

Mike Malaguti
Town Manager

Kellie Caron
Assistant Town Manager



Town Council
Chad Franz, Chair
Ted Combes, Vice Chair
John Farrell
Ron Dunn
Shawn Faber

Town of Londonderry • 268B Mammoth Road • Londonderry, NH 03053

Londonderry Town Council Meeting

Monday, June 17, 2024, 7:00 p.m., Moose Hill Council Chambers

A. CALL TO ORDER

- A Proclamation Honoring the Londonderry High School Softball Team
(*Town Council*)

B. PUBLIC COMMENT

- Discussion on Petitioned Warrant Article #22: [AMEND LONDONDERRY MUNICIPAL CODE TITLE V – ADMINISTRATIVE CODE CHAPTER III] Shall the Town vote to amend the Londonderry Municipal Code Title V – Administrative Code CHAPTER III – BOARDS, COMMITTEES AND COMMISSIONS Section I General Authority Section I. B. to remove the word “Advisory” from “Budget Committee” in accordance with RSA40:14-b that states the “Budget Committee” shall create the default budgets.
(*Chairman Chad Franz*)

C. APPOINTMENTS

- Lions Hall Study Committee interviews (8 candidates for 5 full and 2 alternate ad hoc positions)
(*Chairman Chad Franz*)

D. NEW BUSINESS

- Order 2024-07: An Expenditure from the Expendable Maintenance Trust Fund: Emergency Replacement of Hot Water Heater Tanks at North Fire Station
(*Director of Public Works, Dave Wholley*)
- American Rescue Plan Act (ARPA) Request: LFD Paramedic Vehicle
(*Londonderry Fire Department*)
- American Rescue Plan Act (ARPA) Request: LPD Tasers
(*Londonderry Police Department*)

- Resolution # 2024-15 – Adoption of New Hampshire Paid Family and Medical Leave Policy (First Reading)
(Town Manager Mike Malaguti)
- Resolution # 2024-16 – Update to Title VI, Chapter XI of the Town Code, Family and Medical Leave of Absence Policy (First Reading)
(Town Manager Mike Malaguti)
- Resolution #2024-17 – Dissolving the Pickleball Committee
(Town Manager Mike Malaguti)
- Resolution #2024-18 – Acceptance of Unanticipated Revenue: Stanton Foundation Donation
(Director of Finance Justin Campo)
- Resolution #2024-19 – Acceptance of Unanticipated Revenue: 2021 Homeland Security Grant
(Director of Finance Justin Campo)
- Resolution #2024-20 - Acceptance of Unanticipated Revenue: 2022 Homeland Security Grant
(Director of Finance Justin Campo)
- Resolution #2024-21 - Acceptance of Unanticipated Revenue: “Fellowship Program Scholarship”
(Director of Finance Justin Campo)

E. PUBIC HEARINGS

- Ordinance 2024-03: An Amendment to the Storm Water Ordinance & Storm Water Regulations
(Director of Engineering, John Trottier)

F. APPROVAL OF MINUTES

1. *June 3, 2024 Town Council Minutes*

G. OTHER BUSINESS

1. *Liaison Reports*
2. *Town Manager Report*
3. *Assistant Town Manager Report*

H. ADJOURNMENT

I. MEETING SCHEDULE

1. *July 15, 2024; Moose Hill Council Chambers; 7:00 p.m.*

In addition to the items listed on the agenda the Town Council may consider other matters not on the posted agenda and may enter a non-public session or convene in a non-meeting in accordance with RSA 91-A if the need arises.

**ARTICLE NO. 22: [AMEND LONDONDERRY MUNICIPAL CODE TITLE V –
ADMINISTRATIVE CODE CHAPTER III]**

Shall the Town vote to amend the Londonderry Municipal Code Title V – Administrative Code CHAPTER III – BOARDS, COMMITTEES AND COMMISSIONS Section I General Authority Section I. B. to remove the word “Advisory” from “Budget Committee” in accordance with RSA40:14-b that states the “Budget Committee” shall create the default budgets. This article is advisory only. **(BY CITIZENS’ PETITION).**

(If passed, this article will require the Town to raise \$0.00 in property taxes, resulting in a tax rate impact of \$0.00 in FY 25 based upon projected assessed values.)

Non-monetary item. The Town Council will not make a recommendation; the Budget Committee will not make a recommendation.

Town of Londonderry Proclamation

Honoring the Londonderry High School Softball Team

Whereas, the Londonderry High School began its softball program in 1981, and over the years, the team has shown remarkable dedication and perseverance; and

Whereas, the Londonderry High School softball team made three previous appearances in the championship game; and

Whereas, during the 2023-2024 season, the Londonderry High School went on to win their final game, earning their first Division I State Championship; and

Whereas, the team achieved an outstanding overall record of 20-2 for the season, finishing the regular season with a 17-2 record, and securing the number one spot for the playoffs; and

Whereas, in the playoffs, the Londonderry High School softball team went undefeated with a 3-0 record, scoring 22 runs and allowing only 2 runs; and

Whereas, seniors Liv Cutuli and Zoey Nelson have provided exceptional leadership and skill, contributing greatly to the team's success and setting a strong foundation for the future of Londonderry High School softball;

Now Therefore, Let It Be Proclaimed let it be it proclaimed by the Londonderry Town Council on their recognition for the Londonderry High School softball team on their remarkable achievement in winning the Division I State Championship and for their exemplary performance throughout the season.

Signed this 17th day of June 2024 at the Town of Londonderry, New Hampshire in the witness thereof the seal and signature of the Town of Londonderry and its Town Council.

Chad Franz – Chair

Shawn Faber – Councilor

Ted Combes – Vice Chair

John Farrell – Councilor

Ron Dunn – Councilor



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

ORDER 2024-07

An Order Relative to

AN EXPENDITURE FROM THE MAINTENCE TRUST FUND

WHEREAS the Town of Londonderry has recognized the emergent need to replace Station 1's hot water tanks for Londonderry Fire Department; and

WHEREAS the sum of funds required to replace the two fourteen-year old DHW 119-gallon water heaters is \$12,350.00; and

WHEREAS the funds include the disposal of the original tanks and all associated plumbing repairs necessary; and

NOW THEREFORE BE IT ORDERED by the Londonderry Town Council that the Town Treasurer is hereby directed to disburse \$12,350.00 from the Expendable Maintenance Trust Fund.

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:
06/17/2024

Description	Vendor	Amount
<u>Emergency replacement of Station 1 Hot water tanks</u>	ENE Systems of New Hampshire	\$12,350.00
Remove and replace two 14 year old DHW 119 gallon water heaters. Lump sum price to include disposing of original tanks and all associated plumbing and repairs necessary to complete install in kind.	Lump sum price	\$12,350.00
Total Town Council EMTF Order #2024-07		\$ 12,350.00

Quote

Date: Thursday, June 06, 2024
To: Dave Wholley
Subject: Fire Station 1 DHW Tanks

Dave, the following are the quoted repairs you requested for the leaking DHW tanks/piping.

Scope of Work

1. Drain both existing DHW water heaters and existing boiler.
2. Cut out existing pipe to make room to remove existing DHW water heaters
3. Remove and dispose of the two (2) existing DHW water heaters.
4. Provide and install two (2) new HTP Superstor Ultra SSU119 indirect fired water heaters.
5. Provide and replace associated leaking ball valves.
6. Reinstall the removed piping and provide and install any necessary fittings for the reinstall.
7. Reinsulate/tape piping as necessary.
8. All work will be performed during normal business hours of 7am to 3:30pm.
9. A one-year warranty is included.

Total Price:..... \$ 12,350.00

Please call with any questions.

Sincerely,
Matthew Caban



Southern New Hampshire Plumbing Heating Cooling LLC

39 Rockingham Rd. | Londonderry NH, 03053
(603) 289-1421 | info@snhplumbingandheating.com |
<https://snhplumbingandheating.com>

RECIPIENT:

Londonderry Fire Department
20 Grenier Field Road
Londonderry, New Hampshire 03053

Quote #2914	
Sent on	Jun 05, 2024
Total	\$15,850.00

Product/Service	Description	Qty.	Unit Price	Total
Replacement 119 Gal Commercial Nat Gas Water Heater(s)	1. Remove & dispose of two (2) 119 gal SuperStor Gas Water Heaters. 2. Supply & install two (2) 119 gal HTPSSU119 Nat Gas Water Heaters. 3. Install plumbing & gas piping as needed to install to code. 4. Includes all parts & labor.	1	\$15,850.00	\$15,850.00

This quote is valid for the next 30 days, after which values may be subject to change.

Total	\$15,850.00
-------	-------------



Londonderry Police Department

Axon Taser 10 Proposal

Common Questions

Q. Do TASER's electrocute people?

No- TASER energy weapons use electrical current to temporarily incapacitate subjects by inducing neuromuscular incapacitation, or NMI. Basically, TASER energy weapons send a signal to your muscles telling them to flex. This is the same technology you see in off-the-shelf muscle stimulators used for rehab and muscle therapy.

Q. Do TASER's have long-term effects?

No- TASER energy weapons are designed to temporarily incapacitate a subject only as long as the electrical cycle, which is about 5 seconds. The subject can recover immediately and most feel no residual side-effects. There are no known long-term effects from being exposed to a TASER energy weapon.

Q. Will a TASER stop my pacemaker?

No- TASER's work by circulating electrical current through a subject, causing temporary immobility. However, the level of current delivered is quite low, well below the level necessary to interfere with a pacemaker. In fact, pacemakers are required by regulation to withstand an AED shock.

Q. Do TASER's work better if they are deployed closer to a subject?

No- the closer you deploy a TASER energy weapon to a subject, the less distance there will be between the probes. This means there is less muscle mass to stimulate, generally resulting in lower NMI. It is recommended that the probes be at least 12 inches apart.

Q. Can you track a TASER deployment?

Yes- The TASER records event logs for every user action, including safety activation and trigger event duration with times and dates. Pulse logs also display an objective pulse-by-pulse record of delivered output. This information is recorded for safety and objective accountability for auditing and reporting.

"Expect Excellence"

New Equipment Proposal

Axon TASER 10

Electronic Control Device



Date: 6/17/2024

Presented By: Chief Kim Alan Bernard

Prepared By: Services Division

Introduction

■ What is it?

A TASER is a portable device or weapon that uses electricity to temporarily incapacitate or cause discomfort for the subject to gain compliance; overcome resistance; or capture, control, and constrain.



■ How Does it Work?

The CED deploys small barbed probes intended to puncture the skin and remain attached to the target. The probes are connected to the main device by thin, insulated copper wire and deliver a modulated electric current designed to disrupt voluntary control of muscles, causing "neuromuscular incapacitation or NMI."

Today, TASER energy weapons are the most studied use-of-force tool available to law enforcement. With over 900 reports, abstracts, letters, studies and resource materials on the tool, and more than 5 million field deployments in nearly 30 years, TASER energy weapons are the most safe and effective less-lethal tool on an officer's belt.

Overview

■ Newest Version

The TASER 10 was released in January 2023 compared to the previous version (Taser 7) in 2018.

■ Specifications

- The TASER 10 uses only 1,000 volts capable of deploying up to 10 individual probes.
- Each activation deploys 1 impact absorbing probe, a minimum of 2 probes is required for NMI.
- The effective range has been doubled to 45 feet to provide more distance to de-escalate.
- 210 Lumen LED Light with new Daylight Green Laser for greater visibility.
- New audible warning light and sound for de-escalation (Does not have drive-stun capability or warning arc).
- Rechargeable Battery.
- 5 Year Life (1 Yr Warranty) with 5 ft. drop resistance and water/dust ingress protection.

(Previous models were one-single shot dual probed cartridge and 50,000 volts)



Why Now?

■ **New Hampshire Police Department Surveys**

According to the New Hampshire Police Standards & Training Council (NHPSTC) 98% of New Hampshire Police Departments utilize ECD's. The Londonderry Police Department is the only police department in Southern NH that DOES NOT equip officers with Tasers. LPD's current less-lethal force options are 12-gauge Beanbag Rounds, OC Spray, Baton, and Empty Hand Control techniques.



Effective De-Escalation Tool in Modern Policing

TASER energy weapons have been used to save more than 275,000 people from death or serious bodily injury. TASER energy weapons have been used over 5 million times in the field, and in a study of 1,201 field cases of TASER energy weapon use, 99.75% resulted in no serious injury.



Anticipating Future Needs

In a long-term healthcare study, display of a TASER device de-escalated 80% of situations without the need for use of force and is considered the most effective de-escalation tool for hospitals.



Safety

■ Academic/Controlled Studies

- A 2015 study comparing OC vs. ECD's analyzed 504 use-of-force incidents in large police agency wherein OC spray or TASER energy weapons were used. It found TASER energy weapons were substantially more effective than OC spray, **with energy weapons effective 90.2% of the time and OC spray effective only 73.8% of the time.**
- A Police Executive Research Forum (PERF) study compared 4 years of use of force data between agencies that use conducted energy weapons with matched agencies that do not use conducted energy weapons. The study found that with the use of conducted energy weapons, **the odds of a suspect needing medical attention for an injury is reduced by 79%, and the odds of an officer needing medical attention is reduced by 87%.**
- A 2018 study from The Journal of Trauma and Acute Care Surgery titled, "Injuries Associated with Police Use of Force" **found that out of 1399 uses of force by 3 different agencies, a CEW was used 36% of the time and resulted in no moderate or severe injuries.**



Questions





Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-15

An Order Relative to

THE ADOPTION OF NEW HAMPSHIRE PAID FAMILY AND MEDICAL LEAVE POLICY

WHEREAS NH Paid Family and Medical Leave ("NH PFML") is a benefit which provides wage replacement for specified employee leaves; and

WHEREAS all full-time and permanent part-time employees are eligible to enroll in NH PFML; and

WHEREAS the new policy can be found attached hereto; and

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the New Hampshire Paid Family and Medical Leave Policy is hereby adopted.

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

--/--/----

Chapter XX – NEW HAMPSHIRE PAID FAMILY AND MEDICAL LEAVE POLICY

SECTION I PROVISIONS

1. New Hampshire Paid Family and Medical Leave (NH PFML) is a benefit that provides 60% wage replacement (up to the Social Security wage cap) for up to 6 weeks per rolling calendar year for leave that traditionally has been unpaid.
2. NH PFML insurance is offered through MetLife, the state's insurance partner for NH PFML.

SECTION II ELIGIBILITY

1. All full-time and permanent part-time employees are eligible to enroll in NH PFML. New hires become eligible on the first of the month following their start date.
2. Employees whose own medical condition and subsequent leave is covered by short-term-disability, long-term-disability or workers' compensation are not entitled to access NH PFML.

