

CHAPTER 14
Article IX

Stormwater Management Ordinance

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF WINDSOR:
Chapter 14, Article IX, of the *Windsor Code* is adopted to read as follows:

Sec 1. – Intent and Purpose

Municipalities in the State of Connecticut are required to comply with a number of both State and Federal laws, regulations and permits which require a municipality to address the impacts of construction and post-development stormwater runoff quality and non-point source pollution. Therefore, the Town of Windsor has established this set of stormwater management policies to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and non-point source pollution associated with post-development stormwater runoff.

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize the damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources.

Sec. 2 – Applicability

- (a) This ordinance shall be applicable to all land development, including, but not limited to, site plan applications, site plan modifications, subdivision and re-subdivision applications, inland wetlands & watercourses applications and grading applications, unless exempt pursuant to Subsection (b) below. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:
 1. New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of one (1.0) acre or more;
 2. Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one (1.0) acre or more;
 3. Any new development or redevelopment, regardless of size, that is defined as an “establishment” as defined in C.G.S. 22a-134); or

4. Land development activities that are smaller than the minimum applicability criteria set forth in items (1) and (2) above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(b) The following activities are exempt from this ordinance:

1. Individual single-family lots that are not part of a subdivision or phased development project;
2. Additions or modifications to existing single-family residential structures;
3. Agricultural or silvicultural land management activities; and
4. Repairs to any stormwater management facility or practice deemed necessary by the Town Engineer.

Sec. 3 – Designation of Ordinance Administrator

The Town Engineer is hereby appointed to administer and implement the provisions of this ordinance.

Sec. 4 – Definitions

Definitions not included in this section are defined in the Town's Stormwater Manual.

Owner The legal or beneficial owner of a site, including but not limited to, a mortgage or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Person "Person" means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity and acting as either the owner or the owner's agent.

Town Engineer The Town of Windsor Town Engineer or his designee.

Town Manager The Town of Windsor Town Manager or his designee.

Town Planner The Town of Windsor Town Planner or his designee.

Sec. 5 – Stormwater Design Manual

The Town of Windsor will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Connecticut Guidelines for Stormwater Quality Management, as well as the Town's Stormwater Manual as amended, and the Town's Engineering Standards and Specifications as amended, for the proper implementation of the requirements of this ordinance. These documents may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

Sec. 6 – Stormwater Management Permits

- (a) No owner or developer shall perform any land development activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.
- (b) Unless specifically exempted by this ordinance, any owner or developer proposing a land development activity shall submit an application for a Stormwater Management Permit to the Town Engineer for review and approval.
- (c) Each application for a Stormwater Management Permit shall be accompanied by the following items in order to be considered:
 - 1. Stormwater Management Plan in accordance with Section 8;
 - 2. Inspection and Maintenance Agreement in accordance with Section 9, if applicable;
 - 3. Performance bond in accordance with Section 10, if applicable; and
 - 4. Permit application and plan review fees in accordance with Sections 11 and 12.

Sec. 7 – Stormwater Concept Plan and Consultation Meeting

Before any Stormwater Management Permit application is submitted, it is recommended that the land owner or developer meet with the Town Engineer for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project.

Sec. 8 – Stormwater Management Plan

The Stormwater Management Plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria in Section 15 below.

The Stormwater Management Plan shall be in accordance with the criteria established in applicable design manuals and documents and must be submitted with the stamp and signature of a Professional Engineer licensed in the state of Connecticut.

Sec. 9 – Stormwater Management Inspection and Maintenance Agreements

Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which the Town Engineer requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the Town of Windsor, execute an Inspection and Maintenance Agreement and/or a conservation easement, if applicable, that shall be binding in perpetuity on all subsequent owners of the site. The Inspection and Maintenance Agreement shall identify the person(s) responsible for inspection and maintenance as well as a schedule for routine inspection and maintenance to ensure proper function of all stormwater management facilities and/or practices.

