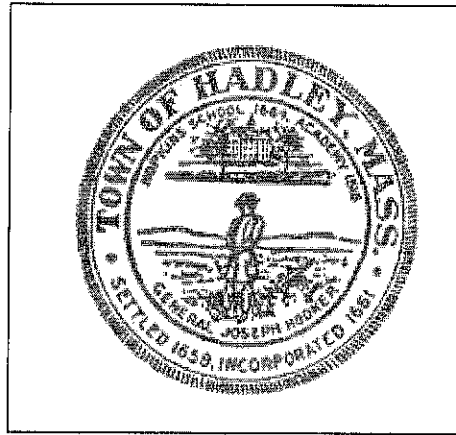


*Town Clerk copy*



**NOTICE**

As per Massachusetts General Laws Chapter 40, section 32, the following attested copies have been posted in five (5) public places in the town of Hadley:


1. **HADLEY SPECIAL TOWN MEETING OF NOVEMBER 7, 2019**  
Warrant Article #16 (Zoning)  
Warrant Article #15 (General)
2. Attorney General's letter dated February 10, 2020 pertaining to Articles and approval thereof

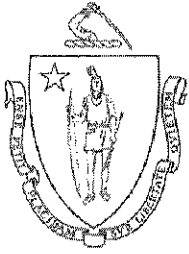
Copies of the Zoning By-law and zoning map may be examined and obtained in the office of the Town Clerk, Town Hall, Hadley, MA. Claims of invalidity by reasons of any defect in the procedure of adoption may only be made within ninety (90) days of this posting.

Copies posted at: Town Hall, Hadley Post Office, North Hadley Sugar Shack, Hadley Safety Complex, Goodwin Memorial Library, all in said town on

2-11, 2020

ATTEST:

  
Constable  
Hadley, Massachusetts



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

February 10, 2020

Jessica Spanknebel, Town Clerk  
Town of Hadley  
100 Middle Street  
Hadley, MA 01035

**Re: Hadley Special Town Meeting of November 7, 2019 -- Case # 9684**  
**Warrant Article # 16 (Zoning)**  
**Warrant Article # 15 (General)**

Dear Ms. Spanknebel:

**Articles 15 and 16** - We approve Articles 15 and 16 from the November 7, 2019, Hadley Special Town Meeting. Our comments on Article 15 are provided below.

**Article 15** - Article 15 adds a new Section 195, Article III, "Stormwater Management and Erosion and Sediment Control" ("Stormwater"), to the Town's general by-laws. One of the stated purposes of the by-law is to control the adverse impacts associated with stormwater runoff from new development and redevelopment. Section 195-17 (A).

**A. Law Applicable to Article 15**

Both the federal government and the Commonwealth of Massachusetts have enacted certain regulations relative to stormwater management by municipalities. For instance, the federal Environmental Protection Agency has enacted requirements pertaining to operators of municipal separate storm sewers. *See* 40 C.F.R. § 122.34. The Massachusetts Department of Environmental Protection (the Department) has promulgated regulations at 310 C.M.R. § 10.05 (6) (k)-(q) ("Stormwater Management Standards"), pursuant to G.L. c. 131, § 40. Furthermore, the Department has promulgated stormwater regulations at 314 C.M.R. §§ 3.04 and 5.04, pursuant to G.L. c. 21, §§ 26-53 (the Massachusetts Clean Waters Act). Any local regulation of stormwater management must be supplementary to and consistent with the regulation of such matters by the federal government and the Commonwealth of Massachusetts. Operators of municipal separate storm sewers are required to develop and implement a stormwater management plan that meets certain minimum measures. *See* 40 C.F.R. § 122.34.

The federal regulations suggest that municipalities adopt local laws or regulations as part of an effective stormwater management plan. *See, e.g.,* 40 C.F.R. § 122.34 (b) (3) (i) (B); 40 C.F.R. § 122.34 (b) (4) (i) (A); 40 C.F.R. § 122.34 (b) (5) (i) (B). We understand the new by-law is part of Town's efforts to effectively manage stormwater.

## **B. Comments on Specific Sections of the Stormwater By-law**

### **1. Section 195-18 "Definitions"**

Section 195-18 defines "Person" as follows:

[a]ny 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.