SECTION III QUALIFYING REASONS TO TAKE NH PFML

Following are the qualifying reasons to use NH PFML:

PAID FAMILY LEAVE (PFL)	PAID MEDICAL LEAVE (PML)
• For a worker to bond with a child during the first year following birth or placement for adoption or fostering. • For a worker to care for a Family Member with a Serious Health Condition. • Any qualifying urgent demand or need arising out of the fact that the worker's spouse, child, or parent is a covered military service member	• A worker's own Serious Health Condition when disability coverage* does not apply, including childbirth.

on covered active duty. For a worker to care for a covered military service member with a serious injury or illness if the eligible worker is the service member's spouse, child, parent or next of kin.	<i>*Please contact MetLife for additional details on what qualifies as disability insurance coverage.</i>
---	--

SECTION IV TYPES OF COVERED LEAVE

Leave can be taken all at once (continuous), on a reduced schedule, or in partial days (intermittent) with a minimum of 4-hour increments.

TYPES OF COVERED LEAVE
Continuous: Continuous absence for a qualifying leave reason. Reduced Schedule: Minimum of four (4) hours leave reducing the number of hours or days a worker is scheduled to work over a span of time for a qualifying leave reason. Intermittent: Minimum of four (4) hours leave in a non-consecutive time period for a qualifying leave reason. Intermittent is taken in 4-hour increments. Full-time employees scheduled to work 40 hours per week are provided 240 hours of intermittent leave. Full-time employees scheduled to work 42 hours per week are provided 252 hours of intermittent leave. Permanent part-time employees will be provided a pro rata number of hours equivalent to six weeks of their normal weekly total hours of intermittent leave. Leave to bond with a newborn child or for a newly placed adopted or foster child must be taken all at once unless otherwise agreed to by the Town Manager or his/her designee. and must conclude within 12 months after the birth or placement.

SECTION V LENGTH OF LEAVE

1. NH PFML is available for up to 6 weeks per **Benefit Year**, commencing July 1, 2024. MetLife uses a 12-month rolling back period for its benefit period calculation.
2. Once the employee uses NH PFML after that date, the employee will earn back NH PFML in that amount following the one-year anniversary of that usage.

Example:

- Eight (8) hours of NH PFML is used on March 15, 2025.
- An additional eight (8) hours is used for each of the following four weeks.
- On March 15, 2026, the employee will have earned back eight (8) hours of NHPMFL.
- During each of the following four weeks, an additional eight (8) hours will be earned back.

SECTION VI NH PFML BENEFIT CALCULATION

1. Pay under NH PFML is calculated using the employee's **Average Weekly Wage**. This is calculated using the **Base Period**. If the employee has not been employed for four quarters, the employer will use the weeks of the quarter(s) the employee has been employed to pro-rate this amount.
2. The NH PFML benefit is at paid at 60% of the **Average Weekly Wage** up to the social security limit. The Town will allow employees to supplement their PFML pay with accrued hours only up to their base weekly pay.

Example:

- A worker earns a of \$25.00 per hour, 40 hours per week. This worker's base weekly pay is \$1,000.00 per week.
- The earnings for the worker during the **Base Period** are as follows:
- Q-1 Earnings = \$14,000
- Q-2 Earnings = \$13,000
- Q-3 Earnings = \$13,000
- Q-4 Earnings = \$14,000
- Total Earnings = \$54,000
- $\$54,000 \div 52 = \$1,038.46$, which is the **Average Weekly Wage**.
- The NHPMFL benefit paid by MetLife is pay 60% of the **Average Weekly Wage**, which is \$623.08 per week.

In the above scenario, the base weekly pay is \$1,000.00 and the difference from the weekly base pay of \$1,000.00 and the NH PFML benefit of \$623.08 is \$376.92. The employee can choose to use up to 15.07 hours of accrued hours to arrive at a total of \$1,000.00.

SECTION VII COORDINATION OF PAID TIME OFF WITH NH PFML

Employees are not required to exhaust paid time off balances prior to utilizing NH PFML.

SECTION VIII ELIMINATION PERIOD

1. There is an elimination period of one average working week before the NH PFML benefit will be paid.
2. When taking leave for their own serious medical condition, employees must use sick leave during the 7-day elimination period. If sick is exhausted, employees must use vacation, personal and floating holiday pay, in that order. If all paid leave is exhausted, the employee's elimination period will be unpaid.
3. When taking leave to care for an ill family member, for bonding with a child, for a qualifying urgent demand or need arising out of the fact that the worker's spouse, child, or parent is a covered military service member on covered active duty, or to care for a covered military service member with a serious injury or illness if the eligible worker is the service member's spouse, child, parent or next of kin:
 - a. Employees who work a 40 hour/week schedule may use sick leave during the first 24 hours (60%) of the elimination period. If sick is exhausted, employees must use vacation, personal and floating holiday pay, in that order for the first 24 hours of leave. For the remaining 16 hours (40%) of the 40-hour elimination period, the employee must use vacation, personal and floating holiday hours, in that order. If all available leave is exhausted, the leave will be unpaid.
 - b. Employees who work a 42 hour/week schedule may use sick leave during the first 25.2 hours (60%) of the elimination period. If sick is exhausted, employees must use vacation, personal and floating holiday pay, in that order for the first 25.2 hours of leave. For the remaining 16.8 hours (40%) of the 42-hour elimination period, the employee must use vacation, personal and floating holiday hours, in

that order. If all available leave is exhausted, the leave will be unpaid.

- c. Part-time employees who take leave to care for an ill family member or for bonding with a child will be subject to the same 60%/40% rule outlined in the above paragraphs.

SECTION IX ACCRUAL OF SICK AND VACATION TIME

Employees who are receiving wage replacement through NH PFML will continue to accrue sick and vacation hours in the same manner as if they were actively working. This provision also applies to the NH PFML elimination period.

SECTION X HOLIDAY PAY

Employees who are receiving wage replacement through NH PFML will be eligible to receive holiday pay in the same manner as if they were actively working. This provision also applies to the NH PFML elimination period.

SECTION XI USE OF ACCRUED TIME TO SUPPLEMENT NH PFML BENEFITS

In the event an employee is receiving wage replacement through NH PFML, the employee is not required to use accrued time to make up the difference between the wage replacement amount and the employee's base wages; however, the employee may elect to apply accrued time in the following order: accrued sick leave (including "family sick" time if applicable), vacation leave (including personal time (if applicable) and floating holiday(s) (if applicable)).

SECTION XII EMPLOYEE PROTECTIONS UNDER NH PFML

NH PFML does not have a provision for job protection. However, job restoration provisions under the federal Family and Medical Leave Act (FMLA) may apply.

SECTION XIII COORDINATION WITH FEDERAL FAMILY AND MEDICAL LEAVE ACT "FMLA"

NH PFML does not alter or expand the protections and provisions under FMLA. NH PFML runs concurrently with Federal FMLA if an employee is eligible for qualifying leave under both programs. However, NH PFML expands the definition of family member to include domestic partners, child's spouse or domestic partner, parent of the worker's spouse or domestic partner and grandparent.

SECTION XV PREMIUM PAYMENTS

1. Employer group plans are individually underwritten by MetLife. Premiums are based on a number of cost factors.
2. Premiums for NH PFML coverage will be withheld each pay period.
3. Premiums for NH PFML will be processed on a post-tax basis.

SECTION XV NEW HAMPSHIRE RETIREMENT SYSTEM (NHRS)

1. Benefits paid to employees who take NH PMFL are not considered earnable compensation for NHRS purposes.
2. Payments made to employees in the form of supplemental wages are considered earnable compensation.

SECTION XVI DEFINITIONS:

Average Weekly Wage means the total wages earned by the covered worker over the base period, divided by the number of weeks in that period.

Base Period means the last four completed calendar quarters immediately preceding the first day of leave taken.

Benefit Year means a 12- month rolling backward period from the first day of leave taken for NH PFML.

Family Member means:

- Child including biological, adoptive, foster or stepchild, legal ward, or child of a person standing in loco parentis who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.
- Child's spouse or domestic partner.
- Spouse or a domestic partner.
- Parent including biological, adoptive, foster, or step-parent, or legal guardian of the worker or the worker's spouse or domestic partner.
- Grandparent including biological, adoptive, foster, or step-grandparent.

Serious Health Condition

- Conditions requiring inpatient care
- Incapacity for more than three (3) days with continuing treatment by a health care provider
- Incapacity relating to pregnancy or prenatal care

- Permanent or long-term incapacity
- Certain conditions requiring multiple treatment, and
- Chronic serious health conditions that may prevent a person from working for a minimum of four (4) hours, for example, a person with epilepsy may not be able to work due to an epileptic episode

DRAFT



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-16

An Order Relative to

UPDATE TO TITLE VI, CHAPTER XI OF THE TOWN CODE, FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

WHEREAS the Town of Londonderry recognizes the need for Paid Family and Medical Leave, and has adopted the NH Paid Family and Medical Leave ("NH PFML") policy by resolution of even date herewith; and

WHEREAS the Town's Family and Medical Leave Act ("FMLA") policy must be amended to reflect the adoption of NH PFML; and

WHEREAS this requested change aligns the FMLA policy language with the Town's new NH PFML policy; and

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the amended FMLA policy attached hereto is hereby adopted.

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

--/--/----



Town of Londonderry
Office of Human Resources
Tara Koza

June 12, 2024

Londonderry Town Council

Councilors:

I am requesting that the following amendment to the Town's Family and Medical Leave policy is adopted effective July 1, 2024.

The requested change to the policy language adds "New Hampshire Paid Family Medical Leave" (NH PFML) to the types of FMLA covered leave that do not required the substitution of paid time for unpaid time. This change aligns the FMLA policy language with the Town's new NH PFML policy.

Please see the current language and requested amended language below.

CURRENT:

- E. Substitution of Accrued Paid Leave Required: The Town requires the substitution of accrued paid leave for unpaid FMLA leave time (i.e., any time during which the Town does not process any payment to the employee through payroll, hereinafter referred to as "Unpaid FMLA Leave") as follows: Accrued sick (including "family sick" time if applicable) leave, vacation leave (including personal time (if applicable) and floating holiday(s) (if applicable)), in that order, will be substituted for unpaid FMLA leave time. Upon the exhaustion of accrued paid leave, the remainder of any FMLA leave will be unpaid. In no case will the combination of paid and unpaid leave used for a FMLA purpose exceed twelve (12) workweeks (twenty-six (26) workweeks for Military Caregiver Leave) in any twelve (12) month period as defined herein.

Note: In the event an employee on FMLA leave is receiving wage replacement through the Town's Short-Term Disability Policy or through workers' compensation, the employee is not required to use accrued time to make up the difference between the wage replacement amount and the employee's base

Town of Londonderry, NH * 268B Mammoth Rd. * 03053
(603) 432-1100 x127 * tkoza@londonderrynh.org

wages; however, the employee may elect to apply accrued time (in the order set forth above) to make up the difference in pay and should consult with Human Resources with regard to his/her pay options.

NEW:

E. Substitution of Accrued Paid Leave Required:

1. The Town requires the substitution of accrued paid leave for unpaid FMLA leave time (i.e., any time when the employee is not receiving wage replacement through short-term-disability, long-term-disability, workers' compensation or NH PFML, including applicable elimination periods, as follows: accrued sick leave (including "family sick" time if applicable), vacation leave (including personal time (if applicable) and floating holiday(s) (if applicable)), in that order, will be substituted for unpaid FMLA leave time. Upon the exhaustion of accrued paid leave, the remainder of any FMLA leave will be unpaid. In no case will the combination of paid and unpaid leave used for a FMLA purpose exceed twelve (12) workweeks (twenty-six (26) workweeks for Military Caregiver Leave) in any twelve (12) month period as defined herein.
2. In the event an employee on FMLA leave is receiving wage replacement as defined in Section 1.E.1., the employee is not required to use accrued time to make up the difference between the wage replacement amount and the employee's base wages; however, the employee may elect to apply accrued time (in the order set forth above) to make up the difference in pay and should consult with Human Resources with regard to his/her pay options.

Thank you for considering this request.

Tara Koza

Tara Koza
Human Resources Director

Chapter XI - FAMILY MEDICAL LEAVE OF ABSENCE POLICY

SECTION I GENERAL PROVISIONS

- A. Under the provisions of the Family and Medical Leave Act of 1993 ("FMLA"), any employee who worked¹ at least 1,250 hours in the 12-month period immediately preceding a request for FMLA leave² is entitled to take not more than twelve (12) workweeks of unpaid FMLA leave (26 weeks for Military Caregiver Leave) in a twelve (12) month period (as defined below in paragraph I.B.) for any of the following reasons:
1. The birth of a child of the employee and/or to care for the child (leave must be taken within twelve (12) months of the birth);
 2. The placement with the employee of a child for adoption or foster care and to care for the child (leave must be taken within twelve (12) months of the placement);
 3. To provide care for the employee's spouse, child or parent with a "serious health condition" (as defined by the FMLA and applicable law);
 4. To take leave when the employee is unable to perform any one of the essential functions of the position by reason of his or her own "serious health condition" (as defined by the FMLA and applicable law);
 5. For a qualifying military-related exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation (as defined by the FMLA and applicable law); or
 6. To provide care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the covered service member ("Military Caregiver Leave").
- B. The 12-Month Period: As stated above, an eligible employee is entitled to a total of twelve (12) workweeks of leave during any twelve (12) month period. That twelve (12) month period is defined as a "rolling" twelve (12) month period backward from the date an employee first uses any FMLA leave. In other words, the number of weeks which an employee has available upon the beginning of a FMLA leave shall be twelve (12) weeks less the number of FMLA leave weeks taken in the twelve (12) month period immediately preceding the beginning of the current FMLA leave (the "Available Leave Weeks").

¹ "Worked" means the employee performed actual work. Worked does not include paid or unpaid time off.

² Accordingly, employees with less than one year of employment with the Town are not eligible for FMLA leave.

In the case of leave taken to care for a covered service member with a serious injury or illness, an employee who does not take all twenty-six (26) workweeks of leave to care for the covered service member during the single 12-month period will forfeit any remaining Military Caregiver Leave.

