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Final Report Overview - Kingston

Stone Environmental

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Final Report Overview

By Stone Environmental

Kingston

The objective of the Kingston project was to revise the town's wetlands conservation district regulations and create new stormwater regulations. In October 2006 Stone Environmental and New Hampshire Soil Consulting (NHSC) submitted draft language to the Kingston Planning Board. The proposed stormwater regulations were consistent with state and federal stormwater requirements. The main areas covered in the proposed regulations were a prohibition against illicit discharges and illegal dumping to Kingston's storm drainage system, erosion prevention and sediment control at construction sites, and post-construction (permanent) stormwater control. The proposed stormwater regulations were intended to replace an existing article in Kingston's code on sediment and erosion control, and to expand the regulations to cover other aspects of stormwater control required under US EPA's Phase II stormwater rules. The revised version of the wetlands conservation district regulations submitted by NHSC proposed heightening wetlands protection in some respects and defining appropriate buffer widths around wetlands based on wetland characteristics and the underlying zoning district. Stone and NHSC made presentations to the Planning Board on October 17 to explain the draft language and receive feedback.

The Town of Kingston chose to work on revision of the wetlands conservation district regulations prior to addressing the larger and more complicated stormwater regulations. NHSC worked with the Kingston Planning Board to address their comments and concerns regarding the wetlands conservation district regulations. The revised regulations will be on the March 2008 warrant. Please see attached ordinance.

In March 2007 Stone received the general comment from the Planning Board that the draft stormwater regulations Stone proposed were too complex for a small, rural community. Stone took pains to streamline and simplify the proposed regulations while still meeting the state and federal requirements. We started over, reviewing many model stormwater regulations from EPA, the Center for Watershed Protection, and other New Hampshire communities. In April 2007 we submitted new proposed regulations that 1) substantially revised but did not replace Kingston's existing sedimentation/erosion control article; 2) placed the illicit discharge detection and elimination provisions in a new article; and 3) made minor revisions through several related articles in Kingston's code for consistency. Unfortunately, the Planning Board also found Stone's second submission to be too complex. They have now taken on the task of revising the draft regulations. The Planning Board has thanked us for our considerable efforts, and released us from further obligation. We would be pleased to see how the Planning Board modifies their regulations to meet Kingston's federal and state stormwater requirements. Overlapping state and federal regulations result in an unfortunate level of complexity at the local level, especially with regards to construction phase stormwater controls.

We would impress upon NHEP that there are likely many small communities in New Hampshire and nationally that have been designated as operators of municipal separate storm sewer systems, often based on proximity to larger communities, for whom the model stormwater regulations that exist are simply too complex and onerous for them to administer. The drafted ordinance is attached.

ARTICLE LIV
STORMWATER MANAGEMENT AND SEDIMENTATION/EROSION CONTROL
REGULATIONS
(Adopted 1/8/00)

54.10 GENERAL

The purpose of this regulation is to control stormwater runoff and soil erosion and sedimentation resulting from site construction and development. Subdivision and site plans shall include plans for managing stormwater and controlling erosion and sedimentation as provided below.

54.10.1 Responsibility for Administration

The Town of Kingston Planning Board shall administer, implement, and enforce the provisions of these regulations. Any powers granted to or duties imposed upon the Planning Board may be delegated by the Planning Board to persons or entities acting in the beneficial interest of or in the employ of the Town of Kingston.

54.10.2 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to these regulations are minimum standards; therefore these regulations do not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge or discharge of pollutants.

54.10.3 Relation to Other Regulations/Ordinances

If the provisions of these regulations conflict with the provisions of any other valid and enforceable regulation(s) or ordinance(s) of the Town of Kingston, the stricter shall prevail. If any section, provision, portion, clause or phrase of these regulations shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair, or invalidate any other section, clause, provision, portion or phrase of these regulations. Any errors or omissions in these regulations shall not exempt applicants from complying with applicable state and federal statutes.

54.20 DEFINITIONS

1. **Best Management Practices (BMP):** A proven or accepted structural, non-structural, or vegetative measure the application of which reduces erosion, sediment, or peak storm discharge, or improves the quality of stormwater runoff. A schedule of activities, prohibitions of practices, structural or non-structural measures, maintenance procedures, and other management practices to prevent or reduce water pollution or other impacts to aquatic systems.
2. **Critical Areas:** Disturbed areas of any size within 50 feet of a stream, bog, waterbody, or poorly or very poorly drained soils; disturbed areas exceeding 2,000 square feet in highly erodible soils; or, disturbed areas containing slope lengths exceeding 25 feet on slopes greater than 15 percent.
3. **Development:** Any construction or land construction or grading activities other than for agricultural and silvicultural practices.
4. **Disturbed Area:** An areas where the natural vegetation has been removed exposing the underlying soil, or where the vegetation has been covered.

5. **Erosion:** The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.
6. **Highly Erodible Soils:** Any soil with an erodibility class (K factor) greater than or equal to 0.43 in any layer as found in Table 3-1 of the "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire".
7. **Project Area:** The area within the subdivision or site plan boundaries.
8. **Sediment:** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
9. **Stabilized:** When the soil erosion rate approaches that of undisturbed soils. Soils which are disturbed will be considered protected when covered with a healthy, mature growth of vegetation or a good covering of hay or straw mulch (2 tons/acre). Mulch is only a temporary measure; ultimately, the site needs vegetation.
10. **Stormwater Runoff:** The water from precipitation that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.
11. **Stream:** Areas of flowing water occurring for sufficient times to develop and maintain defined channels but which may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U.S. Geological Survey Maps.

54.30 MINIMUM REQUIREMENTS

~~The applicant shall submit a stormwater management and erosion control plan to the planning board for any tract of land being developed or subdivided, where one or more of the following conditions are proposed:~~

- ~~1. A cumulative disturbed area exceeding 20,000 square feet.~~
 - ~~a) Construction or reconstruction of a street or road.~~
 - ~~b) A subdivision of more than two building lots.~~
 - ~~c) Disturbed critical areas.~~

a. The applicant shall submit a Stormwater Management and Erosion Control Plan to the planning board for any tract of land being developed or subdivided, except as provided for in subsection (b). A Stormwater Management and Erosion Control Plan is required for any subdivision plan or site plan that will result in the disturbance of one or more acres of total land area or that is part of a common plan of development or sale within which one or more acres of total land area will be disturbed, without exception.

b. For projects that will result in disturbance of less than one acre of total land area, alone or as part of a common plan of development or sale, the Planning Board may waive the requirement for all or part of a Stormwater Management and Erosion Control Plan if it determines that a plan or a component of the plan is unnecessary because of the size, character, or natural conditions of a site. An application for a waiver may be filed with the application for subdivision or site

plan review, along with a statement of the grounds for granting the waiver. The applicant shall submit in writing to the Planning Board a letter specifying the section for which a waiver is requested and stating the grounds for the request along with all supportive facts upon which he/she believes a waiver is warranted. The letter shall be transmitted along with the application for approval of a site plan or subdivision plan.

c. The Planning Board shall approve, deny, or approve with conditions, a waiver at the same time as the decision relating to the related application. The Planning Board shall not approve a waiver unless it finds, based on substantial competent evidence presented at the public hearing, that the following conditions are met:

- 1) Strict conformity would pose an unnecessary hardship to the applicant, and
- 2) The waiver would not be contrary to the spirit and intent of the regulations.

