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RIPDES SMALL MS4 ANNUAL REPORT

GENERAL INFORMATION PAGE

RIPDES PERMIT # RIR040000

REPORTING PERIOD: **YEAR 3**
Jan 06-Dec 06

OPERATOR OF MS4

Name: Earth Tech Inc			
Mailing Address: 250 Connell Highway			
City: Newport	State: RI	Zip: 02840	Phone: (401) 845-2000
Contact Person: Steven G. Lambalot	Title: Superintendent		
Legal status (circle one):			
PRI - Private	PUB - Public	BPP - Public/Private	STA - State FED - Federal
Other (please specify): Contract Operator of a Public System			

OWNER OF MS4 (if different from OPERATOR)

Name: City of Newport			
Mailing Address: 70 Halsey Street			
City: Newport	State: RI	Zip: 02840	Phone: (401) 845-5600
Contact Person: Julia Fogue, P.E.	Title: Public Works Director		

CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name _____

Print Title _____

Signature _____ Date _____



SECTION II. OVERALL EVALUATION:

GENERAL SUMMARY, STATUS, APPROPRIATENESS AND EFFECTIVENESS OF MEASURABLE GOALS:

Include relevant information to the implementation of each measurable goal, such as, activities, topics addressed, audiences and pollutants targeted. Discussion of activities to be carried out during the next reporting cycle. If addressing TMDL requirements, please indicate rationale for choosing the education activity to address the pollutant of concern.

(Note: Identify parties responsible for achieving the measurable goals and reference any reliance on another entity for achieving measurable goals.)
IV.B.1.b.1

A brochure entitled "Make your home the Solution to Stormwater Pollution" was available and handed out to residents at special events sponsored by the Clean City Program. Topics included Vehicle/Garage practices, Lawn/Garden usage, Home Repair/Improvements, Pet care, Swimming Pool maintenance, and Septic System Use and Maintenance.

IV.B.1.b.2

In 2006 a seven member ad-hoc committee on wastewater and stormwater system improvements was formed. This committee is made up of private citizens and reports to the City Council. The goals of this committee are to assist in public education and awareness, outreach, and also to advise and assist the city council on matters concerning proposed storm and sanitary wastewater improvements. The committee meets regularly and prepares semi-annual reports to the City Council.

Additional Measurable Goals and Activities

SECTION II. OVERALL EVALUATION:

A. GENERAL SUMMARY, STATUS, APPROPRIATENESS AND EFFECTIVENESS OF MEASURABLE GOALS:

Include relevant information to the implementation of each measurable goal, such as, activities and audiences engaged. Discussion of activities to be carried out during the next reporting cycle. If addressing TMDL requirements, please indicate rationale for the activities chosen to address the pollutant of concern.

(Note: Identify parties responsible for achieving the measurable goals and reference any reliance on another entity for achieving measurable goals.)

IV.B.2.b.2.ii

- In 2006 a seven member ad-hoc committee on wastewater and stormwater system improvements was formed. This committee is made up of private citizens and reports to the City Council. The goals of this committee are to assist in public education and awareness, outreach, and also to advise and assist the city council on matters concerning proposed storm and sanitary wastewater improvements. The committee meets regularly and prepares semi-annual reports to the City Council.
- The Public was involved in two City Council Workshops addressing the CSO Abatement Program.
- A contract to perform an in-depth study of the Easton Pond drainage moat was awarded in 2006. The Clean Ocean Access group has been involved with this study by performing regular sampling of Eastons Beach and sharing this data in order to assist the City in preparing remedial alternatives.

IV.B.2.b.2.iii

The 2006 Annual MS4 Report was Advertised on February 9, 2007.

Additional Measurable Goals and Activities

II.a Waterfront Clean-up Activities – Clean-up activities were conducted at the following locations during The City of Newport's annual Earth Day Cleanup: Kings Park, Battery Park, Storer Park, Ballard Park, Ocean Drive, Malbone/Warner Neighborhood. A total of 1.27 tons of trash was generated at this event held on April 22, 2006.

II. b Household Hazardous Waste Collection Day- A Public Collection of Household Hazardous Waste was held on September 30, 2006 at The Newport DPW Facility. A total of 51, 555 pounds of waste was properly disposed.

SECTION III. Public Notice Information (IV.G.2.h and IV.G.2.i) *Note: attach copy of public notice

Date of Public Notice: 2/9/07	How public was notified: Daily News Legal Notice advertisement
Was public meeting held? YES NO	
Date:	Where:
Summary of public comments received:	
Planned responses or changes to the program:	



**MINIMUM CONTROL MEASURE #3:
ILLICIT DISCHARGE DETECTION AND ELIMINATION (Part IV.B.3 General Permit)**

SECTION I. MEASURABLE GOALS:

NOTE: Report must be limited to activities implemented during the third year (calendar year 2006) of the program, which the permittee had listed as a measurable goal in the Storm Water Management Program Plan, or incomplete measurable goals that were required for calendar years 2004 and 2005.

Please Indicate:

If Illicit Discharge Detection and Elimination Ordinance was adopted: YES NO

If copy of ordinance or relevant portions were submitted with signed letter of City or Town Solicitor: YES NO
(If you answered NO to the above, please include the required documents with this Annual Report.)

Permit ID#	BMP ID	List Measurable Goal	Was goal met?		If not met briefly list reasons, current status, plans and new date for meeting the goal	TMDL?	
			YES	NO		YES	NO
IV.B.3.b.1		Development of an outfall map showing the location of all outfalls and names of receiving waters (COMPLETED YEAR 3)	X				
IV.B.3.b.2		Tagging outfall pipes if GIS maps are not being developed (OPTIONAL ACTIVITY)	NA	NA			NA
IV.B.3.b.3		Recording of additional elements, such as location of catch basins, manholes and pipes, on an on-going basis.	X				NA
IV.B.3.b.5.vi		Inspection of all catch basins and manholes for illicit connections and non-storm water discharges			X		NA
IV.B.3.b.5.vii		Progress towards completion of two dry weather surveys, one between Jan 1 st and April 30 th and one between July 1 st and Oct 31 st . (Sanitary sewers-bacteria sampling is only required once between July 1 st and Oct 31 st)	X				NA
IV.B.3.b.7		Implementation of coordinating activities with physically interconnected MS4s, including state and federal owned or operated MS4s, when illicit discharges are detected or reported	X				NA
IV.B.3.b.9		Education of public employees, businesses, and the general public of hazards associated with illicit discharges and improper disposal of waste as well as allowable non-stormwater discharges found to be significant contributors of pollutants to the MS4.	X				NA

ILLCIT DISCHARGE DETECTION AND ELIMINATION cont'd

B. ADDITIONAL MEASURABLE GOALS:					
III.a	Easton Pond Dam and Moat Study			X	NA

SECTION II. OVERALL EVALUATION:

A. GENERAL SUMMARY, STATUS, APPROPRIATENESS AND EFFECTIVENESS OF MEASURABLE GOALS	
<p>(Include relevant information to the implementation of each measurable goal, such as, activities, and if relevant: topics addressed, audiences and pollutants targeted. Discussion of activities to be carried out during the next reporting cycle. If addressing TMDL requirements, please indicate rationale for the activities chosen to address the pollutant of concern.)</p> <p>(Note: Identify parties responsible for achieving the measurable goals and reference any reliance on another entity for achieving measurable goals.)</p>	
<p>IV.B.3.b.1 A GIS system has been developed and is continuously being updated with information collected in the field.</p>	
<p>IV.B.3.b.2 NA</p>	
<p>IV.B.3.b.3 A GIS system has been developed and is continuously being updated with information collected in the field.</p>	
<p>IV.B.3.b.5.vi</p> <ul style="list-style-type: none"> An 8" sanitary sewer in the East end of Eastnor Street was found to enter the 15" storm drain manhole #DMH-128-106 in Marchant Street. This sewer main was reconnected to the sanitary sewer manhole #SMH-128-77. A house lateral at #89A Roseneath Ave. was found to enter the storm drain manhole in Roseneath Ave. This was corrected by a private contractor. A complete survey of the storm system in the area of Narragansett Avenue and all lines leading to the 40-steps discharge line at the cliff walk. Manhole inspections and dye testing is complete. Camera work has begun and will be completed in early 2007. 	
<p>IV.B.3.b.5.vii Dry weather sampling was conducted on April 27th and September 19th, of 2006.</p>	

IV.B.3.b.7

The City of Newport coordinates with the Town of Middletown and Naval Station Newport when illicit discharges are detected or reported. The Public Works Directors of Newport and Middletown and the head environmental engineer for Naval Station Newport are responsible for follow-up of each illicit discharge. The City is currently working with RIDOT and the Town of Middletown to map interconnecting storm drain systems in the vicinity of the moat at Eastons Beach.