We approve the definition of "Person." However, the Town's authority to regulate state and federal entities is limited. "The doctrine of essential governmental functions prohibits municipalities from regulating entities or agencies created by the Legislature in a manner that interferes with their legislatively mandated purpose, absent statutory provisions to the contrary." Greater Lawrence Sanitary Dist. v. Town of North Andover, 439 Mass. 16 (2003). *See also* Teasdale v. Newell & Snowling Const. Co., 192 Mass. 440 (1906) (holding local board of health could not require state park commissioners to obtain license to maintain stable on park land). Similarly, municipalities may not regulate federal governmental entities in a manner that impedes with their purpose. *Cf. First Nat'l Bank v. Missouri*, 263 U.S. 640, 656 (1926) (state laws may not regulate federal entities if "such laws interfere with the purposes of their creation [or] tend to impair or destroy their efficiency as federal agencies"); Palfrey v. City of Boston, 101 Mass. 329 (1869) (federal internal revenue stamps not subject to state or local property tax). The Town's enforcement of the new by-law cannot impermissibly interfere with the operation of state or federal entities. The Town should discuss the proper application of this definition with Town Counsel.

### **2. Section 195-19 "Applicability"**

Section 195-19 (B) of the by-law exempts certain projects from the by-law's stormwater management plan requirements. Specifically, Sections 195-19 (B) (1) and (2) exempts agricultural activities as follows:

1. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resource Conservation Service;
2. Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation;

We approve the exemption given to agriculture in Sections 195-19 (B) (1) and (2). However, it must be applied consistent with the protections given to agricultural uses under the constitution and laws of the Commonwealth.

Article 97 of the Article of Amendments to the Massachusetts Constitution declares the protection of a citizen's right to the utilization of agricultural resources to be a public purpose in the Commonwealth. Moreover, several state statutes recognize the importance of agriculture, foster and encourage agricultural pursuits, and limit the burdens that may be placed on them by local laws. For example, G.L. c. 40A, § 3, provides that all agricultural uses must be allowed as

of right (1) on land zoned for agriculture; (2) on land that is greater than five acres in size; and (3) on land of 2 acres or more if the sale of products from the agricultural use generates \$1,000 per acre or more of gross sales. Therefore, if a parcel falls into any one of these three categories, the parcel enjoys the protections of G.L. c. 40A, § 3, and a municipality cannot prohibit, unreasonably regulate, or require a special permit for agricultural uses in those areas.

The Town may wish to discuss the application of Sections 195-19 (B) (1) and (2) with Town Counsel to ensure it is applied consistent with the protections given to agriculture under the constitution and laws of the Commonwealth.

3. Section 195-21 "Enforcement and Penalties"

Section 195-21 establishes the penalties for failure to comply with the by-law. Specifically, Section 195-21 (F) authorizes the Town to require a person who violates the by-law to restore the land to its undisturbed condition. If the restoration is not started within a reasonable amount of time after notice is given, then Section 195-21 (F) authorizes the Town to take the necessary corrective action, "the cost of which shall become a lien upon the property until paid."

Expenses incurred by the Town to restore land in order to correct violations of the by-law may be considered a charge for purposes of G.L. c. 40, § 58, the municipal charges lien statute. However, in order to avail itself of the provisions of G.L. c. 40, § 58, the Town will either need to amend its by-law to specify that the costs will be liens for purposes of G.L. c. 40, § 58, or take a separate vote authorizing the use of G.L. c. 40, § 58, for charges the Town may incur in restoring the land. We suggest that the Town discuss this issue in more detail with Town Counsel before it imposes a "lien" against a property owner.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,  
MAURA HEALEY  
ATTORNEY GENERAL

*Kelli E. Gunagan*

by: Kelli E. Gunagan, Assistant Attorney General  
Municipal Law Unit  
Ten Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600

cc: Town Counsel Joel B. Bard

Hadley SFTM 11-7-2019  
Art. 16  
Zoning By-law delete  
Storm Water Erosion

To Whom It May Concern:

At the Town of Hadley Special Fall Town Meeting that convened on November 7, 2019 at Hopkins Academy with a quorum of 100 present and declared dissolved on November 7, 2019 by the Moderator, the following article was so voted:

**Article 16** Motion was made and seconded that the Town amend the Zoning Bylaw by deleting Section XXIV, titled: "Erosion and Sediment Control for Stormwater Management", in its entirety, and by deleting in the Table of Contents the text in Section XXIV and replacing it with "Reserved".

The Moderator declared Article 16 passed unanimously.