54.40 — MINIMUM REQUIREMENTS

~~[NOTE: Subdivision and site plan review regulations may already include a section detailing plan requirements. Any additional requirements listed here should be included in the existing section of the regulations for clarity.]~~

- ~~1. The Planning Board may waive the requirement for all or part of a stormwater management and erosion control plan if it determines that a plan is unnecessary because of the size, character, or natural condition of a site.~~
- ~~2. All requests for waivers and action thereon shall be made in writing by the applicant with supporting technical documentation to demonstrate minimal environmental impact.~~

~~a) Site drawing of existing and proposed conditions:~~

- ~~A) Locus map showing property boundaries~~
- ~~B) North arrow, scale, date~~
- ~~C) Property lines~~
- ~~D) Easements~~
- ~~E) Structures, utilities, roads and other paved areas~~
- ~~F) Topographic contours~~
- ~~G) Critical areas~~
- ~~H) Surface water and wetlands, drainage patterns, and watershed boundaries~~
- ~~I) Vegetation~~
- ~~J) Soil information for design purposes from a National Cooperative Soil Survey (NCSS) soil series map, or, for determining highly erodible soils shall be determined by soil series maps, a High Intensity Soil Map of the site, prepared in accordance with SSSNNE Special Publication No. 1~~
- ~~K) Temporary and permanent stormwater management and erosion and sediment control~~
- ~~L) Areas and timing of soil disturbance; and~~

- M) ~~A schedule for the inspection and maintenance of all BMPs~~
- b) ~~Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.~~

54.450 DESIGN STANDARDS

a. ~~The following standards shall be applied in planning for stormwater management and erosion control:~~

- 1) All measures specified in a Stormwater Management and Erosion Control Plan submitted per Section 54.50 in the plan shall meet as a minimum the Best Management Practices set forth in the "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire," Rockingham County Conservation District, NH Department of Environmental Services, Natural Resource Conservation Service, August 1992, as amended, a copy of which is available in the planning board office.
- 2) Priority shall be given to preserving natural drainage systems including perennial and intermittent streams, wetlands, swales, and drainage ditches for conveyance of runoff leaving the project area.
- 3) ~~Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation shall be done in a manner that minimizes soil erosion.~~
- 4) Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface water shall be protected from sediment.
- 5)3) ~~Appropriate erosion and sediment control measures shall be installed prior to soil disturbance.~~
- 6)4) ~~The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.~~
- 5) ~~Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface water shall be protected from sediment.~~
- 7)6) Off-site surface water and runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried non-erosively through the project area. The integrity of downstream drainage systems shall be maintained.
- 8) Tracking of soil and sediment off-site by vehicles, the generation of dust, and the escape of windblown waste shall be minimized during construction.

- 9) Periodic maintenance of all sediment control structures shall be provided to ensure intended purpose is accomplished. Sediment control measures shall be in working condition at the end of each day.
- 10) After any significant rainfall (1" or greater within a 24 hour period), sediment control structures shall be inspected for integrity. Any damaged device shall be immediately corrected.
- 11) General good housekeeping practices shall be followed during construction to prevent and contain spills of paint, solvents, fuels, septic waste, and other hazardous materials and pollutants, and to ensure proper clean up and disposal of any such spills in compliance with state, federal, and local requirements.
- 7) ~~Measures shall be taken to control the post-development peak rate of runoff so that it does not exceed pre-development runoff for the 2-year 24-hour storm event and for additional storm event frequencies as specified in the design criteria of the "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire."~~
- 8) ~~Priority shall be given to preserving natural drainage systems including perennial and intermittent streams, wetlands, swales, and drainage ditches for conveyance of runoff leaving the project area.~~
- 13) 9) All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within 30 days unless conditions dictate otherwise.

- b. For any development and redevelopment projects that will result in the disturbance of one or more acres of total land area or that is part of a common plan of development or sale within which one or more acres of total land area will be disturbed, measures shall be taken to control the post-development peak rate of runoff so that it does not exceed pre-development runoff for the 2-year 24-hour storm event and for additional storm event frequencies as specified in the design criteria of the "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire." Estimates of peak discharge rates shall be calculated using the point of discharge or the downgradient property boundary. The topography of the site may require evaluation at more than one location if flow leaves the property in more than one direction. An applicant may demonstrate that a feature beyond the property boundary is more appropriate as a design point.

54.50.2 Scope:

The work of this Section consists of all sedimentation and erosion control and related items as specified herein and includes, but is not limited to, the following:

- a. Siltation fence
- b. Straw bale barriers
- c. Temporary vegetative cover

54.50.3 Examination of Site Conditions:

The Contractor shall fully inform himself of existing conditions at the site, and shall be responsible for carrying out all site work required to fully and properly execute the work required to implement the Erosion Control Measures of the Town of Kingston Planning Board and/or Town Engineer regardless of the conditions encountered in the actual work.

54.50.4 Permits, Codes, and Regulations:

- a. Comply with all rules, regulations, laws and ordinances of the Town, New Hampshire Department of Transportation, other state agencies, and all other authorities having jurisdiction over the project site.
- b. Comply with all applicable regulations of the State of New Hampshire; Department of Environmental Services (DES), and the United States Environmental Protection Agency (EPA).

54.50.5 Submittals:

- a. As part of the Application, the Contractor shall provide the following samples and/or submittals for approval. Do not order materials until Town Engineer's approval of samples, certifications or test results has been obtained. Delivered materials shall closely match the approved samples.
 - 1) Siltation Fence: Submit four (4) copies of manufacturer's material specification and installation instructions.

54.50.6 Reference:

Refer to applicable standards and regulation of the State of New Hampshire, Department of Transportation (NHDOT).