The Inspection and Maintenance Agreement, if applicable, must be approved by the Town Engineer prior to plan approval, and recorded in the Land Records maintained by the Windsor Town Clerk upon final plat approval. Upon recording, the applicant shall obtain a certificate of title to the Town of Windsor from a lawyer licensed to practice in Connecticut certifying that the Inspection and Maintenance Agreement is valid and binding upon the owner and its heirs, successors and assigns as appropriate free of all mortgages or other encumbrances which could defeat its priority on the land records.

In addition to enforcing the terms of the Inspection and Maintenance Agreement, the Town Engineer may also enforce all of the provisions for ongoing inspection and maintenance in Section 17 of this ordinance.

Sec. 10 – Performance and Maintenance Bonds

Unless otherwise required by the Planning Department, Town Planning & Zoning Commission, Building Department, and/or the Inland Wetlands and Watercourses Commission, the applicant will be required to file with the Town, through the Town's Finance Director, a performance bond in an amount as determined and deemed sufficient by the Town Engineer to cover the total estimated construction cost of the stormwater management system for such period as specified by the Town of Windsor, prior to the issuance of any building and/or grading permit for the construction of a development requiring a stormwater management system.

The bond required in this section 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, other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town Engineer, submission of "as-built" plans, a signed maintenance agreement and covenant, and a certification of completion by the Town Engineer that the stormwater management system complies with the approved Stormwater Management Plan and provisions of this ordinance.

The bond shall be a cash bond for which a certified or cashier's check is to be made payable to the Town of Windsor. The applicant shall comply with all necessary procedures to establish the bond as determined by the Finance Director. A W-9 form must be completed by the applicant to accept the bond deposit. Release of the bond will be determined by the Town Engineer, as described above, at which time the Finance Director will issue a check made payable to the applicant for the bond reduction amount in addition to accrued interest.

Sec. 11 – Application Procedure

Applications for Stormwater Management Permits shall be filed with and on forms provided by the Town Engineer and shall include the items set forth in Section 6 above.

Sec. 12 – Application Review Fees

The fee for review of any stormwater management application shall be based on the fee structure established in the Price Guide and shall be paid at the time of application.

Sec. 13 – Review and Approval

- (a) The Town Engineer shall inform the applicant, in writing, whether the application, Stormwater Management Plan and Inspection and Maintenance Agreement are approved or disapproved within 30 days after receiving an application.
- (b) Failure of the Town Engineer to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and Town Engineer. Pending preparation and approval of a revised Plan, development activities shall be allowed to proceed in accordance with conditions established by the Town Engineer.
- (c) Approval of the application, Stormwater Management Plan, and Inspection and Maintenance Agreement must be obtained prior to the issuance of any building permit.

Sec. 14 – Modifications for Off-Site Facilities

The Stormwater Management Plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional facility. The off-site or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices and there must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility. In addition, on-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.

Sec. 15 – Post-Development Stormwater Management Performance Criteria

The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this ordinance:

- (a) Water Quality – All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
 - 1. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Connecticut Guidelines for Stormwater Quality Management;

2. Appropriate structural stormwater controls or non-structural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Connecticut Guidelines for Stormwater Quality Management; and
 3. Runoff from “establishments” (as defined in C.G.S. 22a-134) is adequately treated and addressed through the use of appropriate structural stormwater controls, non-structural practices and pollution prevention practices.
- (b) Stream Channel Protection – Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following approaches:
1. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
 2. 24-hour extended detention storage for the 1-year, 24-hr return frequency storm event; and
 3. Erosion prevention measures such as energy dissipation and velocity control.
- (c) Overbank Flooding Protection – Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 50-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under subsection (b) is exempted, then peak discharge rate attenuation of the 2-year through 25-year return frequency storm event must be provided.
- (d) Extreme Flooding Protection – Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24-hour return frequency storm event such that flooding is not exacerbated.
- (e) Drainage System Guidelines – All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Connecticut Guidelines for Stormwater Quality Management.

The requirements in subsection (c) and (d) may be adjusted or waived by the Town Engineer for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.