- C. Leave for Birth, Adoption or Foster Care of a Child: A FMLA leave for the birth or placement for adoption or foster care of a child must be taken all at once unless otherwise agreed to by the Town Manager or his/her designee. Pursuant to 29 USC §2612(e), the employee must give thirty (30) days' notice if the birth or adoption is foreseeable or, if not foreseeable, such notice as is practicable.
- D. Leave Due to a Serious Health Condition: A FMLA leave due to a serious health condition may be taken on an intermittent or reduced leave schedule. To qualify, the employee or family member must have a serious health condition and the intermittent leave or reduced leave schedule must be certified as medically necessary by a health care provider. An employee who takes intermittent leave for planned medical treatment has an obligation to make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the employee's department and, if leave is for planned medical treatment, to give thirty (30) days' notice or such notice as is practicable. If FMLA leave is requested on an intermittent basis, the Town Manager or his/her designee may require the employee to transfer temporarily to an alternative position which better accommodates intermittent periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits (but the position need not have equivalent duties).
- E. Substitution of Accrued Paid Leave Required:
 - 1. The Town requires the substitution of accrued paid leave for unpaid FMLA leave time (i.e., any time when the employee is not receiving wage replacement through short-term-disability, long-term-disability, workers' compensation or NH PFML, including applicable elimination periods, as follows: accrued sick leave (including "family sick" time if applicable), vacation leave (including personal time (if applicable) and floating holiday(s) (if applicable)), in that order, will be substituted for unpaid FMLA leave time. Upon the exhaustion of accrued paid leave, the remainder of any FMLA leave will be unpaid. In no case will the combination of paid and unpaid leave used for a FMLA purpose exceed twelve (12) workweeks (twenty-six (26) workweeks for Military Caregiver Leave) in any twelve (12) month period as defined herein.
 - 2. In the event an employee on FMLA leave is receiving wage replacement as defined in Section 1.E.1., the employee is not required to use accrued time to make up the difference between the wage replacement amount and the employee's base wages; however, the employee may elect to apply accrued time (in the order set forth above) to make up the difference in pay and should consult with Human Resources with regard to his/her pay options.
- F. Designation of FMLA Leave: When an employee requests any leave of absence which qualifies as leave under the FMLA, it is the Town's responsibility and

right to designate such leave as FMLA leave. FMLA leave may be designated upon request by the employee or when the Town has sufficient information concerning the leave status of an employee to presume either that the employee or his/her family member has a qualifying serious health condition as defined under the FMLA, or that the leave is due to the birth of the employee's child or the placement with the employee of a child for adoption or foster care. The Town's Human Resources Department personnel will request and obtain sufficient information from the employee to determine whether the leave qualifies as FMLA leave, to include a medical certification from the employee's or family member's health care provider. In addition, the Town's Human Resources Department personnel or a physician authorized by the Town may contact the health care provider for purposes of clarification and authentication of the medical certification (whether initial certification or recertification) after the Town has given the employee an opportunity to cure any deficiencies with the certification as set forth in the FMLA regulations. Once the Town has determined the leave qualifies for FMLA leave, the employee will be notified that the leave has been approved for FMLA leave and will be counted towards the employee's FMLA leave entitlement.

- G. Leave for Purposes Not Covered Under FMLA: If an employee requests and is granted authorized leave for a purpose that does not qualify as FMLA leave (e.g., leave to care for a parent-in-law, or a blood relative other than a spouse, child or parent), that leave time will not be charged against the 12-week FMLA entitlement. Thus, the amount of FMLA leave eligible to an employee who takes two weeks of authorized vacation leave to care for a parent-in-law will not be impacted by the vacation leave.

SECTION II STATUS OF INSURANCE BENEFITS WHILE ON FMLA LEAVE

- A. While on FMLA leave, an employee may continue to participate in the Town's group health insurance in the same manner as employees not on FMLA leave. Coverage for Life and Disability Insurance will continue for the duration of the FMLA leave.
- B. In the event of paid FMLA leave (during which the employee is either using accrued leave time and/or receiving some form of wage replacement paid through payroll), the employee's share of any medical or dental insurance premiums will continue to be deducted in the same manner as it would be when the employee is not on FMLA leave.
- In the case of Unpaid FMLA Leave, an employee's share of any medical or dental insurance premiums must be paid in advance by the employee on the first day of each month.
- C. Reinstatement: At the end of an authorized FMLA leave, an employee will be reinstated to his or her previous job or to a position with equivalent pay, benefits and substantially equivalent duties. However, there are some limits of reinstatement. Employees returning from an FMLA leave have no greater rights to

reinstatement or other benefits and conditions of employment than if they had not taken FMLA leave. For example, if an employee's position was affected by a lay-off or reorganization or elimination, the employee may not be eligible for reinstatement. An employee who fails to comply with the Town's requirements for reporting and fitness for duty certification may also be denied reinstatement.

SECTION III BASIC REGULATIONS AND CONDITIONS OF LEAVE

- A. The Town will require medical certification to support a claim for FMLA leave for an employee's own serious health condition or to care for the employee's child, spouse or parent with a serious health condition whenever that leave is expected to extend beyond three (3) calendar days or will involve intermittent or part-time leave. The employee shall have no more than fifteen (15) calendar days to provide the medical certification to the Town.
 - 1. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform an essential function of his or her position.
 - 2. For FMLA leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care.
- B. The Town may require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the Town, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the Town and the employee.

SECTION IV NOTIFICATION AND REPORTING REQUIREMENTS

- A. As set forth above, when the need for FMLA leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide reasonable prior notice, and make efforts to schedule leave so as not to disrupt Town operations.
- B. In cases of a FMLA leave due to a serious health condition, the employee will be required to report periodically on his or her FMLA leave status and intention to return to work.
- C. At the expiration of any FMLA leave due to the employee's own serious health condition, the employee must present medical certification of fitness for duty **before** returning to work. The Town will require this certification to address whether the employee can perform the essential functions of his/her position.

SECTION V COORDINATION WITH MATERNITY LEAVE

- A. The Town provides female employees with a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth and related medical conditions (“Maternity Leave”). Although they may run concurrently as set forth below, Maternity Leave is separate from FMLA leave. An employee is eligible for Maternity Leave even if she has worked for the Town for less than twelve (12) months or less than twelve hundred and fifty (1,250) hours in the prior twelve (12) months. A Maternity Leave begins when an employee is medically determined to be disabled and ends when the employee is medically determined to be able to return to work, and is paid in accordance with the provisions of the Town’s Short-Term Disability Policy. If an employee also is eligible for FMLA leave, the employee’s FMLA leave and Maternity Leave will run concurrently. Maternity Leave is not limited by any measure other than the period of disability.
- B. Once an employee has exhausted her paid Maternity Leave, she may take additional FMLA leave to care for the child, assuming she has Available Leave Weeks remaining. However, in no event shall the total FMLA leave for the birth of a child (including the period of Maternity Leave) exceed 12-weeks total in the applicable 12-month period.

**SECTION VI COORDINATION WITH OTHER TOWN POLICIES;
REFERENCE TO FMLA AND FEDERAL REGULATIONS**

- A. In the event of any conflict between this policy and other Town policies, the provisions of this policy shall govern; however, if any provision of a Collective Bargaining Agreement exceeds the benefits offered herein, the Collective Bargaining Agreement shall control for those covered employees.
- B. The FMLA and the FMLA federal regulations issued by the U.S. Department of Labor (the “Federal Authorities”) contain many limitations and qualifications for entitlement and governance of FMLA leave not stated herein.
- C. Unless this Policy plainly states an intention to afford more generous benefits to the employee than the Federal Authorities, the terms of the FMLA and the FMLA federal regulations are incorporated herein and will be applied in all instances of requested or designated FMLA leave. If there is an ambiguity in this Policy, the ambiguity shall be resolved in favor of the construction most consistent with the Federal Authorities.

~~End of Chapter~~



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-17

An Order Relative to **DISSOLVING THE PICKLEBALL TASKFORCE**

WHEREAS the Pickleball taskforce was established by the Town Council on April 10th, 2023; and

WHEREAS the Pickleball taskforce presented research and recommendations to the Town Manager and Town Council; and

WHEREAS the voters did not approve the pickleball taskforce's article on funding pickleball courts; and

WHEREAS this resolution hereby dissolves the Pickleball Taskforce, which will be re-established if necessary in the future.

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Pickleball Taskforce is hereby dissolved.

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:
06/17/2024



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-18

A Resolution Relative to

Acceptance of Unanticipated Revenue 31:95-b, III(b)

WHEREAS the Town of Londonderry adopted the provisions of RSA 31:95-b with the passage of warrant article 18 at their March, 1994 town meeting; and,

WHEREAS the Town Council desires to and has complied with RSA 31:95-b, III (b) relative to unanticipated moneys received in amounts less than \$10,000; and,

WHEREAS the Town of Londonderry Police department received a \$4,500.00 donation from the Stanton Foundation; and,

WHEREAS this donation was made for the purpose of assisting in the ongoing costs of the Police dog; and

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Londonderry that the Town of Londonderry hereby thanks the Station Foundation for their donation, along with their continual support and accepts the unanticipated revenue under 31:95-b, III(b).

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

06/17/2024



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-19

A Resolution Relative to

Acceptance of Unanticipated Revenue 31:95-b, III(b)

WHEREAS the Town of Londonderry adopted the provisions of RSA 31:95-b with the passage of warrant article 18 at their March, 1994 town meeting; and,

WHEREAS the Town Council desires to and has complied with RSA 31:95-b, III (b) relative to unanticipated moneys received in amounts less than \$10,000; and,

WHEREAS the Town of Londonderry Police department has received the 2021 Homeland Security Grant from the New Hampshire Department of Safety; and,

WHEREAS the grant was in the amount of up to \$7,500; and

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Londonderry that the Town of Londonderry hereby accepts the unanticipated revenue under 31:95-b, III(b), and further authorizes the Town Manager, to move forward in accepting this award and to sign any paperwork associated with such grant on behalf of the Town.

**Chad Franz – Chair
Town Council**

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

06/17/2024



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-20

A Resolution Relative to

Acceptance of Unanticipated Revenue 31:95-b, III(b)

WHEREAS the Town of Londonderry adopted the provisions of RSA 31:95-b with the passage of warrant article 18 at their March, 1994 town meeting; and,

WHEREAS the Town Council desires to and has complied with RSA 31:95-b, III (b) relative to unanticipated moneys received in amounts less than \$10,000; and,

WHEREAS the Town of Londonderry Police department has received the 2022 Homeland Security Grant from the New Hampshire Department of Safety; and,

WHEREAS the grant was in the amount of up to \$9,000; and

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Londonderry that the Town of Londonderry hereby accepts the unanticipated revenue under 31:95-b, III(b), and further authorizes the Town Manager, to move forward in accepting this award and to sign any paperwork associated with such grant on behalf of the Town.

**Chad Franz – Chair
Town Council**

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

06/17/2024



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

RESOLUTION 2024-21

A Resolution Relative to

Acceptance of Unanticipated Revenue 31:95-b, III(b)

WHEREAS the Town of Londonderry adopted the provisions of RSA 31:95-b with the passage of warrant article 18 at their March, 1994 town meeting; and,

WHEREAS the Town Council desires to and has complied with RSA 31:95-b, III (b) relative to unanticipated moneys received in amounts less than \$10,000; and,

WHEREAS the Town of Londonderry Finance department was awarded the New Hampshire Government Finance Officers Association (NHGFOA) inaugural “Fellowship Program Scholarship”; and,

WHEREAS the intent of the program is to provide an opportunity to college accounting/finance majors to work within a municipality and gain a greater understanding of governmental accounting; and,

WHEREAS the grant was in the amount of up to \$9,000; and covers a majority, up to the full cost, of a college fellowship to assist within the Finance Department; and,

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Londonderry that the Town of Londonderry hereby accepts the unanticipated revenue under 31:95-b, III(b).

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

06/17/2024



Town of Londonderry, New Hampshire

268B Mammoth Road • Londonderry, NH 03053

(603) 432-1100 • londonderrynh.gov

ORDINANCE 2024-03

An Order Relative to

AN ORDINANCE RELATIVE TO STORM WATER RUNOFF AND MS4 COMPLIANCE

WHEREAS the Town of Londonderry, by and through the Londonderry Town Council seeks to protect, maintain and enhance the environment of the Town and the public health, safety and the general welfare of the citizens of the Town by, controlling discharges and pollutants to the Town's storm water system and maintaining the quality of the receiving waters into which the storm water outfalls, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water of the town; and

WHEREAS the Town of Londonderry must update & amend language of the storm water ordinance and storm water regulations to stay in compliance with applicable law; and

WHEREAS in adopting the language of Storm Water Ordinance & Storm Water Regulations attached hereto, the Town exercises the power granted to it by the State of New Hampshire through RSA 149-I and other applicable statutes;

NOW THEREFORE BE IT ORDERED by the Londonderry Town Council, of the Town of Londonderry, adopts the amended Town of Londonderry Storm Water Ordinance & Regulations attached hereto.

Chad Franz – Chair
Town Council

Sharon Farrell – Town Clerk

A TRUE COPY ATTEST:

06/03/2024



Town of Londonderry

**Department of Public Works &
Engineering**

STORM WATER REGULATIONS

September 16, 2019

DRAFT May 1, 2024

STORM WATER REGULATIONS

TABLE OF CONTENTS

Table of Contents

SECTION 1. GENERAL PROVISIONS	4
A. Purpose.....	4
B. Administration	4
C. Interpretations of Provisions	4
D. Definitions.....	4
SECTION 2. PROHIBITED DISCHARGES	11
A. Violation of Water Quality Standard	11
B. Introduction of Prohibited Substances	11
C. Introduction of Earth-type Materials.....	12
D. Introduction of Sewage and Grey Water	13
E. Service Station Pavement Wash Water.....	13
F. Pesticide and Herbicide Use.....	13
G. Disposal of Pesticide and Herbicide	13
H. Storage of Trash, Toxic Substances and Hazardous Wastes.....	13
I. Allowable Discharges.....	14
SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS	14
A. Storm Water Discharge Permit	14
B. Exemptions.....	15
C. Application Procedure	15
D. Application Requirements	16
E. Permit Compliance	16
SECTION 4. GENERAL PERMIT PROVISIONS.....	17
A. EPA Construction General Permit.....	17
B. Storm Water Pollution Prevention Plan (SWPPP).....	17
C. Expiration of Approvals	17

D.	Notice of Construction	17
E.	Joint Responsibility.....	18
F.	Final Stabilization	18
G.	Financial Guarantees	19
H.	Responsibility	19
SECTION 5. WAIVERS		22
A.	Conditions for Waiver	22
SECTION 6. STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS.....		22
A.	Storm Water Design or BMPs Manual	22
B.	Post -Construction Storm Water Management Design Standards	22
SECTION 7. INDUSTRIAL ACTIVITY DISCHARGES		29
SECTION 8. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.....		30
SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.....		30
C.	Notification.....	30
D.	Release Notification and Reporting.....	31
E.	Immediate Notification Required	31
F.	Liability for Damage and Loss	31
SECTION 11. ELIGIBILITY		32
As outlined in Section 11 of the Ordinance.....		32

STORM WATER REGULATIONS

SECTION 1. GENERAL PROVISIONS

A. Purpose

These Storm Water Regulations were developed in accordance with the Town of Londonderry's Storm Water Ordinance, Section 1(C)(2): "Adopt any regulations deemed necessary to accomplish the purposes of this ordinance."

It is the purpose of these Regulations to supplement to the Town of Londonderry's Storm Water Ordinance ("SWO"). The Regulations provide a more detailed guidance to the means and methods of carrying out the purposes of the SWO.

B. Administration

The Director of the **Department of Engineering and Environmental Services** or his designee shall administer the provisions of these Regulations.

The Department of **Engineering and Environmental Services** reserves the right to revise, supplement, or rescind any regulations or portion of this document as it deems appropriate.

