

**CHAPTER 153: STORMWATER ORDINANCE**  
**Adopted 2/21/06**

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## GENERAL PROVISIONS

### §153.01- PURPOSE.

The purpose of this Ordinance is to protect, maintain and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land, control stream channel erosion, reduce local flooding, minimize adverse water quality impacts and maintain after development, as nearly as possible, pre-development runoff characteristics. This ordinance requires stormwater management controls that are consistent with the State of Rhode Island Stormwater Design and Installation Manual (as amended), and is intended to minimize water quality impacts and maintain pre-development runoff conditions.

### §153.02- APPLICABILITY.

This ordinance shall apply to all development occurring within the Town of Middletown. No person shall develop any land for residential, commercial, industrial, or institutional uses without having provided stormwater management measures that control or manage runoff from such developments and received approval from the Town of Middletown, unless specifically exempted by section §153.03 of this Ordinance.

### §153.03- EXEMPTIONS.

The following development activities are exempt from the provisions of this Ordinance and the requirements of providing stormwater management:

- A. Agricultural land management activities carried out in accordance with a conservation management plan that has been approved by the Natural Resources Conservation Service.
- B. Additions or modification to existing single-family residential structures if they comply with C of this section.
- C. Grading, as a maintenance measure or for landscaping, on contiguous area of developed land, parcels and lots, which in aggregate do not exceed five thousand (5,000) square feet.

### §153.04- VARIANCE.

A variance from any requirement of Section 153.23 (Stormwater Management Criteria) of this Ordinance may be granted if there are exceptional circumstances applicable to the site. Requirements of this ordinance may be varied:

- (A) When strict implementation of the requirements create an unnecessary hardship or are not feasible.

- (B) To allow use of an innovative management practice where strict adherence to existing criteria would be costly or of negligible environmental benefit.

**§153.05- COMPATIBILITY WITH OTHER REQUIREMENTS.**

This ordinance shall not obviate or supercede any other federal, state or local ordinances, regulations or statutes. The provisions of this ordinance shall be held to be minimum requirements for the promotion of public health, safety and general welfare. If a provision of this ordinance imposes a standard different from any related ordinance, regulation or statute, the provision that imposes the more protective standard shall be observed.

**§153.06- SEVERABILITY.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

**§153.07- DEFINITIONS.**

The following definitions apply to this ordinance

***Agricultural Development.*** Land uses normally associated with the production of food, fiber and livestock for sale. For purposes of this ordinance, such uses shall not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

***Applicant.*** A property owner or agent of a property owner who has filed an application for a stormwater management permit.

***Best Management Practice (BMP).*** A structural device or a nonstructural practice for pollution management, which is deemed to provide the best available treatment or control of a pollution source such as stormwater.

***Design Manual.*** The State of Rhode Island Stormwater Design and Installation Standards Manual, as amended, which serves as the official guide for stormwater management principles, methods, and practices.

***Detention Basin.*** An embankment and associated space for impoundment of water or, alternatively, the space for impoundment partially or entirely created by excavation rather than by embankment, in either case designed to temporarily retain stormwater runoff.

***Development.*** The construction, reconstruction, conversion, structural alteration,

relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use, of land.

***Infiltration Basin.*** A detention facility, which is not an injection well, which is designed to gradually filter and pass retained water to the subsurface.

***Nonpoint Source Pollution.*** Pollution from any source that is not discernible, confined and discrete. Potential sources of nonpoint pollution include, but are not limited to, stormwater runoff, agriculture, silviculture, mining, construction, septic systems and urban development.

