMENT (LID): A comprehensive land planning and engineering design strategy that seeks to maintain a Site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID systems and practices emphasize reduction of effective imperviousness and conservation and use of existing natural Site features integrated with distributed small-scale Stormwater controls to result in the treatment, infiltration, evapotranspiration, and/or use of Stormwater close to its source.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act M.G.L. c. 21, §§ 23-56, and any successor statutory provision.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying Stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER: A Person with a legal or equitable interest in property.

PERMITTEE: The Person who holds a Stormwater and Erosion Control Permit.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth 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 means of 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.

PRE-CONSTRUCTION: All activity in preparation for construction.

RESPONSIBLE PARTIES: Owner(s), Persons with financial responsibility, Persons with operational responsibility, or Persons with administrative responsibility.

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

SEDIMENT: Mineral or organic Soil material that is transported by wind or water, from its origin to another location; the product of Erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing Activities are, were, or will be performed.

SOIL: Any earth, sand, rock, stone, gravel, loam, clay, sod, fill, mineral products, eroded matter or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or slow down Erosion.

STORMWATER: Runoff from precipitation, snowmelt or drainage.

STORMWATER AND EROSION CONTROL PERMIT: A Major Stormwater and Erosion Control Permit or a Minor Stormwater and Erosion Control Permit issued by the Authorized Enforcement Agency, after review and approval of an Application, which is designed to protect the environment of the Town from the effects of uncontrolled and untreated Runoff, as defined in Section 4 herein.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp as defined in M.G.L. c. 131, §40, the Town of Natick Wetland Protection By-Law, or any successor statutory provision.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act (found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended). No change to the aforementioned regulations should affect the validity of this By-Law.

Section 4 Applicability

A. This By-Law shall apply to any Land-Disturbing Activity within the jurisdiction of the Town, including, but not limited to, any activities that require a permit. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick, and may promulgate and enforce guidelines, regulations and standards relevant thereto.

B. This By-Law shall apply to land or parcels of land held in common ownership (including, but not limited to, ownership by related or jointly-controlled Persons or entities), if the total Land-Disturbing Activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section 4.C and are not exempted by Section 4.D, and no such activity shall commence until a Stormwater and Erosion Control Permit under this By-Law has been issued. Land Disturbing Activities shall not be segmented or phased in a manner to avoid compliance with this By-Law.

C. **Permit Thresholds** - A Stormwater and Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section 4.D:

1) Minor Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.

- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
 - (c) The addition, on-Site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards, of Soil.
- 2) Major Stormwater and Erosion Control Permit
- (a) Any Land Disturbance greater than 20,000 square feet.
 - (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 20,000 square feet.
 - (c) The addition, on-Site redistribution, or export of more than 750 cubic yards of Soil.

D. Exempt Activities - The following activities are exempt from the requirements of this By-Law, provided that appropriate Best Management Practices are used:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act 310 CMR 10.00 and G.L.c. 40A, §3, and any successor regulatory or statutory provision.
- 2) Reasonable and ordinary maintenance of existing lawn, landscaping, or gardens areas, provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
- 3) Repair or replacement of damaged roofs
- 4) Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.
- 5) Repair of septic systems when required by the Board of Health.
- 6) Construction of fencing that will not alter existing terrain or drainage patterns.
- 7) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover or drainage patterns.
- 8) Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.
- 9) Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation.
- 10) The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- 11) The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

Section 5 Administration

A. The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law, to the extent allowed by law, may be delegated in writing to its Designated Agent.

B. Stormwater and Erosion Control Permits shall be issued as follows:

- 1) Minor Stormwater and Erosion Control Permits shall be issued by the Designated Agent of the Conservation Commission. Review by the Conservation Commission is not required.

- (a) The Applicant shall submit an Application, fees, and any other permit submission requirements, as specified in this By-Law or the regulations of this By-Law, and shall also comply with any requirements of the Designated Agent.
 - (b) The Designated Agent shall review the submittal for compliance with this By-Law and the By-Law's regulations. The Designated Agent shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.
- 2) Major Stormwater and Erosion Control Permits shall be reviewed and issued by the Conservation Commission.
- (a) The Applicant shall submit an Application, fees, and any permit submission requirements, specified in this By-Law or the regulations for this By-Law, and shall also comply with any requirements of the Conservation Commission.
 - (b) The Conservation Commission shall review the submittal for compliance with this By-Law and the By-Law's regulations as part of the Conservation Commission's public hearing process on the proposed project. The Conservation Commission shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 3,000 or more square feet of land, or as otherwise specified in this By-Law. The Site Owner or his agent shall apply for the permit with the Conservation Commission. While an Application may be submitted by a representative, the Permittee must be the Owner of the Site.