C. Interpretations of Provisions

The provisions of these Regulations with respect to the meaning of the technical matters, terms, and phrases shall be interpreted and administered by the Director of **Department of Engineering and Environmental Services** acting in and for the Town of Londonderry.

D. Definitions

For the purpose of these Regulations and SWO, the following rules shall apply:

- a) Words used in the singular shall include the plural, and the plural shall include the singular.
- b) Words used in the present tense shall include the future tense.

- c) The word "shall" is mandatory and not discretionary.
- d) The word "may" is permissive.
- e) Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Third New International Dictionary. The words enumerated below shall have the definition that follows:
 - 1. Accidental Discharge - means a discharge prohibited by these Regulations, which occurs by chance, and without planning or thought prior to occurrence.
 - 2. As-built Plans - means drawings depicting conditions as they were actually constructed.
 - 3. Best Management Practices (BMPs) - are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce the increase of rate of storm water runoff and pollution of water, that have been approved by the Town of Londonderry ("Town"), and that have been incorporated by reference into these Regulations as if fully set out therein. [NOTE: See Section 6 for recommended BMP manuals.]
 - 4. Channel - means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
 - 5. Clean Water Act - means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
 - 6. Code Enforcement Officer - means the Town employee assigned to enforce the implementation of the Town Ordinance.
 - 7. Combined Sewer Drainage System - means a single pipe conveyance system intended to receive both sewage and storm or surface water.
 - 8. Community Water - means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of a boundary of the Town.
 - 9. Construction Activity - means activities subject to the EPA Phase II Storm Water Program and the National Pollutant Discharge Elimination System ("NPDES") General Construction Permits, including construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

10. Construction Period – is defined as the date of issuance of the stormwater permit to the completion of all work and final release of financial guarantees for the project.
11. Contaminant - means any physical, chemical, biological, or radiological substance or matter in water.
12. Department of Engineering and Environmental Services (“DEES”) - means the Town of Londonderry Department of Engineering and Environmental Services.
13. Development - Any construction, land disturbance, or improvement of a site or structure with less than 40% existing impervious cover. Calculated by dividing the total existing impervious cover by the size of the site and converting to a percentage. This does not include activities for agriculture or silviculture practices.
14. Director of Engineering and Environmental Services (“Director”) - means the chief administrator of DEES, who is authorized to assign staff to oversee the implementation of these Regulations and this SWO.
15. Design Storm Event - means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
16. Discharge - means to dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system, or ponds, streams, lakes and wetlands.
17. Easement - means an acquired right to cross or otherwise use the land of another for a specified purpose.
18. Environmental Protection Agency (EPA) – the Federal agency responsible for implementing the Federal Water Control Act, (3 U.S.C § 1251 et seq.) AKA the “Clean Water Act”.
19. Erosion - means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
20. Erosion and Sediment Control Plan - means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
21. Illicit Connections - means illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system. An “Illicit Connection” is:

- a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyance which allows any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - b) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
22. Illicit Discharge - means any discharge to the municipal storm sewer system that is not composed entirely of storm water and not specifically permitted through an existing NPDES discharge permit.
23. Industrial Activity - means activities subject to NPDES Storm Water Permits (for discharges associated with industrial activity) as defined in 40 CFR, Section §122.26 (b)(14).
24. Land Disturbing Activity - means any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
25. Maintenance - means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.
26. Maintenance Agreement - means a document duly executed and recorded in the **Registry of Deeds** that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices **and reporting**.
27. Municipal Separate Storm Sewer System (MS4) - means the conveyances owned or operated by the Town for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, pipes, curbs, gutters, ditches, man-made channels, and storm water detention ponds.
28. National Pollutant Discharge Elimination System Permit ("NPDES Permit") - means

a permit issued 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.

- 29. Non-point Source Pollution - means water sources and inputs within a watershed, which occur over a wide area, and are associated with particular land uses, as opposed to individual point source discharges.
- 30. Non-Storm Water Discharge - means any discharge to the storm drain system that is not composed entirely of storm water.
- 31. Notice Of Intent ("NOI") - means application for coverage under the EPA's General Permit for construction activities.
- 32. Off-site Facility - means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- 33. On-site Facility - means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- 34. Inspection and Maintenance Program – a plan setting up the future responsible parties along with the functional, financial and organizational mechanisms for the ongoing inspection and maintenance of storm water management system to ensure that it continues to function as designed.
- 35. Outfall – the point at which storm water flows out from a point source discernible, confined and discrete conveyance into waters of New Hampshire or of the United States.
- 36. Peak Flow - means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- 37. Person - means any and all persons, including any individual, firm or association and any municipal or private corporation or other entity organized or existing under the laws of this or any other state or country.
- 38. Pollutant - means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; 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; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure;

concrete and cement; and noxious or offensive matter of any kind.

39. Pollution - means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
40. Post-Construction Period – the period after final release of financial guarantee in perpetuity.
41. Premises - means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
42. Recharge - means the amount of water from precipitation that infiltrates into the ground and is not evaporated or transpired.
43. Redevelopment - Any construction, land disturbance, or improvement on a site that has 40% or more of existing impervious cover area. Calculated by dividing the total existing impervious cover area by the parcel size area and converting to a percentage
44. Runoff - means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm water system.
45. Sediment - means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
46. Sedimentation - means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream
47. Soils Report - means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a soils scientist or engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
48. Stabilization - means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
49. State Waters - means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface

and subsurface water, natural or artificial, lying within or forming a part of a boundary of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.

- 50. Storm Water - means water from any form of natural precipitation that is not absorbed or evaporated and resulting from such precipitation. Street wash waters related to street cleaning or maintenance.
- 51. Storm Water Management - means the programs to maintain quality and quantity of storm water runoff to pre-development levels.
- 52. Storm Water Management Facilities - means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.
- 53. Storm Water Discharge Permit - means a permit issued by the Town through DEES.
- 54. Storm Water Management Plan - means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.
- 55. Storm Water Pollution Prevention Plan - ("SWPPP") means a plan that clearly describes appropriate control measures that include a description of all pollution control measures (*i.e.*, BMPs) that will be implemented as part of the construction or industrial activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site including the Maintenance Agreement.
- 56. Storm Water Regulations - means a supplement to the SWO that includes additional conditions and requirements. Copies are available at DEES and the Office of the Town Clerk.
- 57. Storm Water Runoff - means flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- 58. Stream - means areas of flowing water occurring for sufficient time to develop and maintain defined channels but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U.S. Geological Survey Maps.
- 59. Structural BMPs - means devices that are constructed to provide control of storm water runoff.

60. Structural Storm Water Control - means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
61. Surface Water - includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes ponds and reservoirs.
62. Watercourse - means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
63. Watershed - means all the land area that contributes runoff to a particular point along a waterway.

SECTION 2. PROHIBITED DISCHARGES

The specific prohibited discharges in this section are not inclusive of all discharges prohibited by these Regulations.

A. Violation of Water Quality Standard

No person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System (MS4) any discharge that causes or contributes to causing the Town to violate a water quality standard, the Town's NPDES permit, or any state-issued discharge permit for discharges from its MS4.

B. Introduction of Prohibited Substances

No person shall dump, spill, leak, pump, pour, emit, empty discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:

1. New or used motor oil, antifreeze, or other motor vehicle fluid;
2. Industrial wastes;
3. Hazardous waste, including hazardous household waste;
4. Domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
5. Garbage, trash, rubbish or yard waste;

6. Wastewater from a commercial car wash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile, or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
7. Wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
8. Wastewater from commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
9. Wastewater from any floor, rug or carpet cleaning;
10. Wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
11. Effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow-down from a boiler;
12. Ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
13. Runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
14. Filter backwash from a swimming pool, fountain, hot-tub, or spa;
15. Swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in the pool cleaning;
16. Water from a water curtain in a spray room used for painting vehicles or equipment;
17. Contaminated runoff from a vehicle wrecking yard;
18. Any substance or material that will damage, block, or clog the MS4;
19. Any release from a petroleum storage tank, or any leachate or runoff from soil

contaminated by a leaking petroleum storage tank, or any discharge of pumped, confined, or treated waste water from the remediation of any such petroleum storage tank release, unless it complies with state and federal standards and does not contain any harmful quantity of any pollutant;

20. Any discharge not in compliance with an applicable NPDES permit (e.g., non- contact cooling water, storm water).

C. Introduction of Earth-type Materials

No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with cleaning, grading, excavation or other construction activities, (or associated with landfilling or other placement or disposal of soil, rock, or other earth materials) in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable (under the prevailing circumstances).

D. Introduction of Sewage and Grey Water

No person shall connect a pipe conveying sanitary sewage, domestic or industrial, to the MS4; this includes gray water discharge such as washing machine discharge, sink drains, floor drains, etc. or allow such a connection to continue.

E. Service Station Pavement Wash Water

No person shall cause or allow any pavement wash water from a service station to be discharged into the MS4 unless such wash water has first passed through a properly functioning and maintained, grease, oil, and sand interceptor.

F. Pesticide and Herbicide Use

No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation. Any use of any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States is prohibited.

G. Disposal of Pesticide and Herbicide

No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or a fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.

H. Storage of Trash, Toxic Substances and Hazardous Wastes

No person shall store toxic or hazardous substances on property, or allow trash and debris to stand or collect on property, so as to allow exposure to precipitation and storm water runoff, which can affect storm water discharge to the MS4 or adjacent water table. Any toxic or hazardous substances stored onsite must be in accordance with EPA and State regulations.

I. Allowable Discharges

Notwithstanding any provisions to the contrary, the following types of discharges into the storm drain system are exempt from the prohibitions set herein:

1. Watering of lawns, landscaping and gardens;
2. Washing of personal motor vehicles by residents;
3. Draining of water from swimming pools or spas, after chlorine content of such water according to a test kit, shows a zero reading of chlorine;
4. Flushing of water lines or other discharges from potable water sources;
5. Flows from firefighting activities;
6. Managed minimal amounts of air conditioning condensation;
7. *Uncontaminated pumped groundwater;
8. *Discharges from rising ground waters, springs, and flows from riparian habitats and wetlands;
9. *Non-contact cooling water discharged in accordance with a valid NPDES permit.

***only if permitted by the approved design**

SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS

A. Storm Water Discharge Permit

Unless otherwise excluded by these regulations, the permit outlined in Sections 5(A) and 5(C) of the SWO is required for the following activities:

1. Land disturbing activity of one (1) or more acres of land;
2. Land disturbing activity of less than one (1) acre of land, if such activity is part of a

larger common plan of development that affects one (1) or more acres of land.

3. Land disturbing activity of less than one (1) acre of land, if located within an environmentally sensitive area or if in the discretion of the Director such activity poses a unique threat to water, or public health or safety;
4. The creation and use of borrow pits (the excavation of soils from one area to be used in another area) that would meet any of the criteria of 1, 2, or 3 above.
5. Any contiguous land disturbance activity that disturbs more than 5,000 square feet or disturbs more than 2,500 square feet within 100 feet of a surface water body.
6. Any cumulative land disturbance exceeding 20,000 square feet, whether the project is or is not part of a larger plan of development.
7. A subdivision of four or more lots (i.e., major subdivision).
8. Phasing of three or more contiguous lots per year of an existing or proposed subdivision.
9. Construction of utilities (gas, water, sewer, electric, drainage, telephone, etc.) requiring contiguous land disturbance of greater than 20,000 square feet.

The Town's process for the Storm Water Discharge Permit program includes the following:

1. During the review phase of the project, the Applicant is required to obtain the Storm Water Discharge Permit from DEES prior to conditional or final approval of the project by the Londonderry Planning Board ("Planning Board").
2. Upon receiving approval from the Planning Board, the Applicant is required to provide to DEES evidence of the EPA's receipt of the Applicant's project Notice of Intent (NOI) submittal.
3. Upon completion of construction of the project, the property Owner shall provide to DEES a notarized affidavit acknowledging their understanding of and implementation of the Storm Water Inspections and Maintenance portion of the Storm Water Pollution Protection Plan (SWPPP) for the site and the annual reporting and a copy of the recorded Storm Water Inspections and Maintenance Plan.

B. Exemptions

The following allowed activities listed below are exempt from the requirements of the regulations:

1. Small projects that will result in less than 5,000 square feet of land disturbance and provide the minimum erosion control measures and BMPs set forth in the New Hampshire Storm water Manual, Volume 3 (2008 or as updated).
2. Normal maintenance and improvement of land in agricultural use as provided in the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire as

established by the New Hampshire Department of Agriculture, Markets and Food, dated June 2011, or as amended.

3. Maintenance of existing landscaping, gardens, or lawn areas.
4. The construction of any fence that will not alter existing terrain or drainage patterns.
5. Construction of utilities (gas, water, sewer, electric, telephone, storm drainage, etc.), disturbing less than 20,000 contiguous square feet, within the limits of an existing paved roadway that will not increase impervious area, or permanently change drainage patterns, and where construction trenches are stabilized at the end of each working day.
6. Disturbance solely related to maintenance and improvement of an existing street or road unless an increase in impervious area is proposed and the disturbance is greater than 20,000 square feet. This exemption applies for roadway projects that do not disturb highly erodible soils (e.g., reclaim and pave, resurfacing, milling).
7. Emergency repairs to any storm water management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Building Department, Zoning Officer or Department of Engineering and Environmental Services.

C. Application Procedure

The following application procedure will apply for any construction project, whether a Site Plan or Subdivision application as outlined within these Regulations:

1. Step 1 – Review phase of project –
 - a. Upon its receipt of complete project information as outlined under section 3(C)(1) below, DEES shall inform the Applicant whether the application for the Storm Water Discharge Permit is approved in accordance with the Town's Site Plan and Subdivision Regulations.
 - b. If the application is not approved, DEES will issue comments to the application. The applicant shall address DEES's review comments.
2. Step 2 – Upon receipt of Planning Board approval, the Applicant shall provide project information as outlined under Section 3(C)(2) below prior to the pre- construction meeting required under the Town's Site and Subdivision regulations.
3. Step 3 – Upon completion of construction of the project, the property Owner shall provide the project information as outlined under Section 3(C)(3) below prior to a certificate of occupancy being issued by the Town.

D. Application Requirements

Under the Town's Storm Water Discharge Permit process, the following is required:

1. Step 1 - During the review process, the Applicant shall submit the following:
 - a. Storm Water Discharge permit application.
 - b. Project design drawings (Site plan or Subdivision application) in accordance with Planning Board requirements and the requirements of 40 CFR §122.26, including the SWPPP.
 - c. A Project Storm Water Drainage report (Site plan or Subdivision application) in accordance with Planning Board requirements and the requirements of 40 CFR §122.26.
 - d. Storm Water Pollution Protection Plan, including **inspections** and maintenance program ("I &M"), for the project including the maintenance agreement (signed by the property Owner).
2. Step 2 - Upon receiving Planning Board approval, the Applicant shall submit the following to DEES:
 - a. A copy of NOI submitted to EPA and acknowledgment of receipt by EPA.
 - b. A copy of approved SWPPP including maintenance agreement (signed by property Owner).
3. Step 3 - Upon completing construction of the project, the property Owner shall provide to DEES a signed notarized affidavit, on the Town's standard form, acknowledging understanding and implementation of the approved Storm Water I &M portion of the SWPPP and maintenance agreement for the site.