IV.B.3.b.9

A brochure entitled "Make your home the Solution to Stormwater Pollution" was available and handed out to residents at special events sponsored by the Clean City Program. Topics included Vehicle/Garage practices, Lawn/Garden usage, Home Repair/Improvements, Pet care, Swimming Pool maintenance, and Septic System Use and Maintenance. Public employees including the stormwater collection crew are trained on an annual basis in accordance with Spill Prevention, Control and Countermeasure Plans and Hazardous Waste Contingency Plans.

Additional Measurable Goals and Activities

III.a Easton Pond Dam and Moat Study – A contract to perform an in-depth study of the Easton Pond drainage moat was awarded in 2006. The moat study consists of a hydrologic/hydraulic evaluation, and a water quality evaluation focusing on determining the cause of degraded water quality which has required closures of Easton's Beach. Remedial alternatives with estimated implementation costs will be completed during this study. Remedial alternatives will include short term and/or immediately required work and long term goals. The study is ongoing and scheduled to be concluded in mid 2007.

SECTION III.A Other Reporting Requirements – Illicit Discharge Inspections to Date (Part IV.G.2.m)

Total Illicit Discharges Identified: 2 # of Complaints Received: 86

of Violations Issued: 0 # of Unresolved Violations Referred to RIDEM: 0

Summary of Enforcement Actions:

- Call received about a contractor rinsing paint brushes in the street. Staff responded but the party had left. There was evidence of paint in the street and in a catch basin. Staff vacuumed and rinsed the area and basin.
- Home heating fuel oil spill at Washington and Cypress Streets. Checked catch basins, sealed and vacuumed all oil and debris from one basin.

Extent to which the MS4 system has been mapped:

100%

SECTION III.B Interconnections (Part IV.G.2.k and IV.G.2.l)

Interconnection:	Date Found:	Location:	Connectee:	Originating Source:	Planned and Coordinated Efforts and Activities with Connectee:
Eastons Pond Moat	2006	Memorial Boulevard	RIDOT	Memorial Blvd Storm sewer	IDDE, Cleaning and Inspection and Mapping

SECTION II. OVERALL EVALUATION:

A. GENERAL SUMMARY, STATUS, APPROPRIATENESS AND EFFECTIVENESS OF MEASURABLE GOALS:

Include relevant information to the implementation of each measurable goal, such as, activities and audiences engaged. Discussion of activities to be carried out during the next reporting cycle. If addressing TMDL requirements, please indicate rationale for the activities chosen to address the pollutant of concern.

(Note: Identify parties responsible for achieving the measurable goals and reference any reliance on another entity for achieving measurable goals.)

IV.B.4.b.2, IV.B.4.b.4 While adoption of the ordinance was delayed, the City has used other permitting and approval processes to include requirements for construction site storm water run off control. All plans are reviewed for erosion and sedimentation control during the design plan review stage of the project. The City also reviews design plans from abutting communities where potential impact to the City's drinking water supply may be affected.

IV.B.4.b.7 The Director of Public Works or designee enforces the ordinance and performs inspections as required.

Additional Measurable Goals and Activities

SECTION III. A Plan and SWPPP Reviews

of Construction Reviews completed:

Summary of Reviews and Findings:

SECTION III.B Erosion and Sediment Control Inspections (Part IV.G.2.n)

of Site Inspections: 0

of Complaints Received: 0

of Violations Issued: 0

of Unresolved Violations Referred to RIDEM: 0

Summary of Enforcement Actions:

POST CONSTRUCTION STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT cont'd

SECTION II. OVERALL EVALUATION:

A. GENERAL SUMMARY, STATUS, APPROPRIATENESS AND EFFECTIVENESS OF MEASURABLE GOALS:

Include relevant information to the implementation of each measurable goal, such as, activities and audiences engaged. Discussion of activities to be carried out during the next reporting cycle. If addressing TMDL requirements, please indicate rationale for the activities chosen to address the pollutant of concern.

(Note: Identify parties responsible for achieving the measurable goals and reference any reliance on another entity for achieving measurable goals.)

IV.B.5.b.4 While adoption of these ordinances has been delayed, the City has used other permitting and approval processes to include requirements for post construction storm water management. The Newport Heights Housing Complex currently under construction employs the use of structural BMPs, which have been reviewed and approved by the City.

IV.B.5.b.10 No Post Construction BMPs are currently installed or operating in the City. Upon completion of the Newport Heights project the City will be coordinating with the Housing Authority for inspections of the structural BMPs.

IV.B.5.b.12

The City does not own any Municipally owned structural BMP's. Procedures for cleaning any will be developed as they are identified and placed into service.

Additional Measurable Goals and Activities

SECTION III.A. Plan and SWPPP Reviews

of Post-Construction Reviews completed: 0

Summary of Reviews and Finding:

POST CONSTRUCTION STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT cont'd

SECTION III.B. Post Construction Inspections: Proper Installation of Structural BMPs (Part IV.G.2.o)

# of Site Inspections: 0	# of Complaints Received: 0
# of Violations Issued: 0	# of Unresolved Violations Referred to RIDEM: 0
Summary of Enforcement Actions: 0	

SECTION III.C. Post Construction Inspections: Proper Operation and Maintenance of Structural BMPs (Part IV.G.2.p)

# of Site Inspections: 0	# of Complaints Received: 0
# of Violations Issued: 0	# of Unresolved Violations Referred to RIDEM: 0
Summary of Enforcement Actions: 0	

SECTION II. OVERALL EVALUATION:

A. GENERAL SUMMARY, STATUS, APPROPRIATENESS AND EFFECTIVENESS OF MEASURABLE GOALS:

Include relevant information to the implementation of each measurable goal, such as, activities and audiences engaged. Discussion of activities to be carried out during the next reporting cycle. If addressing TMDL requirements, please indicate rationale for the activities chosen to address the pollutant of concern.

(Note: Identify parties responsible for achieving the measurable goals and reference any reliance on another entity for achieving measurable goals.)

IV.B.6.b.1.i

The City does not own any Municipally owned structural BMP's. GIS mapping is updated regularly and structural BMPs will be added as placed into service.

IV.B.6.b.1.ii

The City is divided into grids according to the GIS mapping system. Crews are assigned an area to complete. Basins are inspected, cleaned, and identification of basin is validated in the GIS system for accuracy.

IV.B.6.b.1.iii

The City is divided into grids according to the GIS mapping system. Crews are assigned an area to complete. Basins are inspected, cleaned, and identification of basin is validated in the GIS system for accuracy.

IV.B.6.b.1.vi

A sweeping of the entire city was completed, (approximately 94 road miles) and a second sweeping of 50% of the streets was done. A total of 647.43 tons of debris was removed from the streets of Newport. Sample street sweeping logs used in the field are attached.

IV.B.6.b.1.vii

Under the City's Solid Waste Master Contract, the contractor is required to collect trash from all City owned streets and park barrels. The barrels are emptied twice a day April 1st through October 31st and once a day November 1st through March 31st. The City, through it's Solid Waste Master Contract also provides daily litter clean up in various downtown streets, seven days a week from May 1st through October 31st.

IV.B.6.b.4

Under the City's Solid Waste Master Contract, the contractor is required to collect trash from all City owned streets and park barrels. The barrels are emptied twice a day April 1st through October 31st and once a day November 1st through March 31st. The City, through it's Solid Waste Master Contract also provides daily litter clean up in various downtown streets, seven days a week from May 1st through October 31st.

Additional Measurable Goals and Activities

POLLUTION PREVENTION AND GOOD HOUSEKEEPING IN MUNICIPAL OPERATIONS cont'd

SECTION III.A Structural BMPs (Part IV.B.6.b.1.i)

BMP ID:	Location:	Name of BMP Owner/Operator:	Description of BMP:

SECTION III.B Discharges Causing Scouring or Excessive Sedimentation (Part IV.B.6.b.1.v)

Outfall ID:	Location:	Description of Problem:	Description of Remediation Taken, include dates:	Receiving Water Body Name/Description:

SECTION III.C Note any planned municipal construction projects/opportunities to incorporate water quality BMPs, low impact development, or activities to promote infiltration and recharge (Part IV.G.2.j).

A contract to perform an in-depth study of the Easton Pond drainage moat was awarded in 2006. The moat study consists of a hydrologic/hydraulic evaluation, and a water quality evaluation focusing on determining the cause of degraded water quality which has required closures of Easton's Beach. Remedial alternatives with estimated implementation costs will be completed during this study. Remedial alternatives will include short term and/or immediately required work and long term goals. The study is ongoing and scheduled to be concluded in mid 2007. It is anticipated that BMPs, structural and non structural will play a great role in the findings and recommendations of the study.

SECTION III.D Please include a summary of results of any other information that has been collected and analyzed. This includes any type of data (Part IV.G.2.e).



TOTAL MAXIMUM DAILY LOAD (TMDL) or other Water Quality Determination REQUIREMENTS

SECTION 1. Please provide an assessment of the progress towards meeting the requirements for the control of storm water identified in an approved TMDL (Part IV.G.2.d).