A. Applications - An Application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the regulations adopted by the Conservation Commission. Applications for Major Stormwater and Erosion Control permits also require distribution to the Department of Public Works, and the Board of Health for review and comment, and shall be accompanied by certification of delivery to these Town entities when submitted to the Conservation Commission.

B. Fees - Fees shall be established by the Conservation Commission to cover expenses connected with public notice, Application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission or Designated Agent is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Stormwater and Erosion Control Permit may be required to cover the costs of the consultant through an account established pursuant to M.G.L. c. 44, §53G, and any successor statutory provision..

C. **Information Requests** - The Conservation Commission or Designated Agent may request such additional information as is necessary to determine whether the proposed Land-Disturbing Activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission or Designated Agent shall make a determination as to the completeness of the Application and adequacy of the materials submitted. No review shall take place until the Application has been found to be complete.

E. **Coordination with Other Town Entities** – The applicant shall distribute one copy each to the Department of Public Works and the Board of Health for review and comment. These Town entities shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Major Stormwater and Erosion Control Permit until 1) receipt of reports from Town entities or 2) twenty (20) calendar days after the distribution of the Major Stormwater and Erosion Control Permit Application, whichever occurs first.

F. **Entry** - Filing an Application for a Stormwater and Erosion Control Permit grants the Conservation Commission or Designated Agent permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) calendar days of receipt of a complete Application for a Major Stormwater and Erosion Control Permit, the Conservation Commission shall hold a public hearing. Notice of the public hearing shall, at least seven (7) calendar days prior to said hearing, be given by publication in a paper of general circulation serving the Town of Natick, and by posting the notice at the Town Hall. The Conservation Commission shall be responsible for such public notice as described above. The Conservation Commission shall make the Application available for inspection by the public during business hours at the Town of Natick's Conservation Office.

H. **Action and Appeal Process**

1) **Minor Stormwater and Erosion Control Permit**

(a) **Action** – The Application for a Minor Stormwater and Erosion Control Permit shall be acted upon within ten (10) business days (Saturdays, Sundays and legal holidays excluded) of the date the Designated Agent determines the Application is complete, unless such Application has been withdrawn from consideration. The Designated Agent may:

- i. **Approve the Application and issue a permit** if it finds the proposed plan meets the objectives of and complies with the requirements of this By-Law;
- ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Designated Agent determines are required to ensure the project will meet the objectives of and comply with the requirements of this By-Law;
- iii. **Disapprove the Application and deny a permit** if the Designated Agent finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or if the Designated Agent finds that the Applicant has submitted insufficient information to confirm the proposed plan meets the objectives of and complies with the requirements of this By-Law; or
- iv. **Determine that a Minor Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

(b) Appeal of Disapproved Applications

- i. The Applicant may modify the Application to meet the objectives of and comply with the requirements of this By-Law and resubmit it to the Designated Agent.
- ii. The Applicant may appeal a permit denial by the Designated Agent by requesting the Conservation Commission review the Application. Such review shall take place with a public hearing as described in Section 7.G. and shall be subject to any review fees or additional submittal requirements as specified in the regulations for this By-Law.

2) Major Stormwater and Erosion Control Permit

- (a) **Action** – The Conservation Commission shall take action on a Major Stormwater and Erosion Control Permit within thirty (30) calendar days from the close of a public hearing as described in Section 7.G, unless such time is extended by agreement between the Applicant and the Conservation Commission. The Conservation Commission shall take one of the following actions:

- i. **Approve the Application and issue a permit** if it finds that the proposed plan will meet the objectives of and complies with the requirements of this By-Law;
- ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Conservation Commission determines are required to ensure that the project will meet the objectives of and comply with the requirements of this By-Law;
- iii. **Disapprove the Application and deny a permit** if it finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or that the Applicant has submitted insufficient information to confirm the proposed Application meets the objectives of and complies with the requirements of this By-Law; or
- iv. **Determine that a Major Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

Permittee, or his or her agent, must notify the Conservation Commission or Designated Agent in writing of any change or alteration of a Land-Disturbing Activity before the change or alteration occurs. If the Conservation Commission or Designated Agent determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Conservation Commission under this By-Law, the Conservation Commission or Designated Agent may require that an amended Application or a full Application be filed in accordance with Section 7. If any change or alteration from the Stormwater and Erosion Control Permit occurs during Land-Disturbing Activities, the Conservation Commission or Designated Agent may require the installation of interim Erosion and Sedimentation control measures before approving the change or alteration. This shall not affect any other obligations the Applicant shall have under M.G.L. c. 121, §40, the Natick Wetlands Protection By-Law, or any other regulation pertinent, or any successor statutory or regulatory provision.

Section 8 Plans

Regulations promulgated by the Conservation Commission shall set forth the types of plans required by a Minor Stormwater and Erosion Control Permit and a Major Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 8A - 8D below. Further requirements may be

specified by the Conservation Commission or Designated Agent and this By-Law; the provisions herein are not intended to be an exhausted clarification on the specific details of plan requirements.