E. Permit Compliance

Approvals issued under this section shall be valid from the date of issuance through **the completion of the** construction period. **Compliance under this section shall be in perpetuity under the post construction period.**

SECTION 4. GENERAL PERMIT PROVISIONS

A. EPA Construction General Permit

The Permit is required as outlined in Section 5 of the Town's Storm Water Ordinance and as outlined in 40 CFR §122.26 of the USEPA Regulations.

B. Storm Water Pollution Prevention Plan (SWPPP)

The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit, Town Ordinance and these Regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Professional Engineer licensed in the State of New Hampshire.

All contractors and subcontractors identified in a SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP.

"I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with activity from the construction site identified as part of this certification, with the Storm Water Ordinance of the Town of Londonderry, New Hampshire, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."

This certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The SWPPP with the certifications of document creator, contractors and subcontractors shall be retained at the construction site from the date of commencement of construction through the date of final stabilization. A copy must also be made available to DEES at least ten (10) working days before the commencement of construction.

C. Expiration of Approvals

Site plan and Subdivision approvals shall expire and become null and void if substantial work authorized by such approval has not commenced within the time frame noted in the Town's Site plan and Subdivision Regulations.

D. Notice of Construction

The applicant must notify DEES at least ten (10) working days in advance of the commencement of construction. The Owner/Operator/Contractor shall conduct regular inspections of the storm water management system during construction. Inspections shall

be performed on all areas that have not had final stabilization, areas used for storage of materials that are exposed to precipitation, structural control measures, locations where vehicles enter and exit the construction site, open manholes and piping that could collect sediment and other controls as outlined in the SWPPP. All inspections shall take place within 24-hours after any rainstorm of 0.5 inches or more of rain and once every seven days. These inspections must be documented by written reports that include the following information:

1. The date and location of the inspection;
2. Whether construction is in compliance with the approved SWPPP;
3. Variations from the approved construction specifications;
4. Any violations that exist.

E. Joint Responsibility

Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing BMP's, is jointly and severally responsible for any willful or negligent failure to adequately implement those BMP's (if such failure causes or contributes to causing the Town to violate a water quality standard, the Town's NPDES permit, or any State-issued discharge permit for discharges from its MS4).

F. Final Stabilization

When a site has been finally stabilized and all storm water discharges from construction activities that are authorized by these Regulations and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to DEES a copy of the NPDES Notice of Termination ("NOT"), or EPA reference tracking number, of coverage under a NPDES General Permit for Storm Water Discharges.

Upon final stabilization of the construction site, the owner (or duly authorized representative thereof) by submission of the NOT to the EPA is certifying that the site has been finally stabilized. The Town may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and DEES has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

The operator shall retain copies of any SWPPP, certifications and all reports required by these Regulations or by the NPDES permit for the site, and records of all data used to

complete the NOT, for a period of at least three years from the date that the site is finally stabilized.

The operator shall assure that DEES is provided with two full sets of as-builts (to include at a minimum sewers, drains, storm water structures, swales, roads, curb lines, sidewalks, and vertical information on structures via profile or plan invert notes) of the completed project. These must be received within one hundred twenty (120) days of the submission of the NOT. If these as-builts are not received by the Town, then the Town may draw funds from any retainage or financial guarantees to have an engineer complete the as-builts with all costs being borne by the operator.

Within thirty (30) days of the submission of the NOT, the operator's construction site must be cleaned and free of any residual stock piles of materials, hay bales, silt fences or any such BMPs that were used for site erosion and sediment controls. If these are not completed to DEES's satisfaction, the Town may draw funds from any retainage, performance, or security bonds to have a contractor complete the clean-up and close out any remaining site stabilization.

G. Financial Guarantees

1. DEES will require the submittal of a performance surety in accordance with the Subdivision and Site plan regulations.
2. The performance surety shall be released only upon DEES's receipt of as-built plans and written certification by a registered professional engineer licensed to practice in the State of New Hampshire that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of these Regulations. DEES will make a final inspection of the structural BMP to ensure that it complies with the approved plan and the provisions of these Regulations. **A copy of the recorded Storm Water Inspection and Maintenance Plan for the project shall also be provided.** Provisions for a partial pro-rata release of the performance surety based upon the completion of various development stages can be made at the discretion of the DEES.

H. Responsibility.

1. **Responsible parties during construction.**
 - a. **Commercial and industrial development and/or redevelopment.** The owner, and owner's legally designated representative (if any) shall all hold responsibility for implementing the SWPPP. This includes but is not limited to the installation, construction, inspection, and maintenance of all storm water management and erosion control measures required by the provisions of this chapter.
 - b. **Residential development and redevelopment.** The owner is responsible for implementing the SWPPP. Excluding any post-development requirements of plan implementation, there are two ways for the Town to consider an owner to be

removed as the responsible party (the owner may also be required to comply with other regulating entities' additional requirements):

- 1) The owner completes the project in a manner satisfactory to the Town and if a NOI has been filed for the project, the NOI permittee files a notice of termination (NOT) with the EPA in accordance with the terms of the federal requirements.
 - 2) The owner passes legal responsibility for the SWPPP to another competent party. In the case of a new subdivision where lots may be transferred to a different entity for construction of the buildings, it is the owner's responsibility to ensure that the owner has a legal basis to require compliance by the new entity.
 - c. Individual homeowner development. The homeowner or a homeowner who has taken control of a subdivided property bears responsibility for compliance with the approved SWPPP. If the homeowner is contracting building services to another person or entity, the homeowner may choose to pass legal responsibility of compliance to the contracted entity. If the responsibility is not passed, the homeowner remains the responsible party and shall comply with the terms of the original SWPPP.
2. Responsible parties, post-construction/long-term maintenance. Long-term maintenance of approved storm water practices shall be ensured through the storm water inspection and maintenance plan as described in Section 6(C) below. Responsibility for implementing the inspection and maintenance plan is as follows:
- a. Commercial and industrial development and/or redevelopment. The owner, and owner's legally designated representative (if any) shall hold all responsibility for implementing the maintenance and inspection plan. The responsible party(ies) may contract with one or more third parties to conduct the inspection and maintenance activities but shall remain responsible for ensuring long-term effectiveness and maintaining records as required by Section 6(C) below.
 - b. Residential development and/or redevelopment. For residential development and/or redevelopment where a homeowners' association will not be established, the individual homeowners share joint and several liability for implementing the maintenance and inspection plan. For residential developments where a homeowners' association will be established, the following applies:
 - 1) The homeowners' association shall assume responsibility and be specified as such in the documentation that establishes the association.
 - 2) If the homeowners' association is dissolved or discontinued, the individual homeowners share joint and several liability for maintenance and inspection activities.
 - c. The responsible party(ies) may contract with one or more third parties to conduct

the inspection and maintenance activities but shall remain responsible for ensuring long-term effectiveness and maintaining records as required by Section 6(B)4.D below.

- d. Installation, construction, maintenance and inspection requirements and responsibilities; post- construction inspection and maintenance. All applicants requiring a storm water management and erosion control plan shall submit relevant pollutant accounting information to the Planning Department as required by the Department of Public Works. Required information shall be submitted at the time of as-builts.

SECTION 5. WAIVERS

A. Conditions for Waiver

The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant if it can be demonstrated that the proposed development is not likely to impair attainment of the objectives of these Regulations.

SECTION 6. STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS

- A. Storm Water Design or BMPs Manual** - The Town adopts as its storm water design and BMPs manual the following publications, which are incorporated by reference in these Regulations as if fully set out herein:

1. New Hampshire Department of Environmental Services Storm water Manual Volume 1, 2 and 3 dated December 2008 and any and all amendments and updates.
2. The Town of Londonderry's "Subdivision and Site Plan Regulations";
3. "New Hampshire DOT Guidelines for Temporary Erosion and Sediment Control and Storm Water Management" - NHDOT Bureau of Construction.

B. Post – Construction Storm Water Management Design Standards

The following performance standards shall be applied for post-construction storm water management. [Note: These standards are in addition to requirements that may be found in other sections of the Site Plan, Subdivision, and other land use regulations or Ordinances. These standards are also in general conformance to requirements set forth in the NH Small MS4 NPDES general permit, NPDES general permit for discharges from construction activities, NHDES wetlands permits (RSA 482-A), and the NHDES alteration

of terrain rules (RSA 485-A:17).]

1. Design guidelines.

- A. All proposed storm water treatment practices and measures shall be appropriately selected, designed, installed, and maintained in accordance with manufacturers' specifications and performance specifications in the New Hampshire Storm water Manual, Volumes 1, 2 and 3 (2008 or as updated), a copy of which is available from the NHDES website at https://www.des.nh.gov/water/storm_water Design considerations shall include the following, as appropriate:
- 1) Where practical, the use of natural, vegetated filtration BMPs or subsurface gravel wetlands for water quality treatment is preferred.
 - 2) All storm water detention areas shall be designed to drain within a maximum of 72 hours for water quality and flood control.
 - 3) BMP design shall account for frozen ground conditions when the devices may not function at their optimal design.
 - 4) All storm water management practices involving bioretention and vegetative cover as a key functional component must have a landscaping plan detailing both the type and quantities of plants and vegetation to be in used in the practice and how and who will manage and maintain this vegetation. The use of native plantings appropriate for site conditions is strongly encouraged for these types of storm water treatment areas in sufficient numbers and density to prevent soil erosion and to achieve the water quality treatment requirements of this section. The landscape plan must be prepared by a licensed landscape architect, soil conservation district office, or another qualified professional.
- B. Storm water management and erosion and sediment control practices shall be located outside any specified buffer zones unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible.
- C. Low Impact Development (LID) site planning and design strategies shall be used to the maximum extent practicable (MEP) for both new development and redevelopment sites to reduce storm water runoff volumes, protect water quality, and maintain predevelopment site hydrology. Low Impact Development (LID) techniques with the goals of protecting water quality, maintaining predevelopment site hydrology. Low Impact Development (LID) techniques that preserve existing vegetation, reduce the development footprint, minimize or disconnect impervious area, and use enhanced storm water BMP's (such as raingardens, bioretention systems, tree box filters, and similar storm water management landscaping techniques) shall be incorporated into landscaped areas. Capture and reuse of storm water is strongly encouraged. The Applicant must document in writing why

the LID strategies are not appropriate when not used to manage stormwater.

- D. The design of the storm water treatment systems shall account for upstream and upgradient storm water runoff that flows onto, over, or through the site to be developed or redeveloped and provide for this contribution of storm water runoff.
- E. Surface runoff shall be directed into appropriate storm water control measures designed for treatment and/or filtration to the maximum extent practicable and/or captured and reused onsite.
- F. All newly generated storm water from new development shall be treated on the development site. A development plan shall include provisions to retain natural predevelopment watershed areas on the site by using the natural flow patterns.
- G. Runoff from impervious surfaces shall be treated to achieve at least 80% removal of Total Suspended Solids (TSS) and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Storm Water Manual. Volumes 1 and 2, December 2008, as amended or other equivalent means. Where practical, the use of natural, vegetated filtration practices or gravel wetlands for water quality treatment are preferred given its relatively high nitrogen removal efficiency. All new impervious area draining to surface waters impaired by nitrogen, phosphorus or nutrients shall be treated with storm water BMP's designed to optimize pollutant removal efficiencies based on design standards and performance data published by the UNH Storm Water Center and/or included in the latest version of the NH Storm Water Manual.
- H. Pollutant discharge minimization requirements.
 - 1) Storm water runoff shall not be discharged to municipal drainage systems or privately owned drainage systems (whether enclosed or open drainage) or to surface water bodies and wetlands, unless it meets the minimum pollutant discharge requirements in Subsection B(1)(H) above or is from a vegetated area conveyed as sheet flow.
 - 2) Storm water treatment practices shall be designed for the water quality volume (WQV) or water quality flow (WQF), as applicable, calculated in accordance with Code of Administrative Rules Env-Wq 1504.10 and 1504.11, respectively.
 - 3) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity noxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface water or groundwater so as to contaminate, pollute, harm, impair, or not meet water quality standards of such waters.
 - 4) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials shall meet the regulations of NHDES, including

those involving underground storage tanks, aboveground storage tanks, hazardous waste, and required BMPs for groundwater protection (Code of Administrative Rules Chapter Env-Wq 401).

- 5) The physical, biological, and chemical integrity of the receiving waters shall not be degraded by the storm water runoff from the development site.
- I. Measures shall be taken to control the post-development peak runoff rate so that it does not exceed pre-development runoff rate. Drainage analyses shall include calculations comparing pre- and post-development storm water runoff rates (cubic feet/second) and volumes (cubic feet) for the 1-inch rainstorm and the 2-year, 10-year, 25-year, and 50-year 24-hour storm events. Similar measures shall be taken to control the post-development runoff volume to infiltrate the groundwater recharge volume (GRv) in accordance with NH DES Alteration of Terrain requirements. For sites where infiltration is limited or not practicable to provide the minimum GRv, the Applicant must demonstrate that the project will not create or contribute to water quality impairment.
- J. The sizing and design of storm water management practices shall utilize new precipitation data from the Northeast Region Climate Center (NRCC), or the most recent precipitation atlas published by the National Oceanic and Atmospheric Administration (NOAA) for the sizing and design of all storm water management practices. See the NRCC website at <http://precip.eas.cornell.edu/>
- K. The design of the storm water drainage systems shall provide for the discharge of storm water without flooding or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation.
- L. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.
- M. Access drive of a minimum width of 12 feet for maintenance of storm water facilities including sediment forebays and outlet structures shall be provided as part of the design. Access easements may be required.
- N. Salt storage areas shall be fully covered with permanent or semi-permanent measures and loading/offloading areas shall be located and designed to not drain directly to receiving waters and maintained with good housekeeping measures in accordance with NH DES published guidance. Runoff from snow and salt storage areas shall enter treatment areas before being discharged to receiving waters or allowed to infiltrate into the groundwater. See NHDES published guidance fact sheets on road salt and water quality, and snow disposal at:

<http://des.nh.gov/organization/commissioner/pip/factsheets/wmb/index.htm>.