NA

Ordinances

CITY OF NEWPORT

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OF THE

COUNCIL

NO. 2006-41

AN ORDINANCE IN AMENDMENT OF TITLE 13 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWPORT, RHODE ISLAND, REVISION OF 1994, AS AMENDED, ENTITLED, " PUBLIC SERVICES."

BE IT ORDAINED by the City of Newport:

SECTION 1. Title 13 of the Codified Ordinances of the City of Newport, Revision of 1994, as amended, entitled "Public Services," is hereby further amended by ADDING thereto the following new chapter:

"Chapter 13.09. ILLICIT DISCHARGE AND CONNECTION - STORMWATER.

13.09.010. Purpose.

The purpose and intent of this ordinance is to ensure the health, safety, and general welfare of the citizens of the City of Newport, and to protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. 1251 et seq.) by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system.

This ordinance establishes methods for controlling the introduction of pollutants into the City's 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 this ordinance 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 unauthorized discharges to the MS4
- (3) To require the removal of all illicit connections and discharges
- (4) To comply with state law and federal statutes and regulations relating to storm water discharges
- (5) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

13.09.020. Authority

This ordinance is promulgated pursuant to the Rhode Island Department of Environmental Management's ("DEM") General Permit Rhode Island Pollutant Discharge Elimination System

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Storm Water Discharge from Small Municipal Separate Storm Sewer Systems and from Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s and in accordance with the Administrative procedures Act, R.I.G.L. 42-35-1, et seq.

13.09.030. Definitions.

For the purposes of this ordinance, the following shall mean:

Allowable Non-Storm Water Discharges- Discharges not comprised of storm water are allowed under the MS4 General Permit but are limited to the following, provided these are not significant contributors of pollutants to the MS4: discharges which result from the washdown of vehicles at retail dealers selling new and used automobiles where no detergents are used and individual residential car washing; external building washdown where no detergents are used; the use of water to control dust; fire fighting activities; fire hydrant flushing; natural springs; uncontaminated groundwater; dechlorinated pool discharges; air conditioning condensate; lawn watering; potable water sources including waterline flushings; irrigation drainage; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents, or contaminated by contact with soils where spills or leaks of toxic or hazardous materials have occurred; uncontaminated utility vault dewatering; dechlorinated water line testing water; hydrostatic test water that does not contain any treatment chemicals and is not contaminated with process chemicals.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. ' 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. As of March 2003, RIPDES Storm Water Phase II permits are required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

Discharger- Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

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,

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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.

Illicit Connections: an illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Department of Public Works or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Department of Public Works.

Illicit Discharge- Any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a RIPDES permit (other than the RIPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

Municipal Separate Storm Sewer System (MS4)- A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (i) Owned or operated by a city or town or the State district association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial waste, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the State;
- (ii) Designed or used for collecting or conveying storm water;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in Rule 3 of the RIPDES Regulations.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC ' 1342(b)) 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.

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Non-Storm Water Discharge: any discharge to the storm drain system that is not composed entirely of storm water.

Operator- The party or parties that either individually or taken together have the day-to-day operational control over the facility's activities and the ability to make modifications to such activities.

Owner- The party or parties that either individually or taken together has legal title to any premise.

Person: any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

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.

Storm Drainage System: publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Unauthorized Discharge- A discharge of storm water not authorized by a RIPDES permit, or an allowable storm water discharge found to be a significant contributor of pollutants to the MS4.

Watercourse- A natural or man-made surface drainage channel or body of water (including a lake or pond) through which a water flow occurs, either continuously or intermittently.

Waters of the State- Surface and ground waters within the boundaries of the State of Rhode Island and subject to its jurisdiction.

13.09.040. Applicability.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Department of Public Works.

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13.09.050. Responsibility for administration.

The Department of Public Works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Department of Public Works may be delegated in writing by the Director of the Department of Public Works to persons or entities acting in the interest of or in the employ of the Department of Public Works.

Section 13.09.060. Discharge Prohibitions.

(A) *Prohibition of Unauthorized Discharges.* Non-storm water discharge is expressly prohibited from entering the MS4, unless the discharge has received all required federal, state and local permits including the Rhode Island Pollutant Discharge Elimination System (RIPDES) or is included in one of the following categories of discharges: discharges which result from the wash down of vehicles at retail dealers selling new and used automobiles where no detergents are used and individual residential car washing; external building wash down where no detergents are used; the use of water to control dust; fire fighting activities; fire hydrant flushing; natural springs; uncontaminated groundwater; dechlorinated pool discharges; air conditioning condensate; lawn watering; potable water sources including waterline flushing; irrigation drainage; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents, or contaminated by contact with soils where spills or leaks of toxic or hazardous materials have occurred; uncontaminated utility vault dewatering; dechlorinated water line testing water; hydrostatic test water that does not contain any treatment chemicals and is not contaminated with process chemicals.

(B) *Prohibition of Illicit Connections.* The construction, use, maintenance or continued existence of illicit connections to the municipal storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is in violation of this ordinance if they connect a line conveying non-stormwater to the MS4, or allow such a connection to continue.

13.09.070. Suspension of MS4 access.

(A) *Suspension due to Illicit Discharges in Emergency Situations.* The Department of Public Works may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Department of Public Works may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.

(B) *Suspension due to the Detection of Illicit Discharge.* Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or

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reduce an illicit discharge. The Department of Public Works will notify a violator of the proposed termination of its MS4 access. The violator may petition the Department of Public Works for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Department of Public Works.

(C) *Entry to perform Duties Under this Ordinance.* To the extent permitted by State law, or if authorized by the owner or other party in control of the property, the authorized enforcement agency, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and may make or cause to be made such examinations, surveys or samplings as the authorized enforcement agency deems reasonably necessary.

13.09.080. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity RIPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department of Public Works prior to the allowing of discharges to the MS4.

13.09.090. Monitoring of discharges.

The Department of Public Works shall be permitted, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter the dischargers premise(s) where a regulated activity is conducted, or where records must be kept as required under the condition of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept as required under the conditions of the permit;
3. Inspect at reasonable times any equipment, practices, or operations regulated or required under this permit; and
4. Sample or monitor any substances or parameters at any location, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or R.I. law.

13.09.100. Requirement to prevent, control, and reduce stormwater pollutants

In an attempt to prevent, control, and reduce storm water pollutants any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm sewer system or waters of the State shall implement Best management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

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13.09.110. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond the actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner or lessee shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property. Nothing in this section shall preclude any owner/lessee from compliance with relevant provisions of the Rhode Island Freshwater Wetlands Act, R.I.G.L. 2-1-18, et seq. or other applicable laws or regulations.

13.09.120. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in unauthorized discharges or pollutants discharging into storm water, the municipal storm sewer system, or waters of the State from said facility, 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 a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the Department of Public Works no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Public Works within five (5) 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 and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Nothing in this section shall preclude any owner/lessee from compliance with relevant provisions of the Rhode Island Clean Water Act, R.I.G.L. 46-12-1, et seq. or other applicable laws or regulations.

13.09.130. Enforcement.

Whenever the Department of Public Works finds that any person has violated a prohibition or failed to meet a requirement of this Ordinance, the Director may order compliance by issuing a 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;

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3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a penalty 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.

13.09.140. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten (10) days from the date of the receipt of the Notice of Violation. The notice of appeal shall be in writing and contain a detailed basis upon which the appeal was taken. The procedure for said appeal shall be in conformity with the Administrative Procedures Act, R.I.G.L. 42-35-1, et seq.

13.09.150. Settlements of Appeal of Notice of Violation

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the Director may enter into a negotiated settlement to resolve the appeal of the Notice of Violation. Such settlement may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, shoreline cleanup, etc.

13.09.160. Enforcement Measures After Appeal

If no timely appeal of a Notice of Violation has been taken and 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 ten (10) days of the decision, then the Department of Public Works shall undertake all necessary actions, including requesting injunctive relief through the Superior Court, to enter upon the subject private property and take any and all measures necessary to abate the violation and/or restore the property.

13.09.170. Administrative Orders

The Director of the Department of Public Works is authorized to issue the following administrative orders at any time such action is deemed appropriate to secure timely and effective compliance with this Ordinance or a discharge permit or order issued pursuant to this Ordinance, whether or not any previous notifications of violations have been provided to the user.

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A. Cease and Desist Order: The Director may issue an order to cease and desist a violation or an action or inaction which threatens a violation and to direct the user to comply forthwith or to take such appropriate remedial or preventive action as may be needed to properly address the violation or threatened violation, including halting operations and terminating the discharge.

B. Compliance Order: The Director may issue an order requiring a user to provide within a specified period of time, such treatment, pretreatment or discharge control facilities or related appurtenances as are necessary to correct a violation or to prevent a threatened violation. A compliance order may also direct that a user provide improved operation and maintenance of existing discharge facilities, conduct additional self-monitoring, or submit appropriate reports or management plans.