54.50.7 Products:

- a. Siltation fence shall be a fabricated or pre-fabricated unit consisting of the following elements:
- b. Filer fabric: Shall be a needle-punched non-woven, polypropylene, geotextile conforming to the following criteria:

<u>Fabric Properties</u>	<u>Minimum Acceptable Value</u>	<u>Test Method</u>
Grab Tensile Strength (lbs.)	90	ASTM D4632
Elongation at Failure (%)	50	ASTM D4632
Mullen Burst Strength (psi)	190	ASTM D3786
Puncture Strength (lbs.)	70	ASTM D 3787 (modified)
Slurry Flow Rate (gal./min./s.f.)	0.5	Virginia DOH VTM-51
Equivalent Opening Size	40-80	US Std. Sieve CW-02215
Ultraviolet Radiation Stability (%)	90	ASTM D4355

Acceptable filter fabric materials include Mirafi "Silt Fence" manufactured by Mirafi, Inc., "Propex Silt Stop" by Amoco Fabrics Co., and Supac "5NP(UV) Silt Fence" by Phillips Fibers Corporation, or equal approved by the Town Engineer.

- c. Fence Posts: The length shall be a minimum of sixty inches (60") long. Wood posts shall be of sound quality hardwood with a minimum cross-sectional area of three (3) square inches. Steel posts shall be standard T and U section weighing not less than one pound per linear foot (1 lb./l.f.).
- d. Wire Fence: Wire fencing shall be a minimum 14.5 gauge with a maximum six inch (6") mesh opening, or as approved. As an alternate, provide standard wood lath snow fencing of four foot (4') height.
- e. Provide suitable steel staples or heavy twine for securing filter cloth to support system.

54.50.8 Straw Bales:

- a. Straw bales shall be wire or nylon bound bales of Straw.
- b. Stakes for bales shall be one of the following materials. Lengths shall be approximately three feet (3'):
 - 1) Wood stakes of sound hardwood, two inch by two inch (2" x 2") in size.
 - 2) Steel reinforcing bars of at least No. 4 size.

54.50.9 Temporary Vegetative Cover:

- a. As temporary vegetative cover on ground areas subject to erosion provide temporary grass seeding with one of the following seed mixes and as directed by the Town Engineer.

<u>Seed Species</u>	<u>Seed Rate Lbs./Acre</u>	<u>Seeding Dates</u>
Annual Ryegrass	40#	March 1 – June 15 August 15 – September 15
Winter Rye	120#	August 15 – October 15

- ~~b. Commercial fertilizer shall be a product complying with the State and United States fertilizer laws. Deliver to the site in the original unopened containers which shall bear the manufacturer's certificate of compliance covering analysis which shall be furnished to the Town Engineer. At least fifty percent (50%) by weight of the nitrogen content shall be derived from organic materials. Fertilizer shall contain not less than the percentages of weigh of ingredients as follows or as recommended by the soil analysis:~~

Nitrogen	Phosphorus	Potash
10%	6%	4%

- ~~c. Ground limestone shall be an approved agricultural limestone containing not less than 85% of total calcium or magnesium carbonates. Limestone shall be ground to such fineness that fifty percent (50%) will pass a 100 mesh sieve and ninety-five percent (95%) will pass through a 20 mesh sieve.~~

54.50.10 Sediment Control Guidelines:

- ~~a. The Contractor shall provide suitable and adequate means of sedimentation and erosion control during construction. Control measures shall prevent all erosion, siltation and sedimentation of any and all waterways or wetlands, construction areas, adjacent areas and off-site areas. Work shall be accomplished adjacent to or in the following work areas:~~

- ~~1) Topsoil stockpiles and on-site storage and staging areas.~~
- ~~2) Cut and fill slopes and other stripped and graded areas.~~
- ~~3) Constructed and existing swales and ditches.~~
- ~~4) Retention/detention ponds and basins.~~

- ~~b. Means of protection as noted herein indicate the minimum provisions necessary. Additional means of protection shall be provided by the Contractor as required by the Town Engineer for continued or unforeseen erosion problems.~~

- ~~c. Periodic maintenance of all sediment control structures shall be provided to ensure intended purpose is accomplished. Sediment control measures shall be in working condition at the end of each day.~~

- ~~d. After any significant rainfall (1" or greater within a 24 hour period), sediment control structures shall be inspected for integrity. Any damaged device shall be immediately corrected.~~

54.50.11 Siltation Fence:

- ~~a. Install fence, well-staked at maximum ten-foot intervals.~~

- ~~b. Secure fabric to fence and bury fabric as shown on the details.~~

- ~~c. Inspect siltation fence periodically and remove accumulated sediment "when less than 12" of freeboard remains".~~

- ~~d. Any and all siltation fabric and fencing shall be removed when they have served their usefulness so as not to block or impede storm flow or drainage.~~

54.50.12 Straw Bale Barriers:

- a. Install straw bales in locations as shown on Drawings and as directed.
- b. Bales shall be placed in a row with ends tightly abutting the adjacent bales.
- c. Each bale shall be embedded in the soil a minimum of four inches (4").
- d. Bales shall be securely anchored in place by stakes or re-bars driven through the bales and minimum eighteen inches (18") into the soil. The first stake in each bale shall be angled toward previously laid bale to force bales together.
- e. Inspection shall be frequent and repair or replacement shall be made promptly as needed.
- f. Straw bales, wooden or metal stakes or re-bars, and any other appurtenant debris shall be removed when the bales have served their usefulness so as not to block or impede storm flow or drainage.

54.50.13 Temporary Vegetative Cover:

- a. Prepare ground surface by grading as needed and feasible to permit the use of equipment for seed bed preparation and seeding operations. Surfaces which are crusted or hard shall be loosened by discing, raking or other acceptable means.
- b. Apply limestone and fertilizer according to soil test recommendations from the local Cooperative Extension Service. Fertilizer shall be applied at the rate of 600 pounds per acre, or 25 pounds per 1,000 square feet. Lime shall be applied at a rate of 3,200 pounds per acre or 75 pounds per 1,000 square feet. Incorporate lime and fertilizer within top three inches (3") of seed bed.
- c. Apply seed uniformly by hand or mechanical means. Cultipack or roll after seeding. If not rolled, the seed shall be raked into the top one-quarter inch (1/4") of soil, or applied with a hydroseeder.
- d. Water seeded area frequently until a uniform and vigorous growth of turf has been established.
- e. If directed by the Town Engineer, apply a mulch cover of straw in accordance with requirements herein.
- f. Provide maintenance for seeded area until project acceptance. Maintenance shall include repair of washouts, watering, re-grading and re-seeding as required.