***Recharge.*** The replenishment of underground water reserves.

***Stormwater Runoff.*** Flow on the surface of the ground, resulting from precipitation.

***Wet Basin.*** A detention basin designed to retain some water on a permanent basis.

***Wetland.*** An area, as defined by the Rhode Island General Laws RIGL 2-1-14 (Coastal Wetland) and RIGL 2-1-20 (Freshwater Wetland) and as determined by the Department of Environmental Management or the Coastal Resources Management Council, which is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support--and under normal circumstances does support--a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**PERMIT PROCEDURES**

**§153.11- PERMIT REQUIREMENT.**

In accordance with Section §153.02 of this ordinance, all persons must have an approved Stormwater Management Plan prior to engaging in any land development activities, unless exempted by Section §153.03 of this ordinance. To obtain approval applicants must demonstrate compliance with all policy, standards and requirements of this ordinance to the satisfaction Town Engineer. Applicants may demonstrate compliance via submission of materials and documentation in accordance with this section. No building permit shall be issued unless and until:

- A. A Stormwater Management Plan has been approved, or
- B. The development is exempted by section §153.03 of this ordinance.

**§153.12- APPLICATION REQUIREMENT.**

Unless otherwise excepted by this ordinance, a permit application must include the following, prepared to meet the requirements of this Ordinance, in order that the permit application be considered:

- A. Stormwater Management Plan (§153.31)
- B. Maintenance agreement (§153.42)
- C. Application Fee (§153.13)

**§153.13- APPLICATION FEE.**

A non-refundable application fee will be collected at the time the stormwater management plan or application for variance is submitted. The permit fee will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all Storm water BMPs required by this Ordinance. An application fee schedule shall be established by the Town Council; fees shall be based upon the relative complexity of the project and may be amended from time to time.

<b>(A) Site Plan Reviews.</b>	
<b>(1) Single-Family/Duplex Subdivisions.</b>	
<b>No. of Lots</b>	<b>Fee</b>
1 lot	\$ 100
2 - 4 lots	150
5 - 9 lots	300
10 - 15 lots	400
16 - 25 lots	550
26 - 50 lots	700
51 - 100 lots	950
100 plus lots: \$ 950.00, plus \$40 per lot for each lot over 100.	

(2) Site plans: Multi-Family, Commercial, Industrial, Parking lots, Pipelines, Utilities, Land grading, Quarrying, Mining, Landfills, Demolition, and the like.

<b>Lot Size</b>	<b>Fee</b>
Up to 30,000 sq. ft.	\$ 150
30,000 sq. ft - 1.5 acres	200
2 acres - 5 acres	300
6 acres - 10 acres	425
11 acres - 20 acres	550
21 acres - 50 acres	700
51 acres - 75 acres	950
76 plus acres: \$ 950, plus \$40 per acre for each acre over 75.	

(B) *Site Inspections.*  
 (1) Single Family/Duplex Subdivisions.

<b>No. of Lots</b>	<b>Fee</b>
1 lot	\$ 50
2 - 4 lots	100
5 - 9 lots	150
10 - 15 lots	175
16 - 25 lots	200
16 - 50 lots	275
51 - 100 lots	400
100 plus lots	500

(2) Site Plans: (same as (A)(2) of this section).

<b>Lot Size</b>	<b>Fee</b>
Up to 30,000 sq. ft	\$ 75
30,000 sq. ft.-1.5 acres	100
2 acres - 5 acres	125
6 acres – 10 acres	175
11 acres - 20 acres	250
21 acres - 50 acres	350
51 acres - 75 acres	400
76 plus acres	500

**§153.14- APPLICATION PROCEDURE.**

Procedures for processing of submittals shall be as follows:

A. Submittals for approval shall be provided for review, processing and approval. The number of copies provided shall be as follows:

<b><u>Type of Project</u></b>	<b><u>Number of Copies Required</u></b>
Minor Subdivision or Land Development	5 copies
Major Subdivision or Land Development	6 copies
Development Plan Review	10 copies

Building Permit only

5 copies

- B. All applicants shall provide an application fee as part of the submittal. Application fees shall be charged in accordance with §153.13 of this ordinance.
- C. The time allowed for plan review shall be commensurate with the proposed development project, and shall be accomplished simultaneously with other reviews. Written comments shall be provided to the applicant regarding the completeness of the submittal and requesting further information as necessary.
- D. If the Town Engineer determines the submittal to be in compliance with the requirements of this ordinance, a permit may be issued. If the Town Engineer determines the submittal does not fully conform to the requirements of this ordinance a written denial shall be issued with an explanation for the denial.
- E. Any applicant who believes that a submission for approval has been denied without sufficient cause and that the submittal fully conforms to this ordinance may petition in writing. If the applicant is again denied, the denial may be appealed to the Zoning Board, whose decision shall be final.