C. Show Cause Order: The Director may issue an order to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for a meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. Whether or not a duly notified user appears as noticed, additional enforcement action may be initiated.

D. Consent Order: The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user. Such orders shall include specific actions to be taken by the user and specific time frames to correct a violation or to remove the threat of a violation.

13.09.180. Cost of Abatement of the Violation

Within thirty (30) days after abatement of the violation, by or under the direction of the Department of Public Works, the owner of the property will be notified by the Director of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the City, 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 section shall become liable to the City by reason of such violation. The liability shall be paid in not more than 12 equal payments.

13.09.190. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Department of Public Works may petition the Newport Municipal Court through the City's attorney for a preliminary or permanent injunction restraining the person from activities

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which would create further violations or compelling the person to perform abatement or remediation of the violation.

13.09.200. 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 this ordinance 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.

13.09.210. Criminal prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500.00 dollars per violation per day. The Department of Public Works may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

13.09.220. Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Director to seek cumulative remedies.

SECTION 2. This ordinance shall take effect upon its passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

IN COUNCIL

READ AND PASSED

OCT 11 2006



Kathleen M. Silvia
City Clerk

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AN ORDINANCE IN AMENDMENT OF TITLE 15 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWPORT, RHODE ISLAND, REVISION OF 1994, AS AMENDED, ENTITLED, "BUILDINGS AND CONSTRUCTION."

BE IT ORDAINED by the City of Newport:

SECTION 1. Title 15 of the Codified Ordinances of the City of Newport, Revision of 1994, as amended, entitled "**Buildings and Construction**," is hereby further amended by ADDING THERETO THE FOLLOWING NEW CHAPTER:

Chapter 15.26 SOIL EROSION AND SEDIMENT CONTROL ORDINANCE

15.26.010 - Purpose.

- A. The Newport City Council finds that excessive quantities of soil are eroding from certain areas that are undergoing development for non agricultural uses such as housing developments, industrial areas, recreational facilities, and roads. Soil erosion necessitates: costly repairs to gullies, unnecessary cleaning of storm drains and catch basins; and results in washed out fills, roadways, and embankments. Moreover, the resulting sediment clogs the storm sewer systems and road swales, muddies streams, leaves deposits of silt in ponds and reservoirs, and is considered a major water pollutant by state and federal agencies.
- B. The purpose of this ordinance is to prevent soil erosion and sedimentation from occurring as a result of non agricultural development within the City of Newport by requiring the use of appropriate best management practices (BMP), proper provisions for water disposal, and the protection of soil surfaces during and after construction, in order to safeguard persons, protect property, prevent damage to the environment and promote the general welfare of the City of Newport. This ordinance is established in accordance with R.I. General Laws, §45-46-3, Soil Erosion and Sediment Control.
- C. This ordinance provides for a determination of applicability to be made by the Director of Public Works or designee. The purpose of the determination of applicability is to determine whether a soil erosion and sediment control plan is required from a petitioner who desires to engage in soil disturbing activities. The ordinance further defines minimum requirement for such plans, and establishes review and approval procedures.

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Land disturbing activity: Any physical land development activity which includes such actions as clearance of vegetation, moving or filling of land, removal or excavation of soil or mineral resources, or similar activities.

Runoff: The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow, and including seepage flows that do not enter the soil but run off the surface of the land. Also, that portion of water that is not absorbed by the soil, but runs off the land surface.

Sediment: Solid material, both mineral and/or organic, that is in suspension, is being transported, or has been moved from its site or origin by wind, water, and/or gravity as a product of erosion.

Soil erosion and sediment control plan: The approved document required before any person may cause a disturbance to the natural terrain within the City as regulated by this ordinance. Also, referred to as erosion and sediment control plan, approved plan.

Watercourse: The term watercourse means any tidewater or coastal wetland at its mean high water level, and any freshwater wetland at its seasonal high water level, including, but not limited to, any river, stream, brook, pond, lake, swamp, marsh bog, fen, wet meadow, or any other standing or flowing body of water. The edge of the watercourse shall be used for delineation purposes.

15.26.030 - Applicability.

This ordinance is applicable to any situation involving any disturbance to the terrain, topsoil or vegetative ground cover upon any property within the City of Newport after determination of applicability by the Director of Public Works or designee based upon criteria outlined in Chapter 15.26.040. Compliance with the requirements as described in this ordinance shall not be construed to relieve the owner/applicant of any obligations to obtain necessary state or federal permits.

15.26.040 - Determination of applicability.

A. Required.

1. It shall be unlawful for any person to disturb any existing vegetation, grades, and contours of land in a manner which may increase the potential for soil erosion, without first applying for a determination of applicability from the Director of Public Works or designee. Upon determination of

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applicability, the owner/applicant shall submit a soil erosion and sediment control plan for approval by the Director of Public Works or designee, as provided in Chapter 15.26.050. The application for determination of applicability shall describe the location, nature, character, and time schedule of the proposed land disturbing activity in sufficient detail to allow the Director of Public Works or designee to determine the potential for soil erosion and sedimentation resulting from the proposed project. In determining the applicability of the soil erosion and sediment control ordinance to a particular land disturbing activity, the Director of Public Works or designee, shall consider: site topography, drainage patterns, soil types, proximity to watercourses and water bodies, and other information deemed appropriate by Director of Public Works or designee. A particular land disturbing activity shall not be subject to the requirements of this ordinance if the Director of Public Works or designee finds that erosion resulting from the land disturbing activity is insignificant and represents no threat to adjacent properties or to the quality of any coastal feature, water body, or watercourse, as defined in Section II. The current "Rhode Island Soil Erosion and Sediment Control Handbook," U.S. Department of Agriculture Soil Conservation Service, R.I. Department of Environmental Management, and R.I. State Conservation Committee shall be consulted in making this determination.

2. This ordinance shall not apply to existing quarrying operations actively engaged in excavating rock, but this ordinance shall apply to sand and gravel extraction operations.
- B. No determination of applicability is required for the following:
1. Construction, alteration, or land disturbance activities that result in land disturbance of less than ten thousand (10,000) square feet and which disturbance of soil is not within one hundred (100) feet of any watercourse, waterbody, or coastal feature, and has no slopes greater than ten (10) percent, and where, in the opinion of the Director of Public Works or designee, no significant soil erosion will occur.
 2. Construction, alteration, land disturbance for any additions to an existing single family or duplex homes or

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- accessory structures; provided, that the lot coverage of addition is less than one thousand (1,000) square feet, and construction, alteration or use does not occur within one hundred (100) feet of any watercourse, water body, or coastal feature, and the slopes at the site of land disturbance do not exceed ten (10) percent.
3. Use of a home garden in association with onsite residential use.
 4. Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private and/or commercial agricultural or silvacultural purposes.
 5. Excavations for improvements other than those described in Chapter 15.26.040 (B)(1) that exhibit all of the following characteristics:
 - a. does not result in a total displacement of more than one hundred (100) cubic yards of material;
 - b. has no slopes steeper than ten feet (10') vertical in one hundred feet (100') horizontal or approximately ten percent (10%); and
 - c. has all disturbed surface areas promptly and effectively protected to prevent soil erosion and sedimentation.
 6. Grading, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots; provided, that all bare surface is immediately seeded, sodded or otherwise protected from erosive actions, and all of the following conditions are met:
 - a. The aggregate area of activity does not exceed two thousand (2,000) square feet; and
 - b. The change of elevation does not exceed two feet (2') at any point; and
 - c. The grading does not involve a quantity of fill greater than five hundred (500) cubic yards.
 7. Grading, filling, removal, or excavation activities and operations undertaken by the City under the direction and supervision of the Director of Public Works for work on streets, roads, or rights-of-ways dedicated to public

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use; provided, that adequate and acceptable erosion and sediment controls are incorporated, in engineering plans and specifications, and employed. Appropriate controls apply during construction as well as after the completion of these activities. All work shall be undertaken in accordance with the performance principles provided for in Chapter 15.26.060 (B)(6)(c) and all standards and definitions adopted to implement the performance principles.

15.26.050 - Plan Approval Procedure; Appeals.

A. Plan Submission

1. To obtain approval for a land disturbing activity as found applicable by Director of Public Works or designee under Chapter 15.26.040, an applicant shall first file an erosion and sediment control plan signed by the owner of the property, or authorized agent, on which the work subject to approval is to be performed. The plan or drawings, as described in Chapter 15.26.060, shall include proposed erosion and sediment control measures to be employed by the applicant or the applicant's agent.
2. Where any portion of a proposed development requires approval under the state R.I. Freshwater Wetlands Act, §G.L. 2-1-15 et seq., as amended, and where said approval contains provisions for soil erosion and sediment controls, that approved plan shall be a component of the overall soil erosion and sediment control plan required hereunder for the development.