COMPLETED APPLICATION REQUIREMENTS

The Planning Board shall require each of the following in the final Stormwater Management and Erosion Control Plan ~~plan~~ unless the project is deemed of sufficiently minimal impact to qualify for ~~the minimum requirements~~ a waiver per Section 54.30 specified in Section 4 of this regulation.

a. Construction drawings

1) Existing and proposed conditions:

- A) Locus map showing property boundaries
- B) North arrow, scale, date
- C) Property lines
- D) Structures, roads, utilities, earth stockpiles, equipment storage, and stump disposal
- E) Topographic contours at two-foot intervals
- ~~FG)~~ Critical areas, stockpile and staging areas
- ~~GH)~~ Surface waters, wetlands, drainage patterns, and watershed boundaries ~~W~~ within the project area and within 400 feet of project boundary ~~Surface watershed and wetlands, drainage patterns~~
- ~~HI)~~ Vegetation
- ~~IJ)~~ Extent of 100-year flood plain boundaries if published or determined
- ~~JK)~~ A High Intensity Soil Map of the site, prepared in accordance with SSSNNE Special Publication No. 1. Soils information for design purposes or for determining highly erodible soils shall be obtained from a National Cooperative Soil Survey (NCSS) soil series map, or, for determining highly erodible soils shall be determined by soil series maps. A High Intensity Soil Map of the site, prepared in accordance with SSSNNE Special Publication No. 1
- ~~KL)~~ Easements
- ~~LM)~~ Areas of soil disturbance
- ~~MN)~~ Areas of cut and fill
- ~~NO)~~ Areas of poorly or very poorly drained soils including any portion to be disturbed or filled
- ~~OP)~~ Location of all structural, non-structural, and vegetative stormwater management and erosion control BMPs
- ~~PQ)~~ Identification of all permanent control BMPs
- ~~QR)~~ Tabulated sequence of construction

2) Other plan requirements:

- A) Construction schedule
- B) Earth movement schedule
- ~~C)~~ ~~A proposed schedule for the inspection and maintenance of all BMPs~~
- ~~CD)~~ Description of temporary and permanent vegetative BMPs including seeding specifications
- ~~DE)~~ Description of all structural and non-structural BMPs with detailed drawings of each as appropriate

b. Report section including:

- 1) Design calculations for all temporary and permanent structural control BMP measures
- 2) A proposed schedule for the inspection and maintenance of all BMPs
- 3) Identification of all permanent control measures and responsibility for continued maintenance
- 4) Drainage report with calculations showing volume, peak discharge, and velocity of present and future runoff
- 5) ~~When detention structures are planned to reduce future proposed, the NRCS curve-number method criteria shall be used to compute the runoff volume and peak discharge for present and future conditions design of the structure.~~ The design will conform to the specifications outlined for those types of structure given in the "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire."

54.670 RESPONSIBILITY FOR INSTALLATION/CONSTRUCTION

- a. The Contractor shall fully inform him or herself of existing conditions at the site, and shall be responsible for carrying out all site work required to fully and properly execute the work required to implement the Stormwater Management and Erosion Control Plan regardless of the conditions encountered in the actual work.
- b. The owner shall bear final responsibility for the installation, construction, inspection and disposition of all stormwater management and erosion control measures required by the provisions of this regulation.
- c. The Planning Board may require a bond or other security in an amount and with surety conditions satisfactory to the Board, providing for the actual construction and installation of such measures within a period specified by the Planning Board and expressed in the bond or the surety.
- d.e. Site development shall not begin before the Sstormwater Mmanagement and Eerosion Ccontrol Pplan receives conditional approval, unless waived in whole or in part under Section 54.30. Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the plan.

54.780 PLAN APPROVAL AND REVIEW

- a. The Planning Board shall indicate approval of the Sstormwater Mmanagement and Eerosion Ccontrol Pplan, as filed, if it complies with the requirements and objectives of this regulation. Such approval shall be a component of subdivision

or site plan approval. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

- b. Technical review of any Sstormwater Mmanagement and Erosion Control Plan prepared under this regulation shall be performed reviewed by the Town Engineer, Rockingham County Conservation District, or other qualified professional consultant, as determined to be appropriate by the Planning Board, at the expense of the applicant.

54.890 MAINTENANCE AND INSPECTION

- a. A narrative description of on-going maintenance requirements for best management practices specified in water quality measures required by approved Sstormwater Mmanagement and Eerosion and sediment Ccontrol Pplans after final planning board approval shall be recorded on the deed to the property on which such measures are located. The description so prepared shall comply with the requirements of RSA 478:4-a.
- b. The purpose of this article is to enact locally the administrative and enforcement procedures set forth in RSA 676 of the existing planning and land use statutes.
- c. RSA 676 authorizes the following penalties and remedies for enforcement of the provisions of this regulation:
 - 1) Injunctive relief in accordance with RSA 676:15;
 - 2) Fines and penalties in accordance with RSA 676:17:9.3.3;
 - ~~3) Issuance of a cease and desist order in accordance with RSA 676:17-a;~~
 - ~~4) Pleas by mail for local land use citations in accordance with RSA 676:17-b.~~
- d. ~~4) The Planning Board may require routine inspections to verify on-going maintenance of best management practices water quality protection measures. Such inspections shall be performed by the designated agent at reasonable times to the landowner.~~
- e.~~5) If permission to inspect is denied by the landowner, the designated agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B.~~
- f.~~6) The Selectmen may require a fee for routine inspections of best management practices water quality protection measures. The fee shall be paid by the owner of the property shall be responsible for fee payment. A fee schedule shall be established by the Board of Selectmen which represents the cost of performing routine an inspections of various types of water quality protection measures. The procedure for adoption of the fee schedule shall be as provided for in RSA 41-9:a (or is it RSA 676:4(l)(g))?~~

54.90 Other Required Permits

In addition to meeting the requirements of these regulations, the applicant must:

- a. Comply with all rules, regulations, laws and ordinances of the Town, New Hampshire Department of Transportation, other state agencies, and all other authorities having jurisdiction over the project site.
- b. Comply with all applicable regulations of the State of New Hampshire; Department of Environmental Services (DES), and the United States Environmental Protection Agency (EPA).

54.100 ENFORCEMENT

- a. Any violation of the requirements of this regulation shall be subject to the enforcement procedures detailed in RSA 676. The designated agent shall be responsible for enforcement of the provisions of this regulation.
- b. **Written Notice of Violation.** A written notice of violation shall be issued to the property owner by registered mail from the designated agent if the agent determines that conditions at the site are in violation of any of the requirements of this regulation or plans approved under this regulation and that the violation is not an immediate threat to public health and safety. The notice of violation shall:
 - 1) Specify the actions or conditions which violate the requirements of this regulation or plans approved under this regulation;
 - 2) Identify what needs to be done to correct the violation(s);
 - 3) Specify a reasonable time frame within which the violation must be corrected;
 - 4) Be provided to the property owner with a copy to be kept in the official records of the Town of Kingston(~~local land use board or local administrator~~).
- c. **Cease and Desist Order.** In accordance with RSA 676:17-a, A cease and desist order may be issued to the property owner by the designated agent if the agent determines that conditions at the site are in violation of any of the requirements of this regulation and the violation is either:
 - 1) An immediate threat to public health and safety; or
 - 2) The property owner has failed to take corrective action(s) identified in a written notice of violation issued under Section 54.100.b of this regulation within the time frame specified therein.