Attest:



Jessica Spanknebel

Town Clerk

Hadley, MA

Planning Board oral recommendation

Hadley SFTM 11-7-2019  
Art. 15  
General Bylaw-New  
Storm Water Erosion

To Whom It May Concern:

At the Town of Hadley Special Fall Town Meeting that convened on November 7, 2019 at Hopkins Academy with a quorum of 100 present and declared dissolved on November 7, 2019 by the Moderator, the following article was so voted:

**Article 15** Motion was made and seconded that the Town amend Chapter 195 of the Code of the Town of Hadley as delineated in Article 15 of the Special Town Meeting warrant held on November 7, 2019 and incorporated by reference herein.

AMENDMENT: Motion was made and seconded to amend section 195-21 (6) by deleting the word "*municipality*" and replacing it with the words "*Zoning Board of Appeals*" as follows:

**§ 195-21 Enforcement and Penalties**

A. 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.

B. Notice of violation. When the Building Inspector determines that an activity is not being carried out in accordance with the requirements of this bylaw, he shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner applicant.
2. The address when available or the description of the building, structure, or land upon which the violation is occurring.
3. A statement specifying the nature of the violation.
4. 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.
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
6. A statement that the determination of violation may be appealed to the ~~municipality~~ Zoning Board of Appeals by filing a written notice of appeal within 30 days of service of notice of violation pursuant to MGL c. 40A, § 15.

The Moderator declared the amendment passed.

The Moderator declared Article 15 passed 120-3.

Attest:



Jessica Spanknebel  
Town Clerk  
Hadley, MA

Planning Board oral recommendation

**Hadley SFTM 11-7-2019**  
**Art. 15 as amended**  
**General Bylaw-New**  
**Storm Water Erosion**

To see if the Town will vote to add a new article to the Hadley General Bylaws: Section 195 Article III:  
as follows:

**Stormwater Management and Erosion and Sediment Control**

**§ 195-17 Purpose. 26**

**§ 195-18 Definitions. 27**

**§ 195-19 Applicability. 30**

**§ 195-20 Administration. 32**

**§ 195-21 Enforcement and Penalties. 32**

**§ 195-22 Severability. 33**

**Article III Stormwater Management and Erosion and Sediment Control**

**§ 195-17 Purpose**

- A. 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 Hadley by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff from new development and redevelopment.
- B. The proper management of stormwater runoff will meet the following objectives:
1. Establish requirements for land development activities that preserve the health of water resources by reducing the adverse water quality impacts of stormwater discharges to rivers, lakes, wetlands, reservoirs and streams in order to attain federal water quality standards.
  2. Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff.
  3. Minimize the volume and rate of stormwater which is discharged to rivers, streams, reservoirs, lakes and the municipal storm drain system that flows from any site during and following development.
  4. Prevent erosion and sedimentation from land development and reduce stream channel erosion caused by increased runoff.
  5. Provide for the recharge of groundwater aquifers and maintain the base flow of streams.
  6. Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety.
  7. Require that development and redevelopment projects limit stormwater runoff volume and treat for water quality in order to reduce flooding, stream erosion, pollution, property damage, and harm to aquatic life.
  8. Promote the use of Low Impact Development (LID) practices such as reducing impervious cover, treating and infiltrating stormwater at the source, utilizing environmentally sensitive design, and the preservation of open space and natural areas, to the maximum extent practicable.
  9. Ensure that these management controls are properly maintained to function as designed.
  10. Establish procedures for the Town's review of stormwater management plans, and for the Town's inspection of approved stormwater controls.
  11. Comply with state and federal statutes and regulations relating to stormwater discharges.

**§ 195-18 Definitions**

The following definitions describe the meaning of the terms used in this bylaw:

**ADVERSE IMPACT:** Any deleterious effects 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 or to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**AGRICULTURAL ACTIVITY** - producing or raising one or more of the following agricultural commodities for commercial purposes:

1. animals, including but not limited to livestock, poultry, and bees;
  2. fruits, vegetables, berries, nuts, maple sap, and other foods for human consumption; and
  3. feed, seed, forage, tobacco, flowers, sod, nursery or greenhouse products, and ornamental plants or shrubs.
- and as further defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

**ALTER:** Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

**DISTURBANCE:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

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

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

**FLOODING:** A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

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

**GROUNDWATER:** All water beneath any land surface including water in the soil and bedrock beneath water bodies, but not including water in manmade structures.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, rooftops, driveways, patios, and paved roads.