B. Fees. The City shall collect a fee of fifty (50) dollars from applicants requesting approval of a soil erosion and sediment control plan for the purposes of administering this ordinance. For projects where there is a land disturbance greater than 10,000 square feet, the applicant shall pay an additional fifty (50) dollars for each additional 10,000 square feet of impacted land area. General Fee Schedule 2.120.010.

C. Plan Review.

1. Within five (5) working days of the receipt of a completed erosion and sediment control plan, the Director of Public Works or designee, shall send a copy of the plan to the City review authorities, the Department of Public Works as well as the Planning, Zoning, Development and Inspections Department, for the purpose of review and comment. The Director of

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Public Works or designee may also, within five (5) working days, submit copies of the plan to other relevant City departments or agencies, in order to better achieve the purposes of this ordinance. Failure of these review authorities to respond within twenty-one (21) days of the receipt of the plan shall be deemed as no objection to the plan as submitted. The City shall not issue a building permit until all written approvals by the Director of Public Works required by these regulations have been presented to the City and said approvals are valid at the time of the issuance of the building permit.

2. The time allowed for plan review shall be commensurate with the proposed development project, and shall be done simultaneously with other reviews.

D. Plan Approval

1. The Director of Public Works or designee shall take action in writing with reasons stated, either approving or disapproving the plan, within ten (10) days after Director of Public Works or designee has received the written opinion of the review authorities.
2. In approving a plan, the Director of Public Works or designee may attach conditions deemed reasonably necessary by the review authorities to further the purposes of this ordinance. The conditions pertaining to erosion and sediment control measures and/or devices, may include, but are not limited to: the erection of walls; construction of drains, dams, and structures; planting vegetation, trees and shrubs; furnishings, necessary easements, and specifying a method of performing various kinds of work, and the sequence or timing of the work. The applicant/owner shall notify the Director of Public Works or designee, in advance of his or her intent to begin clearing and construction work described in the erosion and sediment control plan. The applicant shall have the erosion and sediment control plan on the site during grading and construction.

E. Appeals

1. Administrative procedures:
 - a. If the ruling made by the Director of Public Works or designee is unsatisfactory to the applicant/owner, the

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applicant/owner may file a written appeal. The appeal of plans for soil erosion and sediment control shall be to the Zoning Board of Review.

- b. Appeal procedures shall follow current requirements for appeal to the Zoning Board of Review.
 - c. During the period in which the request for appeal is filed, and until the time that a final decision is rendered on the appeal, the decision of the Director of Public Review or designee remains in effect.
2. Expert opinion: The Director of Public Works or designee or the Zoning Board of Review, may seek technical assistance on any soil erosion and sediment control plan. The expert opinion must be made available in the office of the Director of Public Works or designee as a public record prior to the appeals hearing.

15.26.060 - Soil Erosion and Sediment Control Plan- Standards

- A. Plan Preparation. The soil erosion and sediment control plan shall be prepared by a registered engineer, or landscape architect or a Soil and Water Conservation Society certified erosion and sediment control specialist. Five (5) copies of the plan shall be submitted to the Director of Public Works or designee.
- B. Plan Contents. The soil erosion and sediment control plan shall include sufficient information about the proposed activities and land parcel(s) to form a clear basis for discussion and review and to assure compliance with all applicable requirements of this ordinance. The plan shall be consistent with the data collection, data analysis, and plan preparation guidelines in the current "Rhode Island Soil Erosion and Sediment Control Handbook," prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service, R.I. Department of Environmental Management, R.I. State Conservation Committee, and at a minimum, shall contain:
 1. Narrative. A narrative describing the proposed land disturbing activity and the soil erosion and sediment control measures and stormwater management measures to be installed to control erosion that could result from the proposed activity. Supporting documentation, such as a drainage area, existing site, and soil maps shall be provided as required by the Director of Public Works or designee.

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2. Construction drawings. Construction drawings illustrating in detail existing and proposed contours, drainage features, and vegetation; limits of clearing and grading, the location of soil erosion and sediment control and stormwater management measures, detail drawings of measures; stock piles and borrow areas; sequence and staging of land disturbing activities; and other information needed for construction.
3. Erosion and Sediment Controls. A description, including construction details appropriate to the site, for both vegetative and structural practices. Vegetative BMPs are designed to preserve exiting vegetation where attainable and revegetate open areas as soon as practicable after construction or grading. Structural BMPs divert flows from exposed soils, filter runoff, storm flows or otherwise limit runoff from coming into contact with exposed, unvegetated areas of the site and to prevent sediments and/or other pollutants from leaving the site.
4. Other information. Other information or construction plans and details as deemed necessary by the Director of Public Works or designee for a thorough review of the plan prior to action being taken as prescribed in this ordinance. Withholding or delay of information may be reasons for the Director of Public Works or designee, to judge the application as incomplete and providing grounds for disapproval of the application.
5. Maintenance. A description of procedures to maintain, in good and effective operating condition, vegetation, stormwater control measures, and other protective measures identified in the site plan.
6. Design performance principles. The contents of the soil erosion and sediment control plan shall clearly demonstrate how the principles, outlined in this subsection, have been met in the design and are to be accomplished by the proposed development project.
 - a. The site selected shall show due regard for natural drainage characteristics and topography.
 - b. To the extent possible, steep slopes shall be avoided.
 - c. The grade of created slopes shall be minimized.
 - d. Post development runoff rates should not exceed pre development rates, consistent with other stormwater

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requirements which may be in effect. Any increase in storm runoff shall be retained and recharged as close as feasible to its place of origin by means of detention ponds or basins, seepage areas, subsurface drains, porous paving, or similar technique.

- e. Original boundaries, alignment, and slope of watercourses within the project locus shall be preserved to the greatest extent feasible.
- f. In general, drainage shall be directed away from structures intended for human occupancy, municipal or utility use, or similar structures.
- g. All drainage provisions shall be of a design and capacity so as to adequately handle stormwater runoff, including runoff from tributary upstream areas which may be outside the locus of the project.
- h. Drainage facilities shall be installed as early as feasible during construction, prior to site clearance, if possible.
- i. Fill located adjacent to watercourses shall be suitably protected from erosion by means of riprap, gabions, retaining walls, vegetative stabilization, or similar measures.
- j. Temporary vegetation and/or mulching shall be used to protect bare areas and stockpiles from erosion during construction; the smallest areas feasible shall be exposed at any one time; disturbed areas shall be protected during the non growing months, November through March.
- k. Permanent vegetation shall be placed immediately following fine grading.
- l. Trees and other existing vegetation shall be retained whenever feasible; the area within the drip line shall be fenced or roped off to protect trees from construction equipment.
- m. All areas damaged during construction shall be re-sodded, reseeded, or otherwise restored. Monitoring and maintenance schedules, where required, shall be predetermined.

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15.26.070 - Performance bond.

A. Performance bond requirements.

1. Before approving an erosion sediment control plan, the Director of Public Works or designee may require the applicant/owner to file a surety company performance bond, deposit of money, negotiable securities, or other method of performance guarantee as specified by the Director of Public Works or designee. When any land disturbing activity is to take place within one hundred feet (100') of any watercourse, water body, or coastal feature or within an identified flood hazard district, or on slopes in excess of ten percent (10%), the filing of a performance bond shall be required. The amount of the bond, as determined by the Public Works Department, shall be sufficient to cover the cost of implementing all erosion and sediment control measures as shown on the plan.
2. The bond, performance guarantee, or negotiable security filed by the applicant shall be subject to approval of form, content, amount, and manner of execution by the Director of Public Works as well as the City Solicitor.
3. A performance bond for an erosion sediment control plan for a subdivision may be included in the requisite performance bond of the subdivision. The posting of the bond as part of the subdivision performance bond does not, however, relieve the owner of any requirements of this ordinance.

B. Notice of default on performance secured by bond.

1. Whenever the Director of Public Works or designee finds that a default has occurred in the performance of any terms or conditions of the bond or in the implementation of measures secured by the bond, written notice shall be made to the applicant and to the surety of the bond by the City Solicitor. The notice shall state the nature of default, work to be done, the estimated cost, and the period of time deemed by the Director of Public Works or designee to be reasonably necessary for the completion of the work.
2. Failure of the applicant to acknowledge and comply with the provisions and deadlines outlined in the notice of default will result, without further notice of proceedings whatsoever, in the institution of the City Solicitor of appropriate measures to utilize the performance bond, to cause the required work to be completed by the City of

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Newport, by contract or through other appropriate means as determined by the City Solicitor.

- C. Notice of default on performance secured by cash or negotiable securities deposit. If a cash or negotiable securities deposit has been posted by the applicant, notice and procedure are the same as provided for in Chapter 15.26.070 (A)(3).
- D. Release from performance bond conditions. The performance bonding requirement shall remain in full force and effect for twelve (12) months following completion of the project, or longer if deemed necessary by the Director of Public Works or designee. The applicant/owner may request the release of his/her performance bond from the Director of Public Works twelve (12) months after the final site inspection has been completed and approved.

15.26.080 - Plan expiration and renewal.