Diagram of Silt Fence Installation

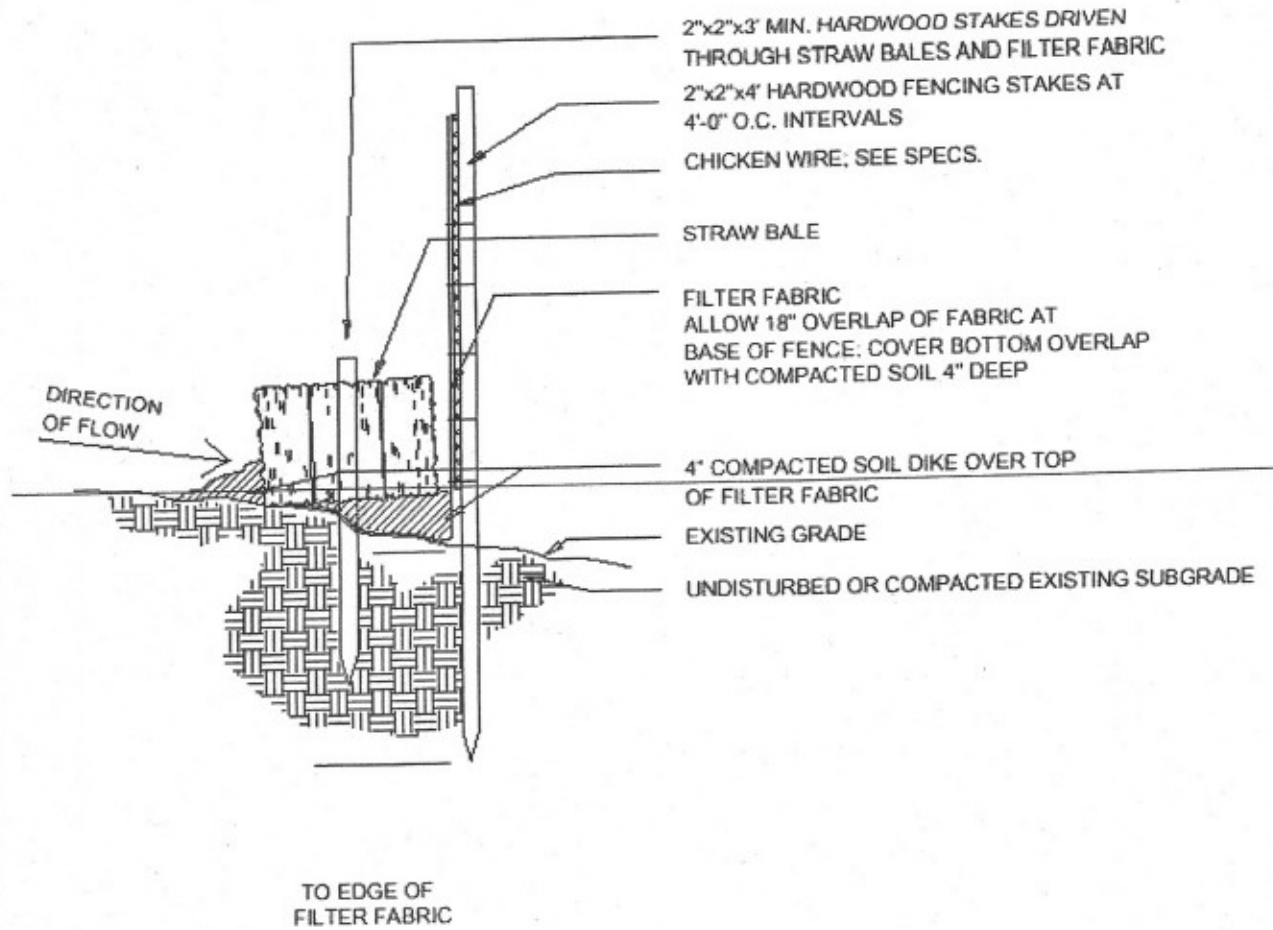
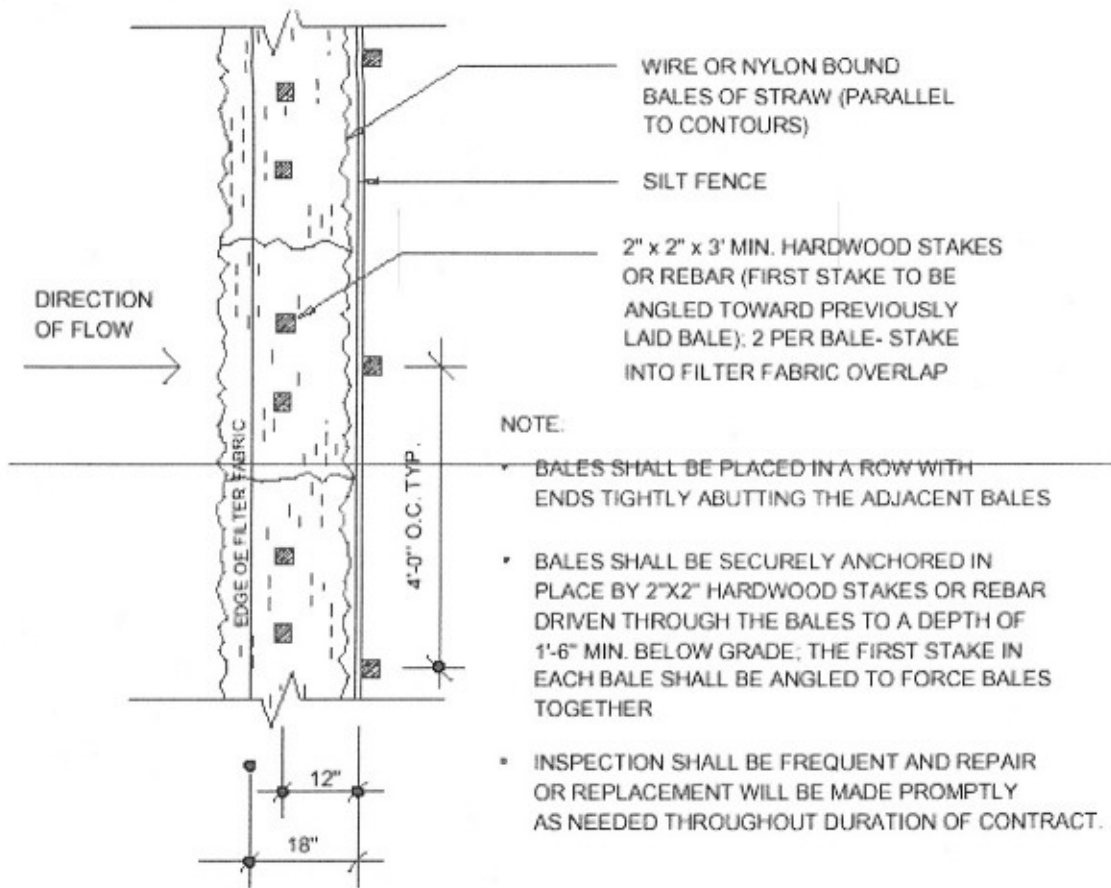


Diagram of Straw Bale Installation



ARTICLE LV
ILLICIT DISCHARGE PROHIBITION
(Adopted XXXXXX)

55.10 PURPOSE

The purpose of these regulations is to provide for the health, safety, and general welfare of the citizens of Kingston through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. These Regulations establish methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of these regulations are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with these regulations.