**LOW IMPACT DEVELOPMENT:** A development strategy that seeks to mimic (or in the case of redevelopment, restore/recreate) a site's predevelopment hydrology through protection of on-site natural features and environmentally sensitive site design that limits impervious areas, preserves open space, and uses decentralized small scale facilities to capture and manage rainfall (or snowmelt) close to where it falls. These small scale facilities serve to slow, absorb, and treat flow and include bioretention areas, grass swales, porous pavements, cisterns, and green roofs and walls.

**MAXIMUM EXTENT PRACTICABLE:** Refers to the extent of efforts to comply with local post-construction stormwater management requirements. Elements of MEP indicate serious intent to comply and include selecting and implementing design elements to address site restrictions. MEP is defined as the following:

1. Proponents of development/redevelopment projects have made all reasonable efforts to meet the applicable Massachusetts Stormwater Management Standards;
2. They have made a complete evaluation of possible stormwater management measures, including environmentally sensitive site design that minimizes land disturbance and impervious surfaces, low impact development strategies and stormwater BMPs; and,
3. If not in full compliance with the applicable Standards, they are implementing the highest practicable level of stormwater management.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** 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 Hadley.



**NEW DEVELOPMENT:** Any construction activities or land alteration resulting in total earth disturbances equal to or greater than 40,000 square feet of area (or activities that are part of a larger common plan of development disturbing greater than 40,000 square feet of area) on an area that has not previously been developed to include impervious cover.

**NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

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

**PERSON:** Any 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 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 of property or sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants shall include:

1. Paints, varnishes and solvents;
2. Oil and other automotive fluids;
3. Nonhazardous liquid and solid wastes and yard wastes;
4. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, Bylaws, accumulations and floatables;
5. Pesticides, herbicides and fertilizers;
6. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. Dissolved and particulate metals;
8. Animal wastes and residues;
9. Rock, sand, salt and soils;
10. Construction wastes and residues;
11. Noxious or offense matter of any kind.

**RECHARGE:** The replenishment of underground water reserves.

**REDEVELOPMENT:** Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than 40,000 square feet of area (or activities that are part of a larger common plan of development disturbing greater than 40,000 square feet of area) that does not meet the definition of new development (see above). Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements for redevelopment activities.

**RESOURCE AREA:** Any area protected under including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Hadley Wetland Bylaw. Specifically, these areas are banks, bordering vegetated wetlands, ephemeral pools, land under waterbodies and waterways, land subject to flooding and riverfront areas.

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

**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:** A process of depositing material that has been suspended and transported in water.

**SITE:** The area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover (excluding redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways as described under "Redevelopment" definition above).

**STORMWATER:** Any stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

**STORMWATER AUTHORITY:** The Stormwater Authority administers, implements, and enforces this Bylaw. See **Section 4** below for more information on which entity serves as Stormwater Authority.

**STORMWATER MANAGEMENT:** The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

**STORMWATER MANAGEMENT PERMIT:** A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the Town from the adverse effects of uncontrolled and untreated stormwater runoff.

**STORMWATER MANAGEMENT PLAN:** A Plan to be submitted with the application for a Stormwater Management Permit, which shall include current and proposed site conditions, proposed improvements, proposed stormwater control measures, development schedules, and such other matters as may be required by the Stormwater Authority.

**TSS:** Total suspended solids. Matter suspended in water or stormwater when water is filtered for laboratory analysis, TSS are retained by the filter and dissolved solids pass through.

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

**WETLANDS:** See "Resource Area" above.

## **§ 195-19      Applicability**

A. **Applicability.** The bylaw shall apply throughout the entire Town of Hadley. Prior to the issuance of any site plan approval, special permit, subdivision approval or development permit for any proposed development listed below, a stormwater management permit, or a waiver of the requirement for a stormwater management permit, must be approved by the Stormwater Authority. No person shall, on or after the effective date of the bylaw, initiate any land clearing, land grading, earthmoving or development activities without first complying with this bylaw. The following uses and activities shall be required to submit stormwater management plans, including drainage reports, construction drawings, specifications and as-built information in conformance with the requirements of this bylaw and associated regulations:

1. Multifamily residential developments involving four or more units.
2. Any new business, commercial, industrial, or institutional structures on the same property and/or under common ownership with at least 5,000 square feet of gross floor area or at least 10,000 square feet of impervious surface.
3. Redevelopment or additions to existing commercial, industrial, or institutional uses which result in an additional impervious surface area or gross floor area of greater than 5,000 square feet or greater than 10,000 square feet of impervious surface.
4. Subdivisions and construction activities of any kind disturbing greater than or equal to an 40,000 square feet of area.
5. 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 foot area or more.