## STORMWATER MANAGEMENT DESIGN CRITERIA

### §153.21- MINIMUM CONTROL MEASURES.

- A. All stormwater management practices shall be designed to provide protection of life and property from flooding and flood flows. The following standards shall be incorporated into the proposed project:
  - (1) Post-development peak discharge rates from the 2, 10, and 25-year frequency (Type III) storm shall be maintained at or below pre-development rates.
  - (2) Downstream analysis of the 100-year frequency storm and control of the peak flow for the 100-year storm to mitigate significant downstream impacts.
  - (3) Discharge from any stormwater facility must be conveyed through properly constructed watercourses to provide for nonerosive flows during all storm events. The proposed stormwater conveyance system consisting of open channels, pipes and other conveyance devices shall at a minimum accommodate the runoff from a 25-year storm event and shall not increase downstream or off-site flooding, draining, soil, erosion or other runoff related problems to public or private land, facilities, or water resources.
- B. Stormwater management plans shall incorporate best management practices for water quality control as described in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended, 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 may be held to higher standards. The water quality design volume shall be defined as one inch (1”) of runoff

over all impervious surfaces or 0.4 inches of runoff over pervious areas.

C. Stormwater Management Plans shall meet the following standards:

- (1) Each lot will be adequately drained,
- (2) Natural drainage patterns will be maintained whenever possible.
- (3) All existing watercourses will be left open, unless approval to enclose is granted.
- (4) All new open watercourses will be seeded, sodded, or protected with stone rip rap depending on grades and soil types.
- (5) A drainage system designed to accommodate flows resulting from up to a 25-year frequency storm will be installed and connected to a defined and approved watercourse.
- (6) All necessary easements to off-site watercourses will be obtained by the applicant, and granted to the Town Of Middletown. Easements shall guarantee access to the Town Of Middletown to or along any proposed storm water drainage facility or watercourse and shall guarantee the right to construct, maintain or alter any such facility.

#### **§153.22- STORMWATER MANAGEMENT MEASURES.**

The structural and nonstructural stormwater management measures established in this Ordinance shall be used, either alone or in combination, in developing a stormwater management plan.

- A. Structural stormwater management practices shall be designed according to the RI Design Manual to satisfy the applicable minimum control requirements established in Section §153.21 of this Ordinance.
  - (1) Appropriate structural practices include, but are not limited to:
    - (a) Detention, retention and extended detention ponds;
    - (b) Infiltration systems;
    - (c) Filtering systems.
  - (2) The performance criteria specified in the RI Design manual with regard to site suitability, pretreatment, geometry, and maintenance shall be considered when selecting structural stormwater management practices.
  - (3) Structural stormwater management practices shall be selected to accommodate the unique hydrologic conditions of the project site.



- B. Nonstructural stormwater management practices shall be applied to minimize increases in new development runoff or reduce runoff in redevelopment projects.
- (1) Appropriate non-structural practices include:
    - (a) Natural area conservation;
    - (b) Disconnection of rooftop runoff;
    - (c) Sheet flow to buffers;
    - (d) Grass channels; and
    - (e) Environmentally sensitive development.
  - (2) The use of nonstructural stormwater management practices shall be encouraged to minimize the reliance on structural BMPs.
  - (3) The minimum control requirements listed in Section §153.21 of this Ordinance may be satisfied when nonstructural stormwater management practices are incorporated into site designs in accordance with the RI Design Manual.
  - (4) The use of nonstructural stormwater management practices may not conflict with existing State or local laws, ordinances, regulations, or policies.
  - (5) Nonstructural stormwater management practices used to satisfy the minimum control requirements must be recorded and remain unaltered by subsequent property owners. Prior approval shall be obtained before nonstructural stormwater practices are altered.