55.10.1 Applicability

These Regulations shall apply to all water entering the storm drainage system and/or surface waters or groundwater, generated from, or on, any Premises unless explicitly exempted by the Town of Kingston.

55.10.2 Responsibility for Administration

The Town of Kingston shall administer, implement, and enforce the provisions of these regulations. Any powers granted to or duties imposed upon the Town of Kingston may be delegated to persons or entities acting in the beneficial interest of or in the employ of the Town of Kingston.

55.10.3 Relation to Other Regulations/Ordinances

If the provisions of these regulations conflict with the provisions of any other valid and enforceable Regulation(s) or Ordinance(s) of the Town of Kingston, the stricter shall prevail. If any section, provision, portion, clause or phrase of these regulations shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair, or invalidate any other section, clause, provision, portion or phrase of these regulations. Any errors or omissions in these regulations shall not exempt applicants from complying with applicable state and federal statutes.

55.10.4 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to these regulations are minimum standards; therefore these regulations do not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge or discharge of pollutants.

55.20 DEFINITIONS

Unless the context specifically indicates otherwise, the meanings of terms used in these regulations shall be as follows, listed alphabetically:

1. **Best Management Practices (BMPs):** A schedule of activities, prohibitions of practices, structural or non-structural measures, maintenance procedures, and other management practices to prevent or reduce water pollution or other impacts to aquatic systems.
2. **Construction Activity:** Activities subject to NPDES Construction Permits, including but not limited to clearing and grubbing, grading, excavating, and demolition.
3. **Designated Enforcement Officer:** Either the Town of Kingston's Health Officer or other Town Officer as may be designated by the Kingston Planning Board.
4. **Hazardous Materials:** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Ws 410.04 (l), in New Hampshire Solid Waste Rules He-P 1901.03 (v), and in the Code of Federal Regulations 40 CFR 261.
5. **Illegal Connection:** Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4, including, but not limited to, any conveyance that allows any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4, and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Officer.
6. **Illicit Discharge:** Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 55.30.3 of these regulations.
7. **Industrial Activity:** Any activity subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).
8. **Municipal Authority:** The Town of Kingston's Board of Selectmen.
9. **Municipal Separate Storm Sewer System (MS4):** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is: (i) owned or operated by the Town of Kingston and discharges to surface waters or groundwater.; (ii) designed or used for collecting or conveying stormwater; (iii) not a combined sewer; and (iv) not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR, Section 122.2.
10. **National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit:** A permit issued by EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
11. **Non-stormwater Discharge:** Any discharge to the MS4 that is not composed entirely of stormwater.
12. **Officer:** The Health Officer for the Town of Kingston.
13. **Person:** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as the owner, the owner's agent, or the operator of premises.

14. **Pollutant:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
15. **Premises:** Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.
16. **Stormwater:** Precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain.
17. **Surface Waters:** Any receiving waters existing on the surface of the ground, including but not limited to: brooks, streams, rivers, wetlands, ponds, or lakes.
18. **Wastewater:** Any water or other liquid, other than uncontaminated stormwater, discharged from premises.

55.30 ILLICIT DISCHARGE AND STORMWATER CONNECTION

55.30.1 Prohibitions

It is hereby declared that it shall be a public nuisance for anyone to contribute Pollutants, illegally connect, or illegally discharge into the MS4, or to otherwise discharge materials other than uncontaminated stormwater in violation of the requirements of these regulations. All Persons are prohibited from contributing Pollutants, illegally connecting, or illegally discharging into the MS4 or waterbodies, or otherwise discharging non-stormwater in violation of the requirements of these regulations. Specific prohibitions include, but are not limited to, the following:

- a. Solid Waste Disposal
 - 1) No Person shall throw, deposit, leave, maintain, or permit to be thrown, deposited, left, or maintained, in or upon any Premise, public or private property, driveway, parking area, street, alley, or sidewalk any object or material, including but not limited to refuse, rubbish, garbage, animal waste, litter, yard waste, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution entering the MS4 or surface waters, or interfere with the operation, maintenance and access to the MS4. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.
- b. Illegal Connections
 - 1) The construction, use, maintenance or continued existence of Illegal Connections to the MS4 is prohibited.
 - 2) This prohibition expressly includes, without limitation, Illegal Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - 3) A person is considered to be in violation of these regulations if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- c. Illicit Discharges

- 1) No person shall discharge or cause to be discharged into the MS4, any materials, including but not limited to pollutants or waters containing any pollutants, other than Stormwater, or any materials that may impede the natural flow of Stormwater or the functionality of the MS4.

55.30.2 Exemptions

The commencement, conduct, or continuance of any Non-stormwater Discharge to the storm drainage system is prohibited except as described as follows:

- a. Discharges from the following sources are exempt from discharge prohibitions established by these regulations: flows from fire fighting activities, water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, potable water supply, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool water, residential building wash water (without detergents), and street and bridge wash water.
- b. Discharges specified in writing by the Town Health Officer as being necessary to protect public health and safety are exempt from discharge prohibitions established by these regulations.
- c. Discharges associated with dye testing are allowable, but require a verbal notification to the Town Health Officer prior to the time of the test.
- d. The prohibition shall not apply to any Non-stormwater Discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the US Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4 by the Town Health Officer.

55.30.3 Industrial or Construction Activity Discharges

- a. Any person subject to an Industrial or Construction Activity NPDES Stormwater discharge regulation and/or permit shall comply with all provisions of such regulation and/or permit. Proof of compliance with said regulation and/or permit may be required in a form acceptable to the Town Health Officer prior to the allowing of discharges to the MS4.

55.30.4 Monitoring of Discharges

- a. Access to Premises
 - 1) The Town Health Officer shall be permitted to enter and inspect any Premises subject to regulation under these regulations as often as may be necessary to determine compliance with these regulations. If a Person has security measures in force which require proper identification and clearance before entry into its Premises, the Person shall make the necessary arrangements to allow access to representatives of the Town.
 - 2) A Person shall allow the Town Health Officer ready access to all parts of the Premises for the purposes of inspection, sampling, and examination and copying of records that must be kept under the conditions of a NPDES permit to discharge Stormwater, and the performance of any additional duties as defined by state and federal law.