A. The **Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed Erosion and Sedimentation controls to be used during pre construction and construction. The Erosion and Sedimentation Control Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is necessary to show that the proposed Land Disturbing Activity will comply with the design standards and contain the information listed in the regulations adopted by the Conservation Commission for administration of this By-Law.

B. The **Low Impact Development (LID) Plan** shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the acceptability of: the Site planning process; the anticipated impacts of the proposed Land Disturbing Activity on the ecological and hydrological functions of the Site; any measures proposed by the Applicant to maintain ecological and hydrological functions of the Site. The LID Plan shall fully describe the project in drawings, narrative, and calculations, if applicable. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law. The LID plan shall be designed to comply, to the maximum extent practicable, with all standards for LID set forth by the regulations adopted by the Conservation Commission for the administration of this By-Law.

C. The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed BMPs for the permanent management and treatment of Stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from Stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, and any other Stormwater standards set forth in the regulations adopted by the Conservation Commission for the administration of this By-Law. The Stormwater Management Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law.

D. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent Stormwater management system is required at the time of application for all Stormwater and Erosion Control Permits. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 or any successor regulations are met in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Conservation Commission or Designated Agent. The Conservation Commission or Designated Agent shall determine what maintenance option is appropriate in a given situation. The Conservation Commission or Designated Agent will consider natural features, proximity of Site to water bodies and Wetlands, extent of Impervious Surfaces, the size of the Site, the types of Stormwater management structures, BMPs, and the potential need for ongoing maintenance when making this decision. Once approved by the Conservation Commission or Designated Agent, the O&M Plan shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee, shall run with the land, shall remain on file with the Conservation Commission, and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements

shall be provided by the property Owner(s) in areas and as necessary to carry out the required maintenance.

1) Changes to Operation and Maintenance Plans

- (a) The Owner(s) of the Stormwater management system must notify the Conservation Commission or Designated Agent of changes in ownership or assignment of financial responsibility.
- (b) The maintenance schedule in the O&M Plan may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Once the amended Plan is signed, the Conservation Commission shall file it at the Commonwealth of Massachusetts Middlesex South Registry of Deeds at the expense of the current Owner(s).

Section 9 Inspection and Site Supervision for Stormwater and Erosion Control Permits

A. **Pre-Construction Meeting** - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, the Applicant, the Applicant's technical representative, the general contractor, pertinent subcontractors, and any Person with authority to make changes to the project, shall meet with the Conservation Commission or Designated Agent to review the permitted plans and proposed implementation.

B. **Inspection** – For all projects requiring a Stormwater and Erosion Control Permit, the Conservation Commission or Designated Agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the Permittee if the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission or Designated Agent, as applicable, shall be maintained at the Site during the progress of the work. In order to obtain inspections, the Permittee shall notify the Conservation Commission or Designated Agent at least three (3) business days (Saturdays, Sundays and legal holidays excluded) before each of the following events:

- 1) Erosion and Sedimentation control and tree protection measures are in place and stabilized;
- 2) Site Clearing and rough Grading have been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or Stormwater conveyance structures;
- 5) Close of the Construction Season; and
- 6) Final landscaping (permanent Stabilization) and project final completion.

C. **Permittee Inspections** - The Permittee or the Permittee's agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control plan, and the need for maintenance or additional control measures. The Permittee or the Permittee's agent shall submit monthly reports to the Conservation Commission or Designated Agent in a format approved by the Conservation Commission. The Conservation Commission or Designated Agent may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission or Designated Agent, be retained by the Applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or Designated Agent.

D. **Access Permission** - To the extent permitted by law, or if authorized by the Owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

Section 10 Surety for Stormwater and Erosion Control Permits

The Conservation Commission or Designated Agent may require the Permittee to post before the start of the Land-Disturbing Activity subject to a Stormwater and Erosion Control Permit, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond, as a proportion of the completed phase(s), but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a certificate of compliance pursuant to Section 13.

Section 11 Final Reports for Stormwater and Erosion Control Permits

Upon completion of the work under a Stormwater and Erosion Control Permit, the Permittee shall submit a report certifying that all Erosion and Sedimentation control devices, elements of the Application, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter. In addition, the final report for a Major Stormwater and Erosion Control permit shall include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor. As a condition of plan approval for a Minor Stormwater and Erosion Control project, the Conservation Commission's Designated Agent may require that the final report include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor.