2. Additional Submission Requirements for Drainage Study/Storm Water Management Report and Plans:

- A. All applications shall include a comprehensive Storm Water Management Plan (SWMP). The SWMP shall include a narrative description and an Existing Conditions Site Plan showing all pre-development impervious surfaces, buildings and structures; surface water bodies and wetlands; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers, locations of various hydrologic group soil types, mature vegetation, land topographic contours with minimum 2-foot intervals and spot grades where necessary for sites that are flat.
- B. The SWMP shall include a narrative description and a Proposed Conditions Site Plan showing all post-development proposed impervious surfaces, buildings and structures; temporary and permanent storm water management elements and best management practices (BMP); GIS files containing the coordinates of all storm water infrastructure elements (e.g. catch basins, swales, detention/bioretention areas, piping); important hydrologic features created or preserved the site; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers; proposed tree clearing and topographic contours with minimum 2-foot intervals. The plans shall provide calculations and identification of the total area of disturbance proposed on the site (and off site if applicable) and total area of new impervious surface created. A summary of the drainage analysis showing a comparison of the estimated peak flow and volumes for various design storms at each of the outlet locations shall be included.
- C. The SWMP shall describe the general approach and strategies implemented, and the facts relied upon, to meet the goals of Subsection A and Subsection B noted above under this section. The SWMP shall include design plans and/or graphical sketch(es) of all proposed above ground LID practices.
- D. The SWMP shall include calculations of the change in impervious area, pollution loading and removal volumes for each best management practice.
- E. The SWMP shall include a description and a proposed Site Plan showing proposed erosion and sediment control measures, limits of disturbance, temporary and permanent soil stabilization measures in accordance with the NHDES Storm Water Manual Volume 3 (most recent version) as well as a construction site inspection plan including phased installation of best management practices and final inspection upon completion of construction.
- F. Calculations shall include sizing of all structures and best management practices, including sizing of emergency overflow structures based on assessment of the 100-year 24-hour frequency storm discharge rate.
- G. Where proposed changes are anticipated within mapped limits of the 100-year floodplain, the Applicant must meet the requirements of the Zoning Ordinance regarding the Floodplain Overlay District.
- H. For sites meeting the definition of a redevelopment site, the project shall meet one of the following storm water treatment standards:

- 1) Implement measures on-site that result in disconnection or treatment of at least 30% of the existing impervious cover and 50% of the additional proposed impervious cover and pavement areas preferably using infiltration or filtration practices.
 - 2) Implement other LID techniques on-site to the maximum extent practicable to provide treatment for at least 50% of the entire site area.
- I. The SWMP shall include a long-term storm water management BMP inspection and maintenance plan (see Subsection C below) that describes the responsible parties and contact information for the qualified individuals who will perform future BMP inspections. The inspection frequency, maintenance and reporting protocols shall be included.
 - J. The SWMP shall describe and identify locations of any proposed deicing chemical and snow storage areas. SWMP will describe how deicing chemical use will be minimized or used most efficiently.
 - K. In urbanized areas that are subject to the EPA MS4 Storm Water Permit and will drain to chloride-impaired waters, any new developments and redevelopment projects shall submit a description of measures that will be used to minimize salt usage, and track and report amounts applied using the UNH Technology Transfer Center online tool (<http://www.roadsalt.unh.edu/Salt/>) and to NHDES's New Hampshire Salt Management System Database at:
<https://www.nhms4.des.nh.gov/nh-resources/winter-maintenance/>

3. Spill Prevention, Control and Countermeasure (SPCC) Plan

Any existing or otherwise permitted use or activity having regulated substances in amounts greater than five gallons, shall submit to the local official such as the Fire Chief, **Building Inspector, and DEES**, a SPCC plan for review and approval. The Plan will include the following elements:

- A. Disclosure statements describing the types, quantities, and storage locations of all regulated substances that will be part of the proposed use or activity.
- B. Owner and spill response manager's contact information.
- C. Location of all surface waters and drainage patterns.
- D. A narrative describing the spill prevention practices to be employed when normally using regulated substances.
- E. Containment controls, both structural and non-structural.
- F. Spill reporting procedures, including a list of municipal personnel or agencies that will be contacted to assist in containing the spill, and the amount of a spill requiring outside assistance and response.
- G. Name of a contractor available to assist in spill response, contaminant, and cleanup.
- H. The list of available clean-up equipment with instructions available for use on-site and the names of employees with adequate training to implement containment and clean up response

4. Storm Water Management Plan and Site Inspections

- A. The Applicant shall provide that all storm water management and treatment practices shall have an inspection and maintenance plan in place with an agreement to ensure the system will continue to function as designed in perpetuity. This agreement will include all maintenance easements required to access and inspect the storm water treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water system. The inspections and maintenance plan shall specify the parties responsible for the proper maintenance of all storm water treatment practices. The inspection and maintenance plan document shall be provided to the Planning Board as part of the application prior to issuance of any local permits for land disturbance and construction activities.
- B. The Applicant shall provide legally binding documents for filing with the registry of deeds which demonstrate that the obligation for maintenance of storm water best management practices and infrastructure runs with the land and that the Town has legal access to inspect the property to ensure their proper function or maintain onsite storm water infrastructure when necessary to address emergency situations or conditions.
- C. The property owner shall bear responsibility and all costs for the installation, construction, inspection, and maintenance of all storm water management and erosion control measures required by the provisions of these regulations and as approved by the Planning Board, including emergency repairs completed by the Town, when necessary.
- D. An inspection and maintenance plan for post-construction monitoring of storm water BMPs is required to ensure long-term performance and functionality, and shall including the following elements:
 - 1) Site name, address, tax map, lot number, and Owner's name and address.
 - 2) Name of responsible party for inspections and maintenance including name address, telephone, and e-mail.
 - 3) General description of the site, the site BMPs and the intent of the inspection and maintenance plan for the site and the BMPs.
 - 4) Description of specific maintenance actions for each BMP and include construction details of each BMP.
 - 5) A plan showing the location and labeling of each BMP. The plan shall also show and label locations of snow storage areas.
 - 6) Proposed schedule of inspection frequency consistent with the New Hampshire Storm Water Manual.
 - 7) A sample inspection log/checklist to document each inspection and maintenance activity for each BMP. The log shall include maintenance of site imperious areas such as parking lots and sidewalks and maintenance of pervious areas such as lawns and landscaping that contribute runoff to the BMPs. The inspection checklist should include photo documentation requirements for the BMPs.
 - 8) A sample deicing log to track amount and type of deicing materials applied to the site.

- 9) Description of maintenance response actions, including actions to be taken if invasive species begin to grow in the BMPs.
- 10) Documentation of how reports will be completed, submittal and retention procedures, and contingency plans if future maintenance is required.

SECTION 7. INDUSTRIAL ACTIVITY DISCHARGES

Industrial activity discharges as outlined in Section 5(B) of the Storm Water Ordinance shall comply with the following requirements (unless they have their own private, NPDES permitted outfalls):

1. Storm Water Activity Associated with Industrial Discharge - Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity ("the Industrial General Permit") shall submit a signed copy of its NOI to the Director at least five (5) business days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of the Storm Water Regulations, the NOI shall be submitted within thirty (30) days.
2. Industrial General Permit SWPPP - A SWPPP shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under these Regulations.
3. Preparation of SWPPP - The SWPPP shall be prepared, signed and sealed by a Professional Engineer licensed in the State of New Hampshire.
4. Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by the Storm Water Multi Sector General Permit for Industrial Activity at intervals of no less than annually. Based on the results of the compliance prevention measures and controls identified in the SWPPP, the Plan shall be revised as appropriate within two (2) weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve (12) weeks after the compliance evaluation.
5. A report summarizing the scope of the comprehensive site compliance evaluation required by the Multi Sector General Permit personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one (1) year after all storm water discharges from the facility are eliminated and the required NOI has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance,

the report shall contain a certification that the facility complies with the SWPPP, the applicable NPDES permit, and these Regulations. The individual responsible for the comprehensive site compliance evaluation shall sign the report, and it shall be submitted to the Director within ten (10) days of completion.

6. If the industrial facility is required by the Multi Sector General Permit to conduct semi-annual monitoring, a signed copy of each storm water analytical monitoring report prepared in accordance with the Multi Sector General Permit shall be submitted to the Director.
7. By written notice, the Director may require any industrial facility identified in accordance with this Section 7 to implement a monitoring program that includes the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable, any pollutant listed in an existing NPDES permit for the facility, oil and grease, COD, pH, BOD5, TSS, Total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR §122.21(g)(7)(iii) and (iv). The Director may require written reports of any such monitoring to be submitted to DEES.
8. Where all storm water discharges associated with industrial activity authorized by the SWO and the NPDES permit for those discharges from industrial activities are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the facility operator shall submit to the Director a Notice of Termination that includes the information required for Notices of Termination by Part IX of the Storm Water Multi-Sector General Permit for Industrial Activity.

SECTION 8. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

Access and inspection shall be as outlined in Section 8 of the Ordinance

SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

A. Notification.

Notice shall be provided as outlined in Section 9 of the SWO.

B. Release Notification and Reporting

Any person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing or any other release of any substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone

and notify DEES and the Town of Londonderry Fire Department of nature, quantity and time of occurrence of the event. Such events include all spills of any size that enters a catch basin, culvert, or structure that conveys runoff from the site. Such events also include any material that spills outside the limits of the approved work area of the site and any spill that breaches a silt fence, or other BMP control structure. Spills that reach a wetland, stream, brook, pond, etc. whether within the work site or outside the work site, also are to be reported.

In this section, “substances” include any reportable quantity as outlined in 40 CFR Part 302; any extremely hazardous substance as established under 40 CFR Part 355; and any oil that causes a film or sheen or discolors the surface of the water or causes a sludge emulsion to be deposited beneath the surface of the water or any harmful quantity of pollutant.

All spills other than those described above are to be recorded within the daily activity log of the site contractor or industrial operator, as well the remediation taken, and the extent and quantity of the spill

C. Immediate Notification Required

Following notification as required in Section 9(B) above, written notice addressed and mailed to the Director or his duly authorized agent shall be provided within three (3) business days of the phone or in person notice and shall include the chemical or substance name, exact location of release, time and duration of release, estimated quantity and concentration of release, source of release, precautions that should be taken in regards to release, steps taken to contain and /or clean up release and the telephone numbers given of the person or persons to be contacted for further information.

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. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. Information regarding the steps taken to ensure no reoccurrence shall be submitted to DEES in writing within five (5) days of the incident.

D. Liability for Damage and Loss

The notifications required in Section 9(B & C) shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release. This includes liability for damage to the Town, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to the SWO, these Regulations, or state or federal law. Any person responsible for a release shall comply with all state, federal, and any other local requiring reporting, cleanup, containment, and any other

appropriate remedial action in response to the release. The responsible person shall reimburse the Town for any cost incurred by the Town in responding to the release. Failure to provide notification of a release as provided above is a violation of the SWO.

SECTION 10. VIOLATIONS, ENFORCEMENT AND PENALTIES

As outlined in Section 10 of the Ordinance.

SECTION 11. ELIGIBILITY

As outlined in Section 11 of the Ordinance.

EPA reissued the Construction General Permit ("CGP") on February 17, 2022. The CGP now covers both the Phase I large construction sites greater than five acres and "Storm Water Associated with Small Construction Activity," which includes construction sites from one to five acres (or smaller than one acre if part of a larger "common plan of development or sale" that totals one acre). The permit contains conditions to protect endangered species and historic properties and places requirements on the owner and operator of the construction site, including to:

1. Develop and implement a SWPPP.
2. Post a visible public notice at the main entrance of the construction site (or if unfeasible, at a local public building) containing confirmation of permit coverage and details on where the SWPPP may be viewed.
3. As part of the SWPPP, develop a site map showing surface waters, disturbed areas, BMPs, etc.
4. Have "qualified personnel" inspect all erosion and sediment control BMPs, maintain BMPs after storm events and keep records in the SWPPP of all inspections and maintenance performed.
5. Control wastes, such as discarded building materials, concrete truck washout, and sanitary wastes.
6. File a Notice of Termination when the construction site is stabilized and revegetated.



Town of Londonderry

STORM WATER ORDINANCE

Adopted: September 16, 2019

DRAFT May 1, 2024

TABLE OF CONTENTS

Table of Contents

SECTION 1. PURPOSE	2
SECTION 2. DEFINITIONS	3
SECTION 3. ADMINISTRATION.....	7
SECTION 4. PROHIBITED DISCHARGES	7
SECTION 5. PERMITTING REQUIREMENTS.....	7
A. Construction General Permit	7
B. Industrial General Permit.....	8
C. Londonderry Stormwater Permit.....	8
D. Chloride Usage for Winter Maintenance	9
SECTION 6. TOWN APPROVAL PROCEDURES	9
SECTION 7. STORM WATER CONTROL REGULATIONS.....	10
SECTION 8. ACCESS AND INSPECTION OF PROPERTY AND FACILITIES	10
SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS	11
SECTION 10. VIOLATIONS ENFORCEMENT AND PENALTIES	12
SECTION 11. ELIGIBILITY	14
SECTION 12. SEVERABILITY CLAUSE.....	14
SECTION 13. ORDINANCE IN FORCE	14

STORM WATER ORDINANCE

SECTION 1. PURPOSE

The purpose of this ordinance is to:

- A. Protect, maintain, and enhance the environment of the Town of Londonderry, New Hampshire ("Town") and the public health, safety and the general welfare of the citizens of the Town, by controlling discharges of pollutants to the town's storm water system and maintaining and improving the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the town.
- B. Enable the Town to comply with requirements of the Town's Municipal Separate Storm Sewer System ("MS4") General Permit issued by USEPA under the National Pollution Discharge Elimination System ("NPDES") program and applicable regulations, including 40 CFR §122.26 for storm water discharges.
- C. Allow the Town to exercise the powers granted by the State of New Hampshire through RSA 149-I and other applicable statutes to:
 - 1. Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the town, whether or not owned and operated by the town;
 - 2. Adopt any rules and regulations deemed necessary to accomplish the purposes of this ordinance, including the adoption of a system of fees for services and permits;
 - 3. Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
 - 4. Review and approve plans for storm water management in proposed subdivisions, commercial and industrial developments;
 - 5. Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
 - 6. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance or condition of the permit;
 - 7. Regulate and prohibit illicit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - 8. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

SECTION 2. DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Third New International Dictionary.

1. Accidental Discharge - A discharge prohibited by these Regulations, which occurs by chance, and without planning or thought prior to occurrence.
2. Best Management Practices ("BMPs") – Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce the increase in rate of storm water runoff, and pollution of water, that have been approved by the Town and that have been incorporated by reference into the Storm Water Regulations as if fully set out therein. (See Section 6 of the Storm water Regulations for recommended Best Management Practices manuals).
3. Channel - A natural or artificial watercourse with a definite bed and banks that conveys flowing water continuously or periodically.
4. Code Enforcement Officer – A Town employee assigned to enforce the implementation of Town Ordinances
5. Construction Activity - Activities subject to the EPA Phase II Storm Water Program and the NPDES General Construction Permits, including construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
6. Contaminant - Any physical, chemical, biological, or radiological substance or matter in water.
7. Department of Engineering and Environmental Services ("DEES") - The Town of Londonderry Department of Engineering and Environmental Services.
8. Director of Engineering and Environmental Services ("Director") - The chief administrator of DEES who is authorized to assign DEES staff to oversee the implementation of the Town's Storm Water Regulations and Storm Water Ordinance (SWO).
9. Discharge - To dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of

any solid or liquid matter into the municipal separate storm sewer system or ponds, streams, lakes and wetlands.