- 3) The Town Health Officer shall have the right to set up on any permitted Premises such devices as are necessary in the opinion of the Officer to conduct monitoring and/or sampling of the Premises' Stormwater discharge(s).
- 4) The Officer has the right to require a Person to install monitoring equipment as necessary. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator of the Premises at their own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy. The owner or operator of the Premises shall demonstrate calibration techniques and satisfactory operation of the devices to the Town Health Officer upon request.
- 5) Any temporary or permanent obstruction to safe and easy access to the Premises to be inspected and/or sampled shall be removed promptly by the owner or operator of the Premises at the written or oral request of the Town Health Officer and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator of the Premises.
- 6) Unreasonable delays in allowing the Town Health Office access to permitted Premises are a violation of these regulations. A person who is the operator of a Premises with a NPDES permit to discharge Stormwater associated with Industrial Activity commits an offense if the Person denies the Town Health Officer reasonable access to the permitted Premises for the purpose of conducting any activity authorized or required by these regulations.
- 7) If the Town Health Officer has been refused access to any part of the Premises from which Stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of these regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with these regulations or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Officer may seek issuance of a search warrant from any court of competent jurisdiction.

55.30.5 Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices

- a. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or to waterbodies through the use of structural and non-structural BMPs.
- b. Further, any Person responsible for a property or Premises, which is, or which may be, the source of an Illicit Discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4 or to waterbodies. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

55.30.6 Notification of Spills

- c. Notwithstanding other requirements of law, as soon as any Person responsible for a Premises or operation, or responsible for emergency response for a Premises or operation, has information of any known or suspected release of materials which are resulting or may result in Illicit Discharges or pollutants discharging into the MS4, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of Hazardous Materials said Person shall

immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said Person shall notify the Fire Chief either in person or by telephone no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town Health Officer within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, steps taken to remediate said Illicit Discharge, and the actions taken to prevent its recurrence. Such records shall be retained on-site by the owner or operator for at least three years.

Failure to provide notification of a release as provided above is a violation of these regulations.

55.40 ENFORCEMENT

55.40.1 Notice of Violation

Whenever the Town of Kingston finds that a person has violated a prohibition or failed to meet a requirement of these regulations, the Town may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

55.40.2 Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the Town of Kingston. The notice of appeal must be received within _____ days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

55.40.3 Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within _____ days of the decision of the municipal authority upholding the decision of the Town, then representatives of the Town of Kingston shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

55.40.4 Cost of Abatement of the Violation

Within ___ days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ___ days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of ___ percent per annum shall be assessed on the balance beginning on the ___ st day following discovery of the violation.

55.40.5 Injunctive Relief

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of these regulations. If a person has violated or continues to violate the provisions of these regulations, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

55.40.6 Violations Deemed A Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of these regulations is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

55.40.7 Criminal Prosecution

Any person that has violated or continues to violate these regulations shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of ___ dollars per violation per day and/or imprisonment for a period of time not to exceed ___ days.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of these regulations, including sampling and monitoring expenses.

55.40.8 Alternate Compensatory Actions

In lieu of enforcement proceedings, penalties, and remedies authorized by these regulations, the Town of Kingston may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, et cetera.

55.40.9 Remedies Not Exclusive

The remedies listed in these regulations are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

ARTICLE IV DISTRICT REGULATIONS

(Amended 03/4/75; 03/8/77; 03/13/79; 03/11/80; 11/4/80; 03/10/81;
03/9/82; 03/8/83; 03/10/87; 10/27/87; 03/14/89; 03/12/91; 03/14/95;
03/12/96; 03/11/97; 03/10/98; 03/9/99; 03/14/00; 03/08/05; ????)

4.60 WETLANDS CONSERVATION DISTRICT

4.60.1 Purpose: In the interest of public health, convenience, safety and welfare, this ordinance is intended to guide the use of wetlands and wetland buffers, as defined in Section 4.60.2 of this ordinance.

- a. To insure uses that can be safely and appropriately located in wetlands and wetland buffers that will maintain the quality and quantity of groundwater, water re-charge areas and surface waters necessary to supply existing and future water supply needs.
- b. To control development of structures and land use in wetlands and wetland buffers, which would contribute to pollution or depletion of surface and/or groundwater.
- c. To encourage environmental diversity by protecting and maintaining existing wetland systems and the vegetation and wildlife supported by such systems. This shall include the maintenance of wetland areas as sources of nutrients for finfish, crustacea, shellfish and wildlife, and as habitats and reproduction areas for plants, fish and wildlife as identified within the wetlands functional and value assessment required in 4.60.2b.
- d. To protect persons and property against the hazards of floodwater inundation by insuring uses of wetlands and wetland buffers that will not significantly reduce the natural ability of wetlands to absorb floodwaters and silt leading to a disruption in the natural flow pattern of streams and other watercourses within the Town.
- e. To encourage uses that will enhance rather than depreciate or obstruct the commerce, recreation and aesthetic enjoyment of the public within wetlands and wetland buffers.

4.60.2 Definition: The Wetlands Conservation District of Kingston includes those areas of Town defined in the following manner:

- a. An area shall be considered a wetland if it is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, lakes, ponds, rivers, streams and vernal pools. Wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology in accordance with the techniques outlined in the **U.S. Army Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1**. (January, 1987) or as subsequently adopted by the State of NH.

- b. An area shall be considered a wetland buffer if it is an upland area immediately adjacent to wetlands as defined in this ordinance. The linear extent of the wetland buffer shall be determined by Table A on the basis of the adjacent land use as defined by zoning districts.

Table A

District	Designated Buffer Width
Historic District	25 feet
Single Family District	50 feet
Rural Residential District	75 feet
Single Family-Agricultural District	75 feet
Housing for the Elderly District	25 feet
Kingston Industrial District	100 feet
Commercial Zone I, II and III	100 feet

- c. Where the Wetlands Conservation District is superimposed over another zoning district in the Town of Kingston, that district which is more restrictive shall govern.

4.60.3 Wetlands Conservation District Map: The Wetlands Conservation District as herein defined is shown on a map designated as “Town of Kingston Wetlands Conservation District” and is a supplement to the zoning map of the Town. Wetlands boundaries indicated on the zoning map supplement shall be verified by an on-site wetland delineation by a certified wetland scientist as referenced in Section 4.60.2 . The results of any on-site wetland delineation will be on file with the Planning Board and Conservation Commission. A certified wetland scientist is a person qualified in wetland classification and mapping who is certified by the State of New Hampshire Joint Board of Natural Scientists.