Sec. 16 – Construction Inspections of Post-Development Stormwater Management Systems

- (a) Inspections to Ensure Plan Compliance During Construction

Periodic inspections of the stormwater management system construction shall be conducted by the Town Engineer or conducted and certified by a professional engineer who has been approved by the Town Engineer. Construction inspections shall utilize the approved Stormwater Management Plan for establishing compliance.

(b) Final Inspection and As-Built Plans

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved Stormwater Management Plan. All applicants are required to submit actual "as-built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a Professional Engineer. A final inspection by the Town Engineer is required before the release of any performance securities can occur.

Sec. 17 – On-Going Inspection and Maintenance of Stormwater Facilities and Practices

(a) Long-Term Maintenance Inspection of Stormwater Facilities and Practices

A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved Inspection and Maintenance Agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Town Engineer shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person in the Inspection and Maintenance Agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which measures shall be completed. If the responsible person fails or refuses to meet the requirements of the Inspection and Maintenance Agreement, the Town Engineer may correct the violation as provided in subsection (d) hereof.

(b) Right-of-Entry for Inspection

The terms of the Inspection and Maintenance Agreement shall provide for the Town Engineer to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the Town Engineer has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

(c) Records of Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Town Engineer.

(d) Failure to Maintain

If a responsible person fails or refuses to meet the requirements of the Inspection and Maintenance Agreement, the Town Engineer, after thirty (30) days written notice (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The Town Engineer may assess the owner(s) of the facility for

the cost of repair work, which shall be a lien on the property, and may be placed on the tax bill for such property and collected in the ordinary manner for such taxes.

Sec. 18 – Enforcement

(a) Violation and Penalties

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved Stormwater Management Plan or Permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(b) Procedure for Issuance of Citations

1. The Town Manager shall issue a written notice to any person who violates any provision of this ordinance. No written notice may be issued against the State or any State official or employee acting within the scope of his employment. Such written notice shall explain the nature of the violation and the steps required for compliance, and shall allow a seventy-two (72) hour period within which to correct the violation or within which a written plan for correction shall be submitted to the Town Manager, setting forth a reasonable time period for correction of the violation as agreed upon by the Town Manager. A written notice issued pursuant to this subsection shall be served 1) by hand delivery, at which time the seventy-two (72) hour period shall begin; or 2) by certified mail return receipt requested and by regular first class mail. Three (3) business days shall be allowed for mail delivery of the notice prior to the commencement of the seventy-two (72) hour period.
2. Within two (2) business days after the period for correction established in subsection (a) expires, the Town Manager shall re-inspect the subject property to determine compliance.
3. If the violations set forth in the written notice have not been corrected at the time of re-inspection, the Town Manager, in his capacity as chief executive officer, shall issue a citation and fine for each violation by hand, by certified mail return receipt requested, by leaving a true and attested copy of the citation at the usual place of abode or residence of the person in violation, or in the case of a corporate or business entity, delivery to the business address or the address of the statutory agent of said entity. No such fine shall be levied against the State or any State Official or State employee acting within the scope of his employment. All citations issued pursuant to this Section shall state the violation for which the citation is being issued, the fine imposed for the violation, the time period within which the fine must be paid, and an address for remittance of the fine. The Windsor Town Council may periodically update the schedule of fines for violations by way of amendment to this ordinance.

The current fine for each violation shall be as follows:

Nature of Violation	Amount of Civil Fine
(1) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which do not pose an immediate danger to persons, property, or the surrounding environment.	\$ 75.00
(2) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which may pose an immediate danger to persons, property, or the surrounding environment.	\$150.00
(3) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which cause limited and/or correctable damage to property or the surrounding environment.	\$200.00
(4) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which cause irreversible soil erosion, sedimentation, or flooding of adjacent properties.	\$250.00

(c) Compliance Periods After Citation

1. Any violation for which a citation is issued and which is not corrected within the time period specified in Section 14(b) shall be a new violation of this ordinance, and every twenty-four (24) hour period thereafter in which the violation is not corrected shall constitute a new violation. For repeated violations of the same provision of this ordinance by the same person, the Town Manager shall not be required to provide the violator with another written notice or correction period, and may immediately issue the citations and fines permitted by this Article.
2. The Town Manager of the Town of Windsor shall not be responsible for a daily re-inspection. Rather the person to whom the citation has been issued shall be responsible for reporting subsequent compliance by way of written report to the Town Manager. The Town Manager shall re-inspect to confirm compliance within one (1) business day of receipt of such report.