The requirement for an erosion and sediment control plan may not be applicable to all projects and will be determined in consultation with the Stormwater Authority based on project size and potential impacts.

B. **Exemptions.** To prevent the adverse impacts of stormwater runoff, the stormwater performance standards in the accompanying regulations must be met at new and redevelopment sites. These standards apply to construction activities as described in the accompanying regulations. The following activities are exempt from the requirements for submittal and approval of a stormwater management plan:

1. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resources Conservation Service;
2. Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation;

3. Additions or modifications to existing single-family structures that do not disturb more than an 40,000 square feet of area of land;
4. Developments that do not disturb more than an 40,000 square feet of area of land, provided that they are not part of a larger common development plan, except for those mentioned above;
5. Repairs to any stormwater treatment system deemed necessary by the Hadley Stormwater Authority;
6. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Stormwater Authority;
7. Single-family residential uses disturbing less than an 40,000 square feet of area, unless part of a larger common plan of development that will disturb more than 40,000 square feet of area of land;
8. Utility construction and fencing, other than drainage, which will not alter drainage patterns;
9. Activities that are exclusively limited to maintenance and improvement of existing roadways (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) combined. Roadway widening and/or activities involving associated improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width are subject to the requirements of this bylaw.
10. Maintenance of lawns, gardens and landscaping, less than 40,000 square feet of area, associated with a single-family dwelling; and
11. As authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the activities identified in Section 3A that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Standards as reflected in an order of conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

#### **§ 195-20 Administration**

- A. The Planning Board will serve as the Stormwater Authority, administering, implementing, and enforcing this Bylaw. The Planning Board may at any time appoint an agent to act on its behalf.
- B. The Planning Board will review all applications for a stormwater permit under this Bylaw. Other Town boards will review applications within their respective expertise and make recommendations to the Planning Board.
- C. The Stormwater Authority may adopt and periodically amend rules and regulations relating to the procedures and administration of this Stormwater Management Bylaw, by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing date shall be advertised in a newspaper of general local circulation at least seven days prior to the hearing date.
- D. The Stormwater Authority may waive strict compliance with this Bylaw if such action is allowed by Federal, State, and local statutes, bylaws, and/or regulations; is in the public interest; and is consistent with the purposes of this Bylaw.
- E. The Stormwater Authority's action, rendered in writing, may consist of any of the following as a result of an application for a Stormwater Management Permit: Approval; Approval subject to conditions; Disapproval.
- F. This Bylaw is intended to integrate with other parts of the Town's land use regulations and not replace requirements, particularly of the Town of Hadley's Wetlands Protection Bylaw, or any other bylaw that may be adopted by the Town of Hadley. Any activity subject to the provisions of the above-cited bylaws must comply with the specifications of each.

#### **§ 195-21 Enforcement and Penalties**

- A. 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.

B. Notice of violation. When the Building Inspector determines that an activity is not being carried out in accordance with the requirements of this bylaw, he shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner applicant.
2. The address when available or the description of the building, structure, or land upon which the violation is occurring.
3. A statement specifying the nature of the violation.
4. 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.
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
6. A statement that the determination of violation may be appealed to the Zoning Board of Appeals by filing a written notice of appeal within 30 days of service of notice of violation pursuant to MGL c. 40A, § 15.

C. Stop-work orders. Persons receiving a notice of violations will be required to halt all construction activities. This stop-work order will be in effect until the Building Inspector confirms that the development activity is in compliance and the violation has been satisfactorily addressed; the Building Inspector may utilize the services of a Massachusetts registered engineer to verify compliance. 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.

D. 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.

E. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Hadley may elect to utilize the noncriminal disposition procedure set forth in the §1-5(G) of the General Bylaw. The Building Inspector shall be the enforcing entity. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F. 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 Stormwater Authority may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

G. Holds on certificate of occupancy. Certificates of occupancy will not be granted until corrections to all stormwater practices have been made and accepted by the Stormwater Authority.

## **§ 195-22 Severability**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

Or take any action relative thereto.