4.60.4 Appeal: In the event that an area is alleged to be incorrectly delineated on the wetland map, any person aggrieved by such a designation may present adequate evidence of such to the Planning Board. Adequate evidence shall include a written report of on-site wetland investigation and analysis conducted by a certified wetland scientist.

4.60.5 Permitted Uses:

1. In designated wetland areas permitted uses are those which are compatible with the purposes specified in Section 4.60.1 purpose of this ordinance and do not involve significant alteration of the wetland. Permitted uses are:
 - a. Forestry, agriculture and tree farming provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion;
 - b. Water impoundments and well supplies;
 - c. Maintenance of existing drainage ways: streams, creeks or other water paths of normal water run-off;
 - d. Wildlife refuge;
 - e. Parks and such recreational uses;
 - f. Conservation areas and nature trails; and

- g. Open Space as permitted by subdivision regulations and other sections of this ordinance.

2. In designated buffer areas permitted uses are those which are compatible with the purposes specified in Section 4.60.1 purpose of this ordinance and do not involve significant alteration of the buffer. Buffer provisions are:

- a. All forestry and agriculture activities within the wetland buffer shall be undertaken with special care to avoid erosion and siltation into wetlands.
- b. The construction or placement of any structure, addition, improvement or swimming pool is prohibited.
- c. Where an existing building within the wetland buffer is destroyed or is in need of extensive repair, it may be rebuilt provided that such re-building is completed within two years of the event causing destruction. The new or rebuilt structure shall not extend further into the wetland buffer than the original footprint.
- d. The storage of any motor vehicle, including but not limited to, autos and trucks, snowmobiles, recreational vehicles, motorcycles or motorized boats is prohibited.
- e. The dumping or placing of trash, waste, unsightly or offensive material, other than non-commercial composting under control by the homeowner is prohibited.
- f. Only environmentally friendly fertilizers shall be used in the buffer. For this section, environmentally friendly fertilizers means slow release or organic. Pesticide and herbicide use are not allowed in the buffer.
- g. Landscaping of the buffer shall be limited to native plant species.

4.60.6 Uses Permitted Subject to Review:

- a. Easements and Rights of Way: Streets, roads and other access ways and utility rights-of-way or easements may be permitted provided that evidence of the following be accepted by the appropriate Board:
 - 1) The street, road, access way or utility right-of-way or easements are essential to the productive use of land not zoned under the provisions of this ordinance.
 - 2) The street, road, access way or utility right-of-way or easement is so located and constructed as to minimize any detrimental impact of such uses upon the wetland or designated buffer.
 - 3) Such location and construction be compatible with the intents and purposes of this ordinance.
- b. Underlying Districts: In cases where the Wetlands Conservation District overlays another zoning district, the proposed use shall be permitted (providing said use is allowed in the underlying district) subject to review by the appropriate Board providing that:
 - 1) Uses are consistent with the purpose and intent in Section 4.60.1.
 - 2) The appropriate procedure for review as delineated in Section

4.60.7 be followed.

4.60.7 Procedure for Review:

- a. Building Permits for Individual Lots Upon receiving a request for a building permit within the Wetlands Conservation District, the Planning Board shall notify the Conservation Commission of said request. The Conservation Commission may submit a written report following its review of the request. If the Planning Board determines that the proposed activity may have a significant negative impact on the wetlands and/or designated buffer as described in Section 4.60.1, they may recommend that the Selectmen deny the application.
- b. Subdivision and Site Plan Review Any person who desires to subdivide land or propose construction that would be subject to Site Plan Review within the Wetlands Conservation District shall submit to the Planning Board, in addition to all other requirements stipulated in the Subdivision Regulations, five (5) copies (copies are given to the Board of Selectmen, Conservation Commission, Town Engineer, and two retained by the Planning Board) of a report prepared by a Certified Wetland Scientist describing whether the impact on the wetlands and/or designated buffer is significant. The Board of Selectmen and Conservation Commission may also submit a written report for consideration.
- c. Issuance of Conditions If after review of all submitted data the appropriate Board determines that the area on which the proposed work is to be done is in conflict with Section 4.60.1 of this ordinance, the Board shall:
 - 1) Grant preliminary approval subject to an order of conditions it deems necessary for compliance and subsequent final approval, or;
 - 2) Deny the request and give the reason thereto.
- d. Designated Buffer The appropriate Board shall be entitled to review, regulate and prohibit development proposals within one hundred (100) feet of a wetland when it is determined that such development may have a significant negative impact on the wetland and is not consistent with the purposes and intent of Section 4.60.1.

4.60.8 Conditional Use Permits: Conditional use permits are required for any work proposed within the wetland conservation district or designated buffer unless it meets the provisions of section 4.60.5 and 4.60.6. In granting a Conditional Use Permit, the Planning Board shall seek the opinion of the Conservation Commission and may impose conditions, to the extent the Board concludes such conditions are necessary, to minimize any adverse effect of the proposed project on the wetlands and/or the designated wetland buffer.

- 1) Procedure on application:

A conditional use permit application shall be included in submittals under section 4.60.7

The Planning Board shall act upon the Conditional Use Permit application in accordance with the procedural requirements of RSA 676:3.

4.60.9 Denial and Appeal: In such cases as the Planning Board may deny a Conditional Use application under this section, it shall supply the applicant and the Board of Adjustment with a letter citing the reasons for such denial. Any person aggrieved by a decision of the Planning Board may appeal to the Board of Adjustment.

4.60.10 Special Exceptions:

- a. Dry hydrants or other fire protection infrastructure, provided that such is required and approved by the fire chief.
- b. (non-conforming lots?)

4.60.11 Exemptions:

- a. Fire ponds and intake areas of dry hydrants that have been legally constructed to provide water for municipal firefighting purposes as approved by a local fire chief, may be cleaned out when necessary to preserve their usefulness without a conditional use permit. Such fire ponds, intake areas of any hydrants may be cleaned out by hand or machine; provided, that the facility is neither enlarged nor extended into any area of wetlands or designated buffer and is completed in accordance with the provisions of RSA CH. 482-A:3 IV(b).
- b. (historic residences?)

4.60.12 Other Provisions: Any wetlands altered in violation of this Ordinance shall be restored at the expense of the violator(s) as provide by RSA 483-A:5. Any designated buffer altered in violation of this Ordinance shall be restored at the expense of the violator(s).

**ARTICLE XVIII
KINGSTON FLOODPLAIN DEVELOPMENT ORDINANCE**

(Adopted 03/10/92; Amended 03/8/94; 03/12/02; 03/08/05; ????)

18.10.1 Permits:

- c. All proposed development in any special flood hazard areas shall require a permit.
- d. Any proposed work in the floodplain shall conform to the purpose and intent of the Wetlands Conservation Overlay District and meet the designated buffer requirements. (See Article IV Section 4.60)