- A. Every approval granted in this ordinance shall expire at the end of the time period established in the conditions. The developer shall fully perform and complete all of the work required within the specified time period.
- B. If the developer is unable to complete the work within the designated time period, he or she shall, at least thirty (30) days prior to the expiration date, submit a written request for an extension of time to the Director of Public Works or designee, stating the underlying reasons for the requested time extension. If the extension is warranted, the Director of Public Works or designee may grant an extension of time up to a maximum of one year from the date of the original deadline. Subsequent extensions under the same conditions may be granted at the discretion of the Director of Public Works.

15.26.090 - Maintenance Measures.

Maintenance of all erosion sediment control devices under this ordinance shall be the responsibility of the owner. The erosion sediment control devices shall be maintained in good condition and working order on a continuing basis. Watercourses originating and located completely on private property shall be the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.

15.26.100 - Liability of applicant.

Neither approval of an erosion and sediment control plan nor compliance with any condition of this ordinance shall relieve the

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owner/applicant from any responsibility for damage to persons or property, nor impose any liability upon the City for damages to persons or property.

15.26.110 - Inspections.

- A. Periodic Inspections. The provisions of this ordinance shall be administered and enforced by the Director of Public Works or designee. All work shall be subject to periodic inspections by the Director of Public Works or designee. All work shall be performed in accordance with an inspection and construction control schedule approved by the Director of Public Works or designee, who shall maintain a permanent file on all of his or her inspections. Upon commencement of the work, the developer or owner shall notify the Director of Public Works or designee that erosion and sediment controls are in place at the site. The Director of Public Works or designee shall inspect the site to ensure all erosion and sediment controls are in place.
- B. Final Inspection. Upon completion of the work, the developer or owner shall notify the Director of Public Works or designee that all grading, drainage, erosion and sediment control measures and devices, and vegetation and ground cover planting has been completed in conformance with the approved soil erosion and sediment control plan, all attached plans, specifications, conditions, and other applicable provisions of this ordinance. Upon notification of the completion by the owner, the Director of Public Works or designee shall make a final inspection of the site in question, and shall prepare a final summary inspection report of its findings which shall be retained in the Department of Public Works' permanent inspections file.

15.26.120 - Noncompliance.

If, at any stage, the work in progress and/or completed under the terms of an approved soil erosion and sediment control plan does not conform to the plan, a written notice from the Director of Public Works or designee to comply shall be transmitted by certified mail to the owner. The notice shall state the nature of the temporary and permanent corrections required, and the time limit within which corrections shall be completed as established in Chapter 15.26.130. Failure to comply with the required corrections within the specified time limit is considered a

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violation of this ordinance, in which case the performance bond or cash or negotiable securities deposit is subject to notice of default, in accordance with Chapter 15.26.070.

15.26.130 - Penalties.

- A. Revocation or suspension of approval. The approval of a soil erosion and sediment control plan under this ordinance may be revoked or suspended by the Director of Public Works or designee and all work on the project halted for an indefinite time period by the Director of Public Works or designee after written notification is transmitted by the Director of Public Works or designee to the developer for one or more of the following reasons:
1. Violation of any condition of the approved plan, or specifications pertaining to it;
 2. Violation of any provision of this ordinance or any other applicable law, ordinance, rule, or regulation related to the work or site of work; and
 3. The existence of any condition or the performance of any act constituting or creating a nuisance, hazard, or endangerment to human life or the property of others, or contrary to the spirit or intent of this ordinance.
- B. Other penalties. In addition, whenever there is a failure to comply with the provisions of this ordinance, the City of Newport has the right to notify the applicant/owner that he or she has five (5) days from the receipt of notice to temporarily correct the violations and thirty (30) days from receipt of notice to permanently correct the violations. Should the applicant/owner fail to take the temporary corrective measures within the five (5) day period and the permanent corrective measures within the thirty (30) day period, the City of Newport then has the right to take whatever actions it deems necessary to correct the violations and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The lien shall be enforced in the manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded with the Office of Land Evidence, and the lien does incur legal interest from the date of recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this ordinance, including revocation of the performance bond or assessment of a lien on the property by the City of Newport.

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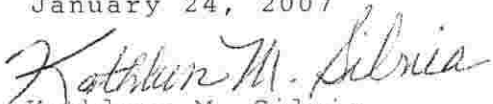
C. In addition to any other penalties provided in this section, the City of Newport is authorized and empowered to provide by local ordinance for penalties and/or fines of not more than two hundred fifty dollars (\$250) for failure to submit plans on or before the date on which the plan must be submitted, as stated in the determination of applicability. Each day that the plan is not submitted constitutes a separate offense.

SECTION 2. This ordinance shall take effect upon its passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

IN COUNCIL

READ AND PASSED

January 24, 2007


Kathleen M. Silvia
City Clerk

Proposed Zoning Code Amendment For Erosion Control

Post-Construction Stormwater Control Ordinance

Section I - General Provisions

P. Construction and/or Improvement Guarantees

7. Notwithstanding other improvement guarantees, a performance bond, in the form of a certified check, bond, letter of credit, or other acceptable form of surety satisfactory to the city solicitor may be required of the applicant for the proposed drainage system (whether or not it constitutes a public improvement) prior to initiating construction. The amount of the performance bond will be approved by the Engineering Division and be sufficient to cover 100% of the cost of the drainage system.

Section II -Design Standards.

O. Control of Storm Water Runoff

a. Purpose

Unmitigated storm water from areas altered by development may pose public health and safety threats. Potential contaminants in storm water runoff may include suspended solids, nitrogen, phosphorus, hydrocarbons, heavy metals, pathogenic organisms (bacteria and viruses), and road salts. In order to protect the health, safety, and general welfare of the residents of Newport, as well as to protect, sustain, and enhance the surface and ground water resources of Newport, drainage and stormwater management practices shall be utilized as directed herein to achieve the following objectives:

1. minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
2. minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality
3. minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
4. reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

b. Technical Standards.

All applicants must develop and submit a proposed Storm Water Management Plan which must address storm water management for the development which meets all the requirements of this ordinance. All such storm water management shall be consistent with the *Rhode Island Stormwater Design and Installation Standards Manual* and the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended. The stormwater management plan must include a description of proposed best management practices (BMPs), detailed site plans, and a written narrative, that when implemented, provides protection of receiving waters by reducing pollutant loadings and other negative impacts associated with changes in land use as described below.

(A) Performance Standards. Storm Water Management Plans must incorporate best management practices for water quality control, which in combination are demonstrated to reduce the average annual

Proposed Zoning Code Amendment For Erosion Control

total suspended solids in post development runoff by eighty percent (80%). Development in drinking water supply watersheds or watersheds where impaired waters as defined by the State's 303(d) list exist may be held to higher standards.

(B) Disallowed Storm Water Best Management Practices. The placement of structural BMPs and other storm water structures within a floodplain shall be avoided. If there is no alternative, the applicant must show what effects, if any, the tail waters created by the floodplain will have on the outflow and effective storage capacity of the detention facility.

(C) Facilitation of Maintenance. Facilities that require maintenance shall be designed to minimize the need for regular maintenance, facilitate required maintenance, and ensure accessibility of components that require maintenance. At a minimum, all Storm Water Management Plans must incorporate structural BMPs with appropriate maintenance design in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended; or the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended.

c. Maintenance Requirements for Best Management Practices.

(A) Routine Maintenance and Repair Procedures. Preventative maintenance procedures are required to maintain the intended operation and safe condition of the structural BMPs by greatly reducing the occurrence of problems and malfunctions. To be effective, preventative maintenance shall be performed on a regular basis and include such routine procedures as training of staff, periodic inspections, grass cutting elimination of mosquito breeding habitats, and pond maintenance. Disposal of sediment and debris must occur on a regular basis (unless otherwise specified within an approved plan), at suitable disposal sites or recycling sites and comply with applicable local, state and federal regulations.

Corrective maintenance procedures are required to correct a problem or malfunction at a storm water management facility and to restore the facility's intended operation and safe condition. Based upon the severity of the problem, corrective maintenance must be performed on an as-needed or emergency basis and include such procedures as structural repairs, removal of debris, sediment and trash removal which threaten discharge capacity, erosion repair, snow and ice removal, fence repair, mosquito extermination, and restoration of vegetated and nonvegetated linings.

(B) General Maintenance Standards for Storm Water Best Management Practices. Maintenance design and maintenance procedures for all structural BMPs shall be in accordance *Rhode Island Stormwater Design and Installation Standards Manual*, as amended; or the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended. Storm Water Management Plans shall demonstrate appropriate maintenance design and procedures for each proposed best management practice.

A maintenance schedule for each type of structural BMP must be included in the Storm Water Management Plan. These schedules shall list the frequency and type of maintenance operations necessary along with the legally responsible party's name, address, and telephone number. If the storm water drainage system is to be deeded to the local municipality the applicant must obtain a letter from the municipality acknowledging maintenance responsibility and intent of ownership.

d. Storm Water Management Plans.