#### **§153.23- SPECIFIC DESIGN CRITERIA.**

The basic design criteria, methodologies, and construction specifications, subject to the approval of the Town Engineer shall be those of the RI Design Manual. Additional guidance may be provided in the “Middletown Development Guidelines”, as amended.

#### **§153.24- MAINTENANCE REQUIREMENTS.**

Maintenance design and maintenance procedures for all stormwater best management practices shall be 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. Stormwater management plans shall demonstrate appropriate maintenance design and procedures for each proposed best management practice.

- A. A maintenance schedule for each type of BMP must be included in the application package and on the final site plans. These schedules shall list the frequency and type of maintenance operations necessary along with the legally responsible part’s name, address, and telephone number.
- B. Stormwater management facilities must be designed to operate with minimal 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.

- C. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.
- D. A maintenance agreement must be developed for all privately owned stormwater practices as established in §153.42 of this ordinance.

**§153.25- PROTECTION OF FUNCTIONS AND VALUES.**

- A. Stormwater management plans shall address protection of areas that provide wildlife habitat benefits.
- B. Stormwater management plans shall address protection of areas that provide recreational, cultural or aesthetic values.
- C. Stormwater management plans shall demonstrate that during development and post-development, all receiving waters will be recharged in a manner closely resembling predevelopment conditions and that the developed site will retain hydrological conditions that closely resemble those prior to disturbance.
- D. Stormwater management plans shall be designed to minimize negative impacts to water quality in receiving waters.

**§153.26- SOIL EROSION AND SEDIMENT CONTROL.**

Stormwater management plans shall demonstrate soil erosion and sediment control in accordance with the Town of Middletown Construction Site Runoff Control Ordinance and the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended.

**§153.27- SAFETY.**

Safety measures are to be incorporated in the design of all stormwater and infiltration control projects. These may include but are not limited to fencing, warning signs/stadia rod indicating depth at the deepest point, outlet structures designed to limit public access, and aquatic benches in basins containing permanent or standing water levels.

- A. Detention/Retention ponds capable of holding water to a depth of twenty-four inches (24") for a period of twenty-four (24) hours shall be enclosed by a five foot (5') high fence.
- B. Other detention/retention ponds may be required to be fenced if reasonably necessary for safety.

## STORMWATER MANAGEMENT PLAN

**§153.31- CONTENTS OF THE STORMWATER MANAGEMENT PLAN**

The applicant is responsible for submitting a stormwater management plan that meets the design requirements of this Ordinance. The plan shall be accompanied by a report that includes sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The developer or builder shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The stormwater management plan shall include the following information:

- A. Narrative Description
- B. A narrative description which includes the following information: a brief description of the proposed project; potential water quality and/or hydrologic impacts of the proposed project on surface and/or groundwater resources, existing infrastructure, and/or adjacent properties, and proposed measures or practices to mitigate potential impacts. All affected wetlands, surface water and groundwater resources, and any significant site constraints affecting the selection of stormwater management practices must be identified. The narrative shall include a discussion of protection of environmental resource functions and values, BMPs employed both during construction and post construction, and a description of construction and post construction maintenance of BMPs. Site Plans

Site Plans shall include existing and proposed contours, watershed patterns, wetlands, limits of clearing and grading, location of best management practices for erosion and sediment control and stormwater management, existing and proposed improvements, and easements and rights-of-way.