(d) Payment of Fines

1. All fines imposed under this Article which are uncontested shall be made payable to the Town of Windsor and shall be received by the Town Manager within ten (10) business days from receipt of the citation. All fines collected by the Town Manager shall be directed to the Town Finance Director to be deposited into the Town of Windsor General Fund.

2. If no payment is received for any fine imposed under this Article within the time allowed for payment, then the Town Manager shall act in accordance with the procedures established in Chapter 2, Article VI, of the *Windsor Code of Ordinances*.

(e) Stop-Work Order; Revocation of Permit

In the event that any person implements site development in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town Engineer and/or Town Manager may issue a stop-work order and suspend or revoke the Stormwater Management Permit.

Sec. 19 - Hearing procedure for a citation

The procedure for admitting liability to a violation under this Article, and the hearing procedure for any citation issued pursuant to this Article shall be in accordance with the provisions set forth in Chapter 2, Article VI, of the *Windsor Code of Ordinances*.

Sec. 20 – Appeals

Any person or entity aggrieved by a finding, determination, notice order or action taken under the provisions of this ordinance may appeal and shall be advised of his right to appeal in accordance with the provisions set forth in Chapter 2, Article VI of the *Windsor Code of Ordinances*.

Sec. 21 - Miscellaneous

The penalties established by this ordinance shall not be exclusive of any other enforcement remedy which may be imposed by the Town Manager for violations of this ordinance, as authorized by any federal or state statute, Town Ordinance, Zoning Regulation, or Inland Wetlands and Watercourses Regulations, of the Town of Windsor or otherwise any other penalty that may be imposed by any local, state or federal agency.

Sec. 22 - Savings Clause

The enactment of this ordinance shall not operate as an abatement of any action or proceeding previously taken, now pending, or taken prior to the effective date of this ordinance. All said actions and proceedings are hereby ratified to be continued.

Sec. 23 - Severability

All provisions of the Town Code in conflict herewith are hereby repealed and that if for any reason, any word, clause, paragraph, or section of this ordinance shall be held to make the same unconstitutional, this ordinance shall not hereby be invalidated and the remainder of the ordinance shall continue in effect. Any provision herein which is in conflict with the Connecticut General Statutes is hereby repealed, it being understood that said statutes shall take precedence over this ordinance.

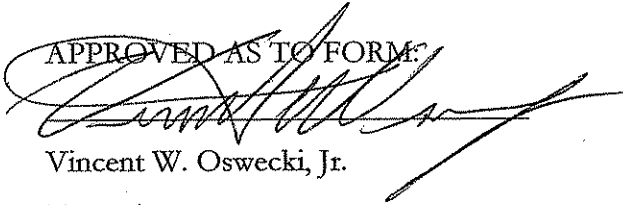
Sec. 24 - Statutory Authorization

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7) of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Sec. 25 - Effective Date

This ordinance shall become effective ten (10) days after publication in a newspaper having a circulation in Windsor.

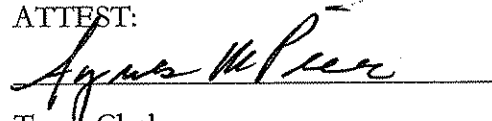
APPROVED AS TO FORM:



Vincent W. Oswecki, Jr.

Town Attorney

ATTEST:



Town Clerk

Distributed to Town Council

12/15/08

Public Hearing Advertised

1/09/09

Public Hearing

1/20/09

Adopted

1/20/09

Advertised

1/23/09

Effective Date

2/2/09