(A) Narrative Description. As part of the Storm Water Management Plan, the applicant shall include a discussion of the protection of environmental resource functions and values. The following outline is provided as guidance for preparing a narrative description for the Storm Water Management Plan. Depending on the size and scope of the proposed project, the amount of information required by the

Proposed Zoning Code Amendment For Erosion Control

permitting agency may vary, therefore, it is advised to consult the appropriate permitting agency for specific requirements.

(1) Site description – general topography, soil types, current vegetative composition and relative abundance, existing infrastructure, and/or adjacent properties, identification of major resources (e.g., wetlands, groundwater, surface waters, etc.), name of receiving water(s), potential water quality and/or hydrologic impacts on resources.

(2) Site input data – watershed characteristics, area of all impervious surfaces, total area of site, annual mean rainfall, runoff coefficients, curve numbers for various land uses, peak discharge rates.

(3) Land use planning and source control plan.

(4) Best Management Practices – identify the type of BMP(s) employed both during and post construction and justification for selection, including any deviation from the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended, and the potential effect on pollutant removal efficiency.

(5) Technical feasibility – of BMPs including sizing, location, hydraulic and environmental impacts. Alternatives, which were considered but determined not to be feasible, should also be discussed.

(6) Maintenance schedule – of BMPs to be used, both during and post construction including frequency of inspection and maintenance.

(B) Calculations. The following information must also be included with the application, where applicable.

(1) The area of each subwatershed as identified on final site plans.

(2) The area of impervious surfaces (including all roads, driveways, rooftops, sidewalks, etc.) for each subwatershed as identified in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

(3) Weighted curve numbers, (CN) as determined by the SCS TR-55 method, for each subwatershed as identified in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

(4) Invert elevations for all applicable structural BMPs. In addition, the elevations for permanent and/or flood pool stages, including peak discharge rates for each stage, within all stormwater basins are required.

(5) The total volume capacity for structural BMPs (e.g., infiltration basin, detention basins, wet ponds, etc.). Volumes must be segregated into permanent and flood pool stage volumes where applicable. Furthermore, the volumes of all sediment storage (basins, forebays, etc.) areas must also be shown.

(6) The water quality volume must also be calculated for each subwatershed. All relevant variables such as curve numbers and time of concentration, along with the supporting computations and worksheets must be included.

Proposed Zoning Code Amendment For Erosion Control

e. Maintenance Agreements

Maintenance agreements shall provide written, contractual documentation, which demonstrates compliance with this ordinance and legal arrangements for the upkeep of the structural BMPs assure their functionality and safety in accordance with this ordinance.

Maintenance agreements, which describe all maintenance schedules and requirements, must be developed for each structural BMP unless the facility is dedicated to and accepted by the City of Newport.

(A) Recognition of Municipal Inspection Requirements. Maintenance agreements shall include a reasonable and regular schedule for the City of Newport to conduct on-site inspection of the functionality and safety of the structural BMPs. Inspection schedules shall be based on the complexity and frequency of maintenance needs and shall be subject to the approval of City of Newport. At a minimum, maintenance frequency should be in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

(B) Record Keeping for Maintenance Activities. Maintenance agreements shall include provisions for maintenance record keeping. All activities conducted in accordance with a maintenance agreement must be recorded in a work order and inspection log. Timely updates of the log shall be the responsibility of the structural BMP's owner or other responsible party pursuant to this ordinance. Review of the maintenance and inspection log shall be completed by the City of Newport to determine the effectiveness of operation, maintenance and safety activities. Reviews shall occur as part of each on-site inspection. Additional reviews may be made as deemed appropriate by the City of Newport.

(C) Responsibility for Maintenance to Assure Functionality and Safety. Appropriate maintenance to assure functionality and safety of the structural BMPs shall be the responsibility the property owner or may be assumed by another party via a written contractual arrangement in accordance with this ordinance. If the City must perform corrective maintenance or make emergency repairs to any structural BMP, the City may collect liquidated damages from the property owner.

(D) Alterations to Maintenance Agreements. Any alterations in maintenance responsibility or alterations to maintenance agreements must be reviewed and approved by the Building Official. If portions of the land serviced by a structural BMP are to be sold, written contractual arrangements shall be made to pass all responsibility of the maintenance agreement to the purchaser and shall be subject to review and approval of the Building Official. All alterations to maintenance agreements shall be recorded in accordance with this ordinance.

(E) Recordation of Maintenance Agreements. All maintenance agreements and alterations to maintenance agreements shall be recorded in the land evidence records of the City of Newport. Copies of all maintenance agreements and alterations to maintenance agreements shall be included in Storm Water Management Plans. Recordation of maintenance agreements in accordance with this ordinance shall be the responsibility of the owner.

Section IV - Administration

A. The Administrative Officer

2. The administrative officers responsibilities shall include:

e. transmitting all applications to the Planning Board, Engineering Division, and any other city officials as is necessary for proper review;

Proposed Zoning Code Amendment For Erosion Control

4. Delete all references to, "One Hundred Dollars (\$100) for each offense, such fine to inure to the City." And replace with,
" ... pursuant to 2.48.130 of the Code of Ordinances of the City of Newport and to assert a lien on the subject property in an amount equal to the costs of remedial actions."

4. Add the following language:

(A) Notification of Violation. Whenever there is a failure to comply with the provisions of these regulations, the City of Newport shall have the right to notify the applicant/owner that he or she has five (5) calendar days from the receipt of the notice to temporarily correct the violations and thirty (30) calendar days from receipt of notice to permanently correct the violations.

In the event that a structural BMP becomes a danger to public safety or public health, or in need of maintenance or has not been maintained in accordance with the Maintenance Agreement, the City of Newport shall so notify the responsible person in writing by certified mail. Upon receipt of that notice, the responsible person shall have fourteen (14) calendar days to complete maintenance and repair of the structural BMP in a manner that is approved by the municipality. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may immediately proceed to do so and enforce penalties and/or liens as described herein.

(B) Penalties and Liens. Should the applicant/owner fail to take the corrective actions, the City of Newport shall then have the right to take the available appropriate remedies it deems necessary to correct the violations including fining the owner pursuant to 2.48.130 of the Code of Ordinances of the City of Newport and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The lien shall be enforced in the manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded in the land evidence records of the City of Newport, and shall incur legal interest from the date of recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this ordinance, including assessment of a lien on the property.

Whenever a structural BMP is not implemented, operated, and/or maintained in accordance with the Stormwater Management Plan which has been approved in accordance with this ordinance. Any penalty invoked shall be in accordance with 2.48.130 of the Code of Ordinances of the City of Newport.

Proposed Subdivision Post Construction Storm Water Control Regulations

17.96.030 Performance Standards-Erosion Control

In order to minimize adverse impacts resulting from soil erosion created by land disturbance activities, any major or minor subdivision, land development project, or other development occurring within the City of Newport involving an area, or areas, of disturbance totaling 10,000 sq ft or more must obtain approval of a Storm Water Management Plan prior to development.

Development Standards

17.100.400 - Erosion Control

17.100.410 Applicability.

(A) This ordinance shall apply to any major or minor subdivision, land development project, or other development occurring within the City of Newport involving an area or areas of disturbance which total 10,000 square feet or more. No person shall engage in such development activities without receiving approval of a Stormwater Management Plan for the development.

(B) Compatibility with other ordinance requirements. Permits and approvals issued pursuant to this ordinance shall not relieve the applicant of the responsibility to comply with or to secure other required permits or approvals for activities regulated by any other applicable code, rule, act, statute or ordinance. This ordinance shall not preclude the inclusion in such other permit of more stringent requirements concerning regulation of stormwater and erosion. Where a conflict exists between a provision within this ordinance and that of the RIDEM (Rhode Island Department of Environmental Management) Phase II NPDES regulations, as amended, the RIDEM requirements shall govern.

17.100.420 Administration.

The Public Works Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Public Works Director may be delegated by the Director of Public Works to persons or entities acting in the interest of or in the employ of the City of Newport. Such person, or entity, will be considered the Agent of the Public Works Director.

17.100.430 Technical Standards.

All applicants must develop and submit a proposed Storm Water Management Plan which must address storm water management for the development which meets all the requirements of this ordinance. All such storm water management shall be consistent with the *Rhode Island Stormwater Design and Installation Standards Manual* and the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended. The stormwater management plan must include a description of proposed best management practices (BMPs), detailed site plans, and a written narrative, that when implemented, provides protection of receiving waters by reducing pollutant loadings and other negative impacts associated with changes in land use as described below.

(A) Performance Standards. Storm Water Management Plans must incorporate best management practices for water quality control, which in combination are demonstrated to reduce the average annual total suspended solids in post development runoff by eighty percent (80%). Development in drinking water supply watersheds or watersheds where impaired waters as defined by the State's 303(d) list exist may be held to higher standards.