10. Environmental Protection Agency (EPA) – The Federal agency responsible for implementing the Federal Water Pollution Control Act, (3 U.S.C § 1251 et seq.) AKA the “Clean Water Act”.
11. Illicit Connections - Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system. A Illicit Connection is:
 - (1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit 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, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - (2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
12. Illicit Discharge - Any discharge to the Municipal Storm Sewer System (MS4) that is not composed entirely of storm water and not specifically permitted through an existing NPDES Discharge Permit.
13. Industrial Activity - Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
14. Land Disturbing Activity - Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
15. Maintenance - Any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.
16. Maintenance Agreement - A document duly executed and recorded in the Registry of Deeds that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

17. Municipal Separate Storm Sewer System ("MS4") - The conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, pipes, curbs, gutters, ditches, man-made channels, and storm water detention ponds.
18. National Pollutant Discharge Elimination System Permit ("NPDES permit") - A permit issued 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.
19. Non-Storm Water Discharge - Any discharge to the storm drain system that is not composed entirely of storm water.
20. Notice of Intent ("NOI") – Application to apply for coverage under the EPA's General Permit for Construction Activities.
21. Person - Any and all persons, including any individual, firm or association and any municipal or private corporation or other entity organized or existing under the laws of this or any other state or country.
22. Pollutant - Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; 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; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
23. Pollution - The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
24. Premises - Any building, lot, parcel of land, or portion of land whether improved or unimproved including sidewalks and parking strips
25. Recharge – The amount of water from precipitation that infiltrates into the ground

and is not evaporated or transpired.

26. Runoff - That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.
27. Sediment - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
28. Stabilization/Stabilized - Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
29. State Waters - Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of a boundary of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.
30. Storm Water - water from any form of natural precipitation that is not absorbed or evaporated, and resulting from such precipitation. Street wash waters related to street cleaning or maintenance.
31. Storm Water Management - The programs to maintain quality and quantity of storm water runoff to pre-development levels.
32. Storm Water Management Facilities - The drainage structures, conduits, ditches, storm sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.
33. Storm Water Management Plan - The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.
34. Storm Water Pollution Prevention Plan ("SWPPP") - A plan that clearly describes appropriate control measures that include a description of all pollution control measures (*i.e.*, BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site, including maintenance agreement.
35. Storm Water Regulations ("Regulations") - A supplement to this Storm Water Ordinance ("SWO") that includes additional conditions and requirements. Copies are available at the DEES and the Office of the Town Clerk.
36. Storm Water Runoff - Flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation that

is not absorbed or evaporated, and resulting from such precipitation.

37. Stream - Areas of flowing water occurring for sufficient time to develop and maintain defined channels but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U.S. Geological Survey Maps.
38. Structural BMPs - Devices that are constructed to provide control of storm water runoff.
39. Structural Stormwater Control - A structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
40. Surface Water - Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, ponds and reservoirs.

SECTION 3. ADMINISTRATION

The Director (or his/her designee) shall administer the provisions of this ordinance and is hereby authorized to promulgate and amend such regulations as may be necessary and convenient to effectuate the purposes of this ordinance.

SECTION 4. PROHIBITED DISCHARGES

No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the Town to violate a state surface water quality standard, the Town's Phase II MS4 NPDES permit, or any state-issued discharge permit for discharges from its MS4.

The specific prohibited discharges outlined in the Regulations are not inclusive of all discharges prohibited by this ordinance and the Regulations.

SECTION 5. PERMITTING REQUIREMENTS

A. Construction General Permit

No land owner or land operator shall begin any site work of any building(s), grading or other land development or any land disturbance activities as outlined in 1 – 4 below without first obtaining an EPA Construction General Permit from EPA and submitting a

Notice of Intent (NOI) to EPA Region I, receiving acknowledgement, having an approved Storm Water Pollution Prevention Plan and meeting the requirements of this ordinance.

1. Land disturbing activity of one (1) or more acres of land;
2. Land disturbing activity of less than one (1) acre of land, if such activity is part of a larger common plan of development that affects one (1) or more acres of land.
3. Land disturbing activity of less than one (1) acre of land, if in the discretion of the Director such activity poses a unique threat to water, or public health or safety;
4. The creation and use of borrow pits (the excavation of soils from one area to be used in another area) that would meet any of the criteria of 1, 2, or 3 above.

The EPA's general permit contains eligibility restrictions, as well as permit conditions and requirements. Applicant(s) may have to take certain actions to be eligible for coverage under this permit. In such cases, the applicant must continue to satisfy those eligibility provisions to maintain permit authorization. If the applicant does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if the applicant does not comply with the requirements of the general permit, the applicant may be in violation of the general permit.

B. Industrial General Permit

Any facility covered under the NPDES Multi-Sector General Permit for storm water discharges associated with industrial activities at the facility, must apply for coverage with EPA through submittal of an NOI to EPA Region I, receive acknowledgement of coverage or continuation of coverage if it is a renewal of existing coverage, and have a SWPPP for the facility.

All operators of landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC (S) 11023. Industrial facilities that the Town determines are contributing a pollutant load to the Municipal Separate Storm Sewer System, shall comply with Best Management Practices outlined in the Town's Storm Water Regulations.

C. Londonderry Stormwater Permit

No land owner or land operator shall begin any site work of any building(s), grading or other land development or any land disturbance activities as outlined in 1 – 5 below without first obtaining a Londonderry Stormwater Permit from DEES, receiving acknowledgement, having an approved Storm Water Pollution Prevention Plan and

approved Stormwater Operations and Maintenance plan meeting the requirements of this ordinance.

1. Any contiguous land disturbance activity that disturbs more than 5,000 square feet or disturbs more than 2,500 square feet within 100 feet of a surface water body including utility connections on the subject property.
2. Any cumulative land disturbance exceeding 20,000 square feet, whether the project is or is not part of a larger plan of development.
3. A subdivision of four or more lots.
4. Phasing of three or more contiguous lots per year of an existing or proposed subdivision.
5. Construction of utilities (gas, water, sewer, electric, drainage, telephone, etc.) requiring contiguous land disturbance of greater than 20,000 square feet.

D. Chloride Usage for Winter Maintenance

The owners and operators of private street and private parking lots with 10 or more parking spaces that are draining to MS4 located within any watershed that is impaired for Chlorides shall be required:

- (1) that any commercial salt applicators used for applications of salt to their parking lots or streets be trained and certified in accordance with Env-Wq 2203, and
- (2) to report annual salt usage within the municipal boundaries using the UNH Technology Transfer Center online tool (<http://www.roadsalt.unh.edu/Salt/>) and to NHDES's New Hampshire Salt Management System Database at: <https://www.nhms4.des.nh.gov/nh-resources/winter-maintenance/>

SECTION 6. TOWN APPROVAL PROCEDURES

Any land owner or land operator who intends to obtain coverage for storm water discharge associated with land disturbing activities described in Section 5A above whether a new development or redevelopment or associated with industrial activity under the NPDES Multi Sector General Permit for Storm Water Discharges Associated with Industrial Activity ("the Industrial General Permit") as described in Section 5B above shall, in addition to the state and federal permit requirements:

1. Secure required approvals through the Town of Londonderry's Planning Board ("Planning Board") if appropriate, and
2. At least five (5) days prior to the commencement of the land disturbing activity on the property and/or industrial activity at the facility submit to the Director for review and approval, a signed copy of its NOI and a copy the SWPPP prepared and implemented in accordance with the requirements of the EPA Construction or

Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the facility. The SWPPP shall be prepared to meet the requirements of 40 CFR 122.26.

SECTION 7. STORM WATER CONTROL REGULATIONS

Any land owner or land operator subject to the General EPA permitting requirements described in Sections 5A and/or 5B above, **the Londonderry Stormwater Permit requirements described in Section 5C; or** whose land disturbance or industrial activity is otherwise determined by the Director to have the potential to;

1. Degrade the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the Town or and
2. Increases post-development rate of storm water runoff or
3. Introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the Town to violate a state surface water quality standard, the Town's Phase II MS4 NPDES permit, or any state- issued discharge permit for discharges from its MS4.

shall be required to comply with the Best Management Practices of the Londonderry Storm Water Control Regulations dated August 16, 2019 or latest revision, **and Londonderry Site Plan Regulations dated November 10, 2021 or latest revision, or Londonderry Subdivision Regulations dated November 10, 2021 or latest revision** thereto.

SECTION 8. ACCESS AND INSPECTION OF PROPERTY AND FACILITIES

- A. A DEES representative shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance **and the Londonderry Storm Water Regulations.**
- B. If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to DEES representatives.
- C. The owner or operator shall allow DEES representatives ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of a National Pollutions Discharge Elimination System Permit to discharge storm water.
- D. DEES shall have the right to set up on any property or facility such devices as are necessary in the opinion of the DEES to conduct monitoring and/or sampling of flow discharges.

- E. DEES may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to DEES. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure accuracy.
- F. Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of DEES and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- G. Unreasonable delays in allowing DEES access to a facility shall be a violation of this ordinance. A delay shall be considered unreasonable if the delay a) exceeds 1 week (7 days), or b) any length of time if it is determined that the delay allowed the continuation of a discharge to the MS4 that is specifically prohibited by this ordinance.
- H. If DEES has been refused access to any part of the premises from which storm water is discharged, and DEES is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designated to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then DEES **or their designated agent reserve the right to secure an administrative inspection warrant from the district or superior court under RSA 595-B, Administrative inspection warrants. Expenses associated with obtaining the warrant and inspections shall be the responsibility of the property owner.**

SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non- storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the Town's Separate Storm Sewer System, State Waters, or Waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

If the substance poses an immediate health or safety concern (emergency situation), the Town of Londonderry Emergency Services and Fire Department shall immediately be notified, and then notification shall be made to the Town of Londonderry Building and Zoning Department, Zoning Officer and DEES. Notifying the the Town of Londonderry does not preclude, supersede, or provide any liability coverage for any federal- or state-required notifications related to material spills. In nonemergency situations, notification

should be made as soon as possible; however, no later than the next business day following an event.

Any person identified above that is required to respond as described in the previous paragraph, or is otherwise required to provide notification to the State in accordance with RSA 146-A:5 (NH Oil Spillage in Public Waters) or RSA 147-A:11 (NH Hazardous Waste Management Act), shall also provide immediate notification to DEES and the Londonderry Fire Department.

SECTION 10. VIOLATIONS ENFORCEMENT AND PENALTIES

- A. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the Town's SWO or Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, DEES is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. D P W E is authorized to seek costs of the abatement as outlined in Section 10.F below.
- B. Whenever DEES finds that a violation of this ordinance has occurred, a Code Enforcement Officer may order compliance by written notice of violation ("NOV"). The NOV shall contain:
 - 1. The name and address of the alleged violator;
 - 2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - 3. A statement specifying the nature of the violation;
 - 4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
 - 5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
 - 6. A statement that the determination of violation may be appealed to the Town Manager by filing a written notice of appeal within five (5) days of service of notice of violation.
- C. An NOV may require without limitation:
 - 1. Performance of monitoring, analyses, and reporting;

2. Elimination of illicit discharges and illegal connections;
 3. Violating discharges, practices, or operations shall cease and desist;
 4. Abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 5. Payment of costs to cover administrative and abatement costs; and,
 6. Implementation of pollution prevention practices.
- D. Appeal of Notice of Violation - Any person receiving an NOV may appeal the determination of DEES. The appeal must be received by end of the business day at the office of the Town Manager within five (5) calendar days from the date of the NOV. Filing an appeal does not relieve the owner from full compliance with remedial actions outlined in the NOV. The decision of the Town Manager shall be final.
- E. Enforcement Measures After Appeal - If the violation has not been corrected pursuant to the requirements set forth in the NOV, then DEES representatives may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow DEES or its designee to enter upon the premises for the purposes set forth above.
- F. Costs of Abatement of the Violation - Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file to the Town Manager a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Town by reason of such violation.
- G. Civil Penalties -In the event the alleged violator fails to take the remedial measures set forth in an NOV or otherwise fails to cure the violations described therein within five (5) days, or such greater period as DEES shall deem appropriate, after the Director or the Director's designee has taken one or more of the actions described above, the Code Enforcement Officer may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the NOV.
- H. Criminal Penalties - For any wanton, willful, or malicious violation of the SWO or the Regulations adopted pursuant to the authority stated in this ordinance, the Code Enforcement Officer may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person

shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person and may be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

- I. Violations Deemed a Public Nuisance – In addition to the enforcement process and penalties provided in this SWO any threat to public health, safety, welfare and environment is declared and deemed a nuisance, which may be abated by injunctive or other equitable relief as provided by law.
- J. Remedies Not Exclusive - The remedies listed in this SWO and the Regulations are not exclusive of any other remedies available under any applicable federal, state or local law and the Town may seek cumulative remedies.
- K. The Town may recover attorney's fees, court costs, engineering fees and other expenses associated with enforcement of this SWO and the Regulations, including sampling and monitoring expenses.

SECTION 11. ELIGIBILITY

EPA reissued the Construction General Permit ("CGP") on **February 17, 2022**. The CGP now covers both the Phase I large construction sites greater than five acres and "Storm Water Associated with Small Construction Activity," which includes construction sites from one to five acres (or smaller than one acre if part of a larger "common plan of development or sale" that totals one acre). The permit contains conditions to protect endangered species and historic properties.

The EPA's general permit contains eligibility restrictions, as well as permit conditions and requirements. Applicant(s) may have to take certain actions to be eligible for coverage under this permit. In such cases, the applicant must continue to satisfy those eligibility provisions to maintain permit authorization. If the applicant does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if the applicant does not comply with the requirements of the general permit, the applicant may be in violation of the general permit.

SECTION 12. SEVERABILITY CLAUSE

Should any Chapter or provision of this SWO be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this SWO as a whole, or any part thereof other than the part declared to be invalid.

SECTION 13. ORDINANCE IN FORCE

This SWO shall be in full force and effect from and after its passage, approval, recording and publications as provided by law.

Londonderry Town Council Minutes
Monday, June 3, 2024
7:00 PM
Moose Hill Council Chambers

Meeting Link: <http://173.166.17.35/CablecastPublicSite/show/12597?channel=4>

Attendance: Chair Chad Franz; Vice-Chair Ted Combes; Councilor Shawn Faber; Councilor Ron Dunn; Councilor John Farrell; Town Manager Mike Malaguti; and Assistant Town Manager Kellie Caron.

CALL TO ORDER

Chair Franz called the Town Council meeting to order at 7:00 PM. The Pledge of Allegiance was led by Chair Franz. This was followed by a moment of silence led by Chair Franz in recognition of Town of Londonderry staff.