- C. Construction Drawings

Construction drawings submitted for stormwater management plan approval shall include the following structural and construction details for all components of the proposed drainage system or systems, and stormwater management facilities, all necessary construction specifications, erosion and sediment control measures to be implemented in all construction phases along with final site stabilization plans, limits of clearing and overall site disturbance, data for total site area, disturbed area, new impervious area, and total impervious area, table of materials to be used for stormwater management facility planting, location and results of soil testholes, certification by the owner/developer that all stormwater management construction will be done according to this plan, and an as-built certification signature block to be executed after project completion.

#### D. Calculations

Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the 2, 10, 25, and 100-year frequency, 24-hour duration, type III distribution storm, storm events. These calculations shall use the methodology contained in the report entitled *Urban Hydrology for Small Watersheds, technical Release No. 55* (Second Edition) USDA, Soil Conservation Service, 1986, and any subsequent amendments thereto. Where the use of the above report is not practical for reasons based on accepted engineering practice, the use of alternate methodologies for calculating storm water discharge may be permitted. Provided, however that such alternate methodologies shall not result in an increase in the rate of rain runoff during or after construction. Watershed maps must be provided depicting pre and post-development sub-catchments; within each sub-catchment, the following information must be shown: areas, soil types, cover types and time of concentration flow. The calculations shall also include Soil Curve Numbers or runoff coefficients, peak runoff rates for each watershed area, infiltration rates, where applicable, culvert capacities, flow velocities, documentation of sources for all computation methods and field test results.

#### E. Soils Information

If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or testhole data. The number and location of required soil borings or testholes should be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

#### F. Maintenance Plan

The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. The maintenance plan shall comply with the requirements of §153.24 of this Ordinance.

**§153.32- PREPARATION OF THE STORMWATER MANAGEMENT PLAN.**

The stormwater management plans shall be prepared and stamped by a registered professional engineer.

**MAINTENANCE****§153.41- MAINTENANCE INSPECTION.**

- A. Maintenance agreements shall include a reasonable and regular schedule for the Town Engineer, to conduct on-site inspection of the functionality and safety of stormwater management facilities. Inspection schedules shall be based on the complexity and frequency of maintenance needs and shall be subject to the approval of the Town Engineer.
- B. Maintenance agreements shall recognize the authority of the town, or designee, to conduct on-site inspections of stormwater management facilities should evidence exist that the facility is not being operated in accordance with the maintenance agreement or this ordinance; or should evidence exist that the facility poses an eminent threat to public health, welfare, or safety.
- C. Maintenance agreements shall include provisions for maintenance and 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 stormwater management facility owner. Review of the maintenance and inspection log shall be completed by the Town Engineer, or designee, 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 Town Engineer.
- D. Inspection reports for stormwater management systems shall include the following:
  - (1) The date of inspection;
  - (2) Name of inspector;
  - (3) The condition of:
    - (a) Vegetation or filter media;
    - (b) Fences or other safety devices;
    - (c) Spillways, valves, or other control structures;
    - (d) Embankments, slopes, and safety benches;
    - (e) Reservoir or treatment areas;
    - (f) Inlet and outlet channels or structures;
    - (g) Underground drainage;
    - (h) Sediment and debris accumulation in storage and forebay areas;
    - (i) Any nonstructural practices to the extent practicable; and

- (j) Any other item that could affect the proper function of the stormwater management system.
- (4) Description of needed maintenance

#### **§153.42- MAINTENANCE AGREEMENT.**

Maintenance agreements shall provide written, contractual documentation, which demonstrates compliance with this section and legal arrangements for the upkeep of stormwater facilities to assure their functionality and safety in accordance with this Ordinance. Maintenance agreements, which describe all maintenance schedules and requirements, must be developed for each stormwater management facility unless the facility is dedicated to and accepted by the town. Maintenance agreements may be tracked by the Town to ensure that stormwater management facilities are maintained in accordance with the recorded agreement.