(B) Disallowed Storm Water Best Management Practices. The placement of structural BMPs and other storm water structures within a floodplain shall be avoided. If there is no alternative, the applicant must show what effects, if any, the tail waters created by the floodplain will have on the outflow and effective storage capacity of the detention facility.

Proposed Subdivision Post Construction Storm Water Control Regulations

(C) Facilitation of Maintenance. Facilities that require maintenance shall be designed to minimize the need for regular maintenance, facilitate required maintenance, and ensure accessibility of components that require maintenance. At a minimum, all Storm Water Management Plans must incorporate structural BMPs with appropriate maintenance design in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended; or the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended.

17.100.440 Maintenance Requirements for Best Management Practices.

(A) Routine Maintenance and Repair Procedures. Preventative maintenance procedures are required to maintain the intended operation and safe condition of the structural BMPs by greatly reducing the occurrence of problems and malfunctions. To be effective, preventative maintenance shall be performed on a regular basis and include such routine procedures as training of staff, periodic inspections, grass cutting elimination of mosquito breeding habitats, and pond maintenance. Disposal of sediment and debris must occur on a regular basis (unless otherwise specified within an approved plan), at suitable disposal sites or recycling sites and comply with applicable local, state and federal regulations.

Corrective maintenance procedures are required to correct a problem or malfunction at a storm water management facility and to restore the facility's intended operation and safe condition. Based upon the severity of the problem, corrective maintenance must be performed on an as-needed or emergency basis and include such procedures as structural repairs, removal of debris, sediment and trash removal which threaten discharge capacity, erosion repair, snow and ice removal, fence repair, mosquito extermination, and restoration of vegetated and nonvegetated linings.

(B) General Maintenance Standards for Storm Water Best Management Practices.

Maintenance design and maintenance procedures for all structural BMPs shall be in accordance *Rhode Island Stormwater Design and Installation Standards Manual*, as amended; or the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended. Storm Water Management Plans shall demonstrate appropriate maintenance design and procedures for each proposed best management practice.

A maintenance schedule for each type of structural BMP must be included in the Storm Water Management Plan. These schedules shall list the frequency and type of maintenance operations necessary along with the legally responsible party's name, address, and telephone number. If the storm water drainage system is to be deeded to the local municipality the applicant must obtain a letter from the municipality acknowledging maintenance responsibility and intent of ownership.

17.100.450 Storm Water Management Plans.

(A) Narrative Description. As part of the Storm Water Management Plan, the applicant shall include a discussion of the protection of environmental resource functions and values. The following outline is provided as guidance for preparing a narrative description for the Storm Water Management Plan. Depending on the size and scope of the proposed project, the amount of information required by the permitting agency may vary, therefore, it is advised to consult the appropriate permitting agency for specific requirements.

(1) Site description – general topography, soil types, current vegetative composition and relative abundance, existing infrastructure, and/or adjacent properties, identification of major resources (e.g., wetlands, groundwater, surface waters, etc.), name of receiving water(s), potential water quality and/or hydrologic impacts on resources.

Proposed Subdivision Post Construction Storm Water Control Regulations

(2) Site input data – watershed characteristics, area of all impervious surfaces, total area of site, annual mean rainfall, runoff coefficients, curve numbers for various land uses, peak discharge rates.

(3) Land use planning and source control plan.

(4) Best Management Practices – identify the type of BMP(s) employed both during and post construction and justification for selection, including any deviation from the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended, and the potential effect on pollutant removal efficiency.

(5) Technical feasibility – of BMPs including sizing, location, hydraulic and environmental impacts. Alternatives, which were considered but determined not to be feasible, should also be discussed.

(6) Maintenance schedule – of BMPs to be used, both during and post construction including frequency of inspection and maintenance.

(B) Calculations. The following information must also be included with the application, where applicable.

(1) The area of each subwatershed as identified on final site plans.

(2) The area of impervious surfaces (including all roads, driveways, rooftops, sidewalks, etc.) for each subwatershed as identified in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

(3) Weighted curve numbers, (CN) as determined by the SCS TR-55 method, for each subwatershed as identified in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

(4) Invert elevations for all applicable structural BMPs. In addition, the elevations for permanent and/or flood pool stages, including peak discharge rates for each stage, within all stormwater basins are required.

(5) The total volume capacity for structural BMPs (e.g., infiltration basin, detention basins, wet ponds, etc.). Volumes must be segregated into permanent and flood pool stage volumes where applicable. Furthermore, the volumes of all sediment storage (basins, forebays, etc.) areas must also be shown.

(6) The water quality volume must also be calculated for each subwatershed. All relevant variables such as curve numbers and time of concentration, along with the supporting computations and worksheets must be included.

17.100.460 Maintenance Agreements.

Maintenance agreements shall provide written, contractual documentation, which demonstrates compliance with this ordinance and legal arrangements for the upkeep of the structural BMPs assure their functionality and safety in accordance with this ordinance.

Proposed Subdivision Post Construction Storm Water Control Regulations

Maintenance agreements, which describe all maintenance schedules and requirements, must be developed for each structural BMP unless the facility is dedicated to and accepted by the City of Newport.

(A) Recognition of Municipal Inspection Requirements. Maintenance agreements shall include a reasonable and regular schedule for the City of Newport to conduct on-site inspection of the functionality and safety of the structural BMPs. Inspection schedules shall be based on the complexity and frequency of maintenance needs and shall be subject to the approval of City of Newport. At a minimum, maintenance frequency should be in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

(B) Record Keeping for Maintenance Activities. Maintenance agreements shall include provisions for maintenance record keeping. All activities conducted in accordance with a maintenance agreement must be recorded in a work order and inspection log. Timely updates of the log shall be the responsibility of the structural BMP's owner or other responsible party pursuant to this ordinance. Review of the maintenance and inspection log shall be completed by the City of Newport to determine the effectiveness of operation, maintenance and safety activities. Reviews shall occur as part of each on-site inspection. Additional reviews may be made as deemed appropriate by the City of Newport.

(C) Responsibility for Maintenance to Assure Functionality and Safety. Appropriate maintenance to assure functionality and safety of the structural BMPs shall be the responsibility the property owner or may be assumed by another party via a written contractual arrangement in accordance with this ordinance. If the City must perform corrective maintenance or make emergency repairs to any structural BMP, the City may collect liquidated damages from the property owner.

(D) Alterations to Maintenance Agreements. Any alterations in maintenance responsibility or alterations to maintenance agreements must be reviewed and approved by the Building Official. If portions of the land serviced by a structural BMP are to be sold, written contractual arrangements shall be made to pass all responsibility of the maintenance agreement to the purchaser and shall be subject to review and approval of the Building Official. All alterations to maintenance agreements shall be recorded in accordance with this ordinance.

(E) Recordation of Maintenance Agreements. All maintenance agreements and alterations to maintenance agreements shall be recorded in the land evidence records of the City of Newport. Copies of all maintenance agreements and alterations to maintenance agreements shall be included in Storm Water Management Plans. Recordation of maintenance agreements in accordance with this ordinance shall be the responsibility of the owner.

17.100.470 Application Fees.

The City shall collect a fee of fifty (50) dollars from applicants requesting approval of a soil erosion and sediment control plan for the purposes of administering this ordinance. For projects where there is a land disturbance greater than 10,000 square feet, the applicant shall pay an additional fifty (50) dollars for each additional 10,000 square feet of impacted land area. General Fee Schedule 2.120.010

17.100.480 Enforcement.

(A) Notification of Violation. Whenever there is a failure to comply with the provisions of this ordinance, the City of Newport shall have the right to notify the applicant/owner that he or she has five (5) calendar days from the receipt of the notice to temporarily correct the violations and thirty (30) calendar days from receipt of notice to permanently correct the violations.

Proposed Subdivision Post Construction Storm Water Control Regulations

In the event that a structural BMP becomes a danger to public safety or public health, or in need of maintenance or has not been maintained in accordance with the Maintenance Agreement, the City of Newport shall so notify the responsible person in writing by certified mail. Upon receipt of that notice, the responsible person shall have fourteen (14) calendar days to complete maintenance and repair of the structural BMP in a manner that is approved by the municipality. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may immediately proceed to do so and enforce penalties and/or liens as described herein.

(B) Penalties and Liens. Should the applicant/owner fail to take the corrective actions, the City of Newport shall then have the right to take the available appropriate remedies it deems necessary to correct the violations including fining the owner pursuant to 2.48.130 of the Code of Ordinances of the City of Newport and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The lien shall be enforced in the manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded in the land evidence records of the City of Newport, and shall incur legal interest from the date of recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this ordinance, including assessment of a lien on the property.

Whenever a structural BMP is not implemented, operated, and/or maintained in accordance with the Stormwater Management Plan which has been approved in accordance with this ordinance. Any penalty invoked shall be in accordance with 2.48.130 of the Code of Ordinances of the City of Newport.