Section 12 Enforcement

A. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick. The Conservation Commission or Designated Agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1) The Conservation Commission or Designated Agent may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include, but are not limited to, the following:
 - (a) a requirement to cease and desist from the Land-Disturbing Activity until there is compliance with the By-Law and/or the provisions of the Stormwater and Erosion Control Permit;
 - (b) maintenance, installation or performance of additional Erosion and Sedimentation control measures;
 - (c) monitoring, analyses, and reporting; and/or
 - (d) remediation of Erosion and Sedimentation resulting directly or indirectly from the Land-Disturbing Activity.

- 2) If the Conservation Commission or Designated Agent determines that abatement or remediation of Erosion and Sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or Owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the Owner shall reimburse the Town for its expenses.
- 3) Within thirty (30) calendar days after completing all measures necessary to abate the violation or to perform remediation, the violator and the Owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or Owner may file an appeal objecting to the amount or basis of costs with the Conservation Commission within thirty (30) calendar days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal within thirty (30) calendar days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the Owner and shall constitute a lien on the Owner's property for the amount of such costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. c. 59, §57, or any other successor statute, after the thirty-first calendar day following the calendar day on which the costs were due.

C. **Criminal Penalty** - Any Person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each calendar day that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in which case the Conservation Commission or Designated Agent shall be the Authorized Enforcement Agency. The penalty for each violation shall be \$300.00. Each calendar day that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 13 Certificate of Stormwater and Erosion Control Permit Compliance

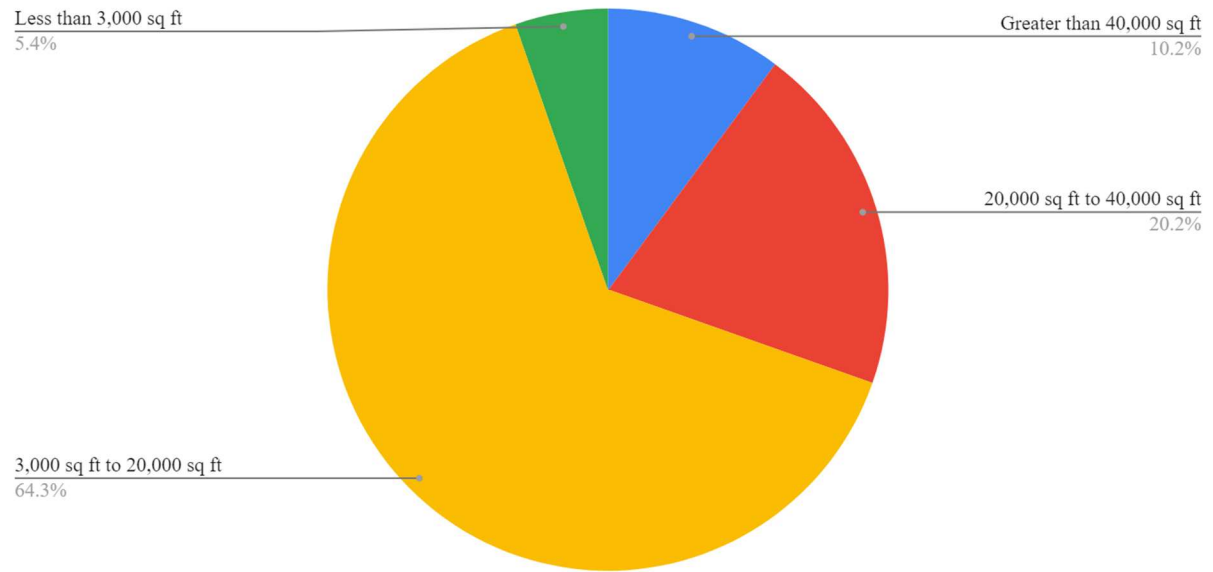
Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Owner(s).

Section 14 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any Person, establishment or circumstance shall be held invalid for any reason, all other provisions, to the maximum extent permitted by law, shall continue in full force and effect.”

APPENDIX II

Analysis of Private Parcels in Natick, by Size



APPENDIX III

Analysis of Private Parcels in Natick by Receiving Waterbody

Receiving Waterbody	Total Parcels	Parcels > 40KSq Ft	Parcels 20- 40K sq ft	Parcels 3- 20K sq ft	Parcels <3K sq ft
Beaverdam Brook	1398	52	118	1146	81
Charles River (southeast corner of Town)	678	361	108	183	25
Course Brook	408	18	62	313	15
Davis Brook	738	440	153	131	14
Dug Pond	1039	29	89	848	72
Fiske Pond	113	12	21	74	5
Indian Brook	179	110	32	33	3
Jennings Pond	237	3	8	214	10
Lake Cochituate	2670	130	348	1970	221
Morses Pond	464	20	93	336	15
Nonesuch Pond	458	99	173	150	35
Unnamed Branch to the Charles River	275	45	132	89	7
Unnamed Tributary to Jennings Pond	1614	87	268	1206	28
Unnamed Tributary to the Sudbury River	204	49	26	123	6