- A. Prior to the issuance of any building permit for which stormwater management is required, the applicant or owner shall execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town Engineer or authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- B. The agreement shall be recorded by the applicant and/or owner in the land records of the Town of Middletown.
- C. It shall be the responsibility of the stormwater management facility owner to inform the Town Engineer, or designee, when maintenance has been accomplished in accordance with the agreement. If notification that required maintenance has not been performed is not received as scheduled the Town Engineer or designee shall, within fourteen (14) days, notify the stormwater management facility owner that maintenance is required and may use any provision established in the Enforcement sections of this ordinance to ensure said maintenance is accomplished.
- D. The agreement shall also provide that, if after notice to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time, the Town shall then have 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 as specified in §153.62.

#### **§153.43- MAINTENANCE RESPONSIBILITY**

- A. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control

measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

- B. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

## SURETY

### §153.24 – Surety

The Town shall specify the required security, which shall provide for and secure to the Town Of Middletown the actual construction and installation costs of the improvements shown upon the Stormwater Management Plan. The form of security shall be reviewed by the Finance Director and Town Solicitor and shall be rejected if the Finance Director and/or Town Solicitor disapproves of the content, format or wording of any security submitted to satisfy the intent and requirements of this ordinance. The required security shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Ordinance, and other applicable laws and regulations, and any time limitations. All construction shall be inspected and approved under the direction of the Town Engineer, Public Works Director, and the Town Planner.

### **§153.51- VALUE.**

The application shall submit to the Town Engineer the written estimate of the cost of construction of stormwater facilities. Such estimate shall be reviewed by the Town Engineer who shall set an amount estimated to be sufficient to cover the cost of improvements. The amount of surety required shall equal 125% of the estimate.

### **§153.52- REVIEW AND APPROVAL.**

The acceptance of the performance bond and letter of credit for the purposes of this Ordinance shall be subject to approval of the form, content, amount and manner of execution by the Town.

### **§153.53- POSTING WITH THE SUBDIVISION BOND.**

The amount of a performance bond for the stormwater management plan may be included with the performance bond of a subdivision provided that the performance bond receives full review and approval in accordance with §153.52 of this Ordinance. The posting of such bond as part of the subdivision bond does not, however, relieve the owner of any requirements of this ordinance.

**§153.54- RELEASE.**

The installation performance bond shall be released in full only upon submission of “as built plans” and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Town Engineer will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance.

**ENFORCEMENT**

**§153.29 – Enforcement**

The town shall have the authority and discretion to invoke penalties, whenever a stormwater management facility is not implemented and operated in accordance with its approval and this ordinance. Any penalty invoked shall be in accordance with this section.

**§153.61- REVOCATION OR SUSPENSION OF APPROVAL.**

The approval of stormwater management plans, stormwater management facility construction and stormwater management facility operation, as subject to this Ordinance, may be revoked or suspended, and all work on the project halted for an indefinite time period after written notification is transmitted by the Town for one or more of the following reasons:

- A. Failure to comply with any condition of an approved plan, or specification pertaining thereof.
- B. Violation of any requirement of this ordinance.
- C. 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.

**§153.62- NOTIFICATION OF VIOLATION.**

Whenever there is a failure to comply with the provisions of this ordinance, the town shall have the right to notify the applicant/owner that he or she has five (5) days from the receipt of the 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 corrective actions, the town shall then have 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 in the land evidence records of town 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 revocation of the performance bond or assessment of a lien on the property.

**§153.63- HEARING.**

Any owner or responsible party, receiving a written notice of violation, shall be given an opportunity, within a reasonable time frame, for a hearing before the Town to state their case. If evidence indicates that a violation has not occurred, the Town shall revoke the notice of violation.

**§153.70- EFFECTIVE DATE.**

This ordinance shall take effect upon passage, provided however, that the initial installation of stormwater control measures for developments which have received a preliminary approval by the Planning Board or special use permit by the Zoning Board of Review shall be subject to the ordinances in effect at the time of the issuance of said special use permit or preliminary approval.