NEW HAMPSHIRE RETIREMENT SYSTEM UPDATE

New Hampshire Retirement System Executive Director Jan Godwin and Director of Communications Marty Karlon provided the Council with an update on the status of the retirement system. Karlon reported that the NHRS has completed an update to their pension system that they have been working on since 2019. In FY25, retiree payroll in New Hampshire will exceed \$1 billion, and approximately 80% of recipients live in-state, meaning those funds recirculate in the community. They are finishing an experience study that will be used in figuring out employer contribution rates for FY26 & FY27. Godwin reported that NHRS had a return on investments of 8.2% in FY23, which exceed their goal, with a return of 8.1% to date in FY24.

Councilor Farrell asked what the fund is in cash. The value was \$11.5 billion as of last June, and \$12.2 in March. Farrell asked how much it remains underfunded. Godwin replied \$5.5 billion, but that they have a structure that will ensure it will be fully-funded over time.

Karlon stated that FY26 & FY27 employer rates will be certified in August and then distributed. He is not forecasting any big spikes. He reported that three bills have made it through the state legislature relative to the NHRS. They will go to the Governor for signature. Two of the three are specific to Group II (police and fire). Vice-Chair Combes asked if these bills will increase employers' rates. Karlon replied that it will not mean an immediate increase, as some funding will come from the general fund and other impacts need to be studied. The state is prefunding an unfunded liability of \$26 million. There is a nominal cost for one bill which could result in a temporary multi-year increase, but not a permanent one.

Before moving into public comment, Councilor Farrell gave an update on several items previously addressed before the Council. Arcadia Health is currently working with the legal department on the MOU and it needs to be done by July 31. The Town legal department is working with Londonderry Fish & Game on the concerns brought up by president Rick Olson at the prior Council

meeting, including the status of the driveway and any variances needed on for the expansion of their building.

PUBLIC COMMENT

Chair Franz opened public comment by inviting Stephen and Julie Lee of the Londonderry Arts Council to the podium to give an update on the 2024 Concerts on the Common.

S. Lee reported that this is the 24th year for Concerts on the Common. In 2023, the average attendance at the outdoor concerts was over 590 people. The largest attendance was 905 people for the Studio Two Beatles Tribute Band. They would like to thank the Town; the School District; Londonderry Police, Fire, and Public Works; ALERT; the churches around the Common; and all volunteers, vendors, and sponsors. The value of the concert series over the course of the summer for a family of four is roughly equivalent to \$1400. Funding for the concerts is approximately 30% from the Town, 20% from grants, and 50% from sponsors. They have 36 sponsors this year, up from 30 last year.

S. Lee reviewed the concert schedule this year, as well as new additions to this year's events. There is a special Concert on the Common for kids by the Mr. Aaron Band on a Saturday in July, co-sponsored by the Leach Library. There is a volunteer program this year, where people who volunteer for four concerts get a gift card to Great NH Restaurants and a t-shirt. In addition to their returning food trucks (One Happy Clam, Timeless Treats, and Kernels for College), there is now a food delivery program from Jersey Mike's and Giovanni's. Lastly, they are adding a line dancing lesson before the concert on August 7.

Chair Franz opened public comment for Warrant Article 20.

Name: Deb Paul

Address: 118 Hardy Rd

Paul asked if the rules for this week's public comment were the same as last week, where an individual was limited to one comment on Article 20 and one in general public comment. Chair Franz confirmed the rules remain the same. Paul was the petitioner for this article. She stated that she put it forward because she knows people who want to be involved with the Town but could not be because of the times of the meetings. She stated that people voted overwhelmingly in favor of all five of her petitions and she hopes the Council will move forward with them.

Name: Martha Smith

Address: 38 Shasta Dr

Smith stated that it was her understanding that the Council could choose to make some amendments to the Town Charter. She asked what would make this article a significant enough change to the Charter to need to open it up if the Council could make changes.

Councilor Farrell stated that the Council cannot make changes, and referred Smith to the memo put out with the May 20, 2024 Council agenda explaining how what is being changed determines the process. Town Manager Malaguti explained to Smith the difference between a revision and an amendment to the Charter. A revision to the Charter changes the form of government. Malaguti

gave an example of a revision as changing from an advisory budget committee to an official budget committee. Revisions require legal vetting and an elected Charter Commission. An amendment is a change to the Charter that does not change the form of government. A recent example was the recent proposal to change the town treasurer from elected to appointed. An amendment requires public notice, a public hearing, and the Council to move it to the ballot for people to vote on it. If the Council moves the amendment forward, then it must go through the DRA, the Secretary of State's office, and the Attorney General's office, and then back to the Town Council, who has seven days to move it to the ballot. Malaguti stated that whether an amendment comes from the Council's suggestion or a petition with signatures, it still needs to go through the same process. Smith asked if the citizens' petitions were the cart before the horse. Malaguti stated that there is validity in using advisory articles to get a pulse on where the public stands.

Chair Franz explained that they are taking time to consider each petitioned article because, "things built in a hurry come down in a hurry" and changes such as these require a mindful, thought-out, discussed approach. Because these articles had previously only been discussed briefly at the deliberative session, they need a mindful approach. Smith stated that she does not believe Article 20 changes the form of government. Town Manager Malaguti stated that likely it would not, but there is some specific language that references this topic in the Charter. Councilor Farrell stated that nothing stops committees from recording their own meetings, but the charter specifically delegates these powers to individual boards. Malaguti encourages and supports all Town boards recording their meetings so that residents can have access to them on their own schedule. He stipulated that the Town does have limited resources, but that he is moving in the direction of recording all meetings. Malaguti stated that boards determine their meeting times because practicality dictates that the board needs to be able to attend their own meeting. Councilor Faber stated that he supports these articles in spirit, but when it comes to amending the Charter, if something is built fast, it can also break fast and have unintended consequences.

Name: Deb Paul

Address: 118 Hardy Rd

Paul stated that when she was on the Council, recording all meetings was one of her goals. She stated that she was on the last Charter Commission and believes that the Charter can be opened up on just one issue. She encouraged the Council to lead by example.

Vice-Chair Combes stated that the vote on Article 20 could be misleading because the 3000 people who voted in favor of it don't all come to meetings. He stated most meetings occur at nighttime already and wondered if people don't know that they are happening.

Name: Anne Fenn

Address: 18 Partridge Ln

Fenn was pleased with what Malaguti had to say. She supports having participation at meetings and on nights or weekends.

Malaguti clarified that while he supports recording all board and committee meetings, the Town does not have the resources to record all subcommittee meetings.

Name: Martha Smith

Address: 38 Shasta Dr

Smith stated that it was her experience that all business brought up at Utility Committee subcommittee meetings is subsequently brought up at the main committee meetings.

General public comment is now open.

Name: Ann Chiampa

Address: 28 Wedgewood Dr

The Londonderry Historical Society is holding its fourth annual Antiques Appraisal Day on Sunday, June 9, 2024 in the Parmenter Barn at the Morrison House Museum from 1:00 pm to 3:00 pm.

Name: Sherry Farrell

Position: Town Clerk

June 4, 2024 is the last day for registered voters to change their party before the September State Primary election. By June 20, 2024, the Clerk's office will be issuing civil forfeiture notices for unregistered dogs. This is a \$25 fee, plus a \$1/month late fee, for each unregistered dog. 748 dogs are left to be registered for 2024. Farrell thanked Clerk Assistant Deb Desroschers for all her hard work on dog registration. Farrell noted that tax bills were mailed out on May 30 and are due on July 1.

Name: Ray Breslin

Address: 3 Gary Dr

Breslin asked if the Council would allow public comment during the public hearing about the stormwater regulations. Chair Franz stated that they would be waiving the first reading, so no. Breslin asked what the amendments were. The Council pointed him to the changes in red. Breslin stated that there is a federal requirement to allow public input and Town Manager Malaguti agreed.

Name: Rick Olson, President of Londonderry Fish & Game Club

Address: 1165 Cilley Rd, Manchester

Olson explained how the Londonderry Fish & Game Club rewired the Londonderry Grange as a community service project several years back, which was about a \$40,000 value. The Club has been approached about another project. They are not ready to disclose what it is yet, but it's in the works.

Name: Deb Paul

Address: 118 Hardy Rd

Paul asked which election was used to determine the number of voters' signatures needed to open up the Charter and what the time frame was for it. Town Manager Malaguti stated that he is fairly confident that it is the last municipal election. Paul stated she would like to star as soon as possible. Malaguti stated that Paul will need to seek her own legal counsel as he can only direct her to the statute.

Chair Franz closed public comment.

APPOINTMENTS

Conservation Commission:

Richard Lombard, 46 Calla Road – Lombard moved to Londonderry four years ago and is interested in advising the Town on natural resources. He has a background in conservation work and volunteering for the NH Audubon Society.

Councilor Dunn asked Lombard if he had attended a meeting. Lombard replied that he had attended on. Chair Franz asked if Lombard preferred a two- or three-year alternate position. Lombard requested a two-year position.

Councilor Dunn moved to appoint Richard Lombard to a three-year alternate position on the Conservation Commission. Seconded by Vice-Chair Combes.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

Senior Resources Committee:

James Barris, the applicant, was not present.

Councilor Farrell moved to appoint James Barris to a two-year alternate position on the Senior Resources Committee based on his qualifications. Seconded by Vice-Chair Combes.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

Heritage Commission:

Jim Butler, the applicant, was not present.

Councilor Farrell moved to appoint Jim Butler to a two-year alternate position on the Heritage

Commission based on his qualifications. Seconded by Councilor Dunn.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

Beautify Londonderry:

Karen Riddle, 8 South Parrish Dr – Riddle has enjoyed participating in Beautify Londonderry clean-ups and was approached to join the committee. She enjoys volunteering. Chair Franz asked if she would like to be a full member or an alternate. Beautify Londonderry Chair Joy Fraga Muller stepped to the podium to explain the difference. Riddle responded that she would like to be a full member.

Councilor Dunn moved to appoint Karen Riddle to an ad hoc full member position on Beautify Londonderry. Seconded by Vice-Chair Combes.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

CIP Committee

Assistant Town Manager Kellie Caron presented the slate of representatives to the CIP Committee chose by their respective boards.

Councilor Farrell moved to appointments as presented. Seconded by Councilor Dunn.

Chad Franz	Yes
Ted Combes	Abstained
John Farrell	Yes

Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 4-0-1.

Councilor Farrell stepped out of the room.

NEW BUSINESS

Ordinance 2024-03: An Amendment to the Storm Water Ordinance & Storm Water Regulations (First Reading)

Town Manager Malaguti presented. It is an amendment to the current storm water ordinance. It changes the permit process to make it more enforceable and implements regulations regarding sediment and erosion control

Vice-Chair Combes moved to waive the first reading. Seconded by Councilor Dunn.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Not present
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 4-0-0.

PUBLIC HEARINGS

Councilor Faber moved to open the public hearings. Seconded by Vice-Chair Combes.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Not present
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 4-0-0.

Councilor Farrell returned to the room.

Municipal Aggregation Committee Hearing on Adoption of Community Choice under RSA 53-E

Presented by Lynn Wiles, Chair of the Londonderry Utilities Committee, and Stuart Ormsby, representing Colonial Power Group and Freedom Energy Logistics, the Town's partner in community aggregation. This is the first of two required public hearings.

Ormsby describes that the concept behind community aggregation is that the Town aggregates residents' power supply. People can still make their own decisions on which company they get their supply from. Benefits include price stability, no fee to move in and out of the program, more supply options, no cost to the Town, and it avoids the pitfalls of the direct market such as contractual rate increases. Eversource still maintains the infrastructure and billing; all that changes in line supply. All billing services including payment plans stay in place. Savings are not guaranteed at any point in time, but the goal is to save money through price stability. Net metering customers are opt-in rather than opt-out, like all other customers. Opt-out means that all customers in Town are enrolled into the program unless they choose not to be. Net metering customers are opt-in because the utility company can provide credits when the customer is producing more energy than they are using, which can't happen in the aggregation program. Ormsby outlined the timeline to move forward and the methods of customer outreach moving forward, including mailers and information sessions.

Wiles stated that the Utilities Committee supports moving forward with this project with this supplier. He said that many communities have or are doing this and benefits are being seen throughout New Hampshire. There will be a second public hearing, likely on a Saturday. Chair Franz pointed out that many members of the Utilities Committee were here to support this.

Chair Franz asked the public for comment and there was none.

Chair Franz asked the Council for comment. Councilor Dunn asked if people can opt out before the program starts. Ormsby replied yes and clarified that people can only move in and out on their meter read date. Vice-Chair Combes asked if the next public hearing would be the next Council meeting. Wiles replied that it would not. Town Manager Malaguti clarified that the Council would make the decision to move forward and that would happen at a meeting. Councilor Faber pointed out that Eversource sets rates on August and February so it should be timed so that people can compare the rates. Ormsby clarified that the program won't launch until it provides savings over the utility company's rate.

Order 2024-07 - The Renewal of Junkyard Licensing per RSA 236 (Murray's Auto)

Assistant Building Inspector Brad Anderson presented. Anderson visited the junkyard on May 28, 2024 and found it in compliance with licensed conditions. No adverse conditions were observed. The owner works with NH DES and is following proper best management practices. His recommendation is for renewal.

Chair Franz asked the public for comment and there was none.

Chair Franz asked the Council for comment.

Councilor Farrell motioned to approve Order 2024-07. Seconded by Vice-Chair Combes.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

Order 2024-08 - The Renewal of Junkyard Licensing per RSA 236 (S&S Metals)

Assistant Building Inspector Brad Anderson presented. Anderson visited the junkyard on May 28, 2024. He found some junk vehicles and concrete barriers that required removal, and it was done promptly. The business is still working to open up a fire lane. Anderson found it in compliance with requirements with the exception of the above. The owner works with NH DES and is following proper best management practices. His recommendation is for renewal.

Chair Franz asked the public for comment and there was none.

Chair Franz asked the Council for comment.

Councilor Farrell motioned to approve Order 2024-08. Seconded by Vice-Chair Combes.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

Resolution 2024-12: Acceptance of Unanticipated Revenue under RSA 31:95-b, III(a), InvestNH Municipal Planning & Zoning Grant Program received from the New Hampshire Finance Authority

Presented by Assistant Town Manager Kellie Caron. This is the grant that Caron has been discussing as part of Governor Sununu's \$100 million InvestNH initiative. The specific purpose is to update land use regulations in respect to housing. Londonderry has been awarded \$50,000. Caron clarified that it does not necessarily mean the regulations will be changed, but provides funding to examine them.

Councilor Farrell motioned to approve Resolution 2024-12. Seconded by Councilor Dunn.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

OLD BUSINESS

None

APPROVAL OF MINUTES

Vice-Chair Combes moved to approve the May 20, 2024 Town Council minutes. Councilor Dunn seconded.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

OTHER BUSINESS

None

LIAISON REPORTS

Councilor Farrell reported some gift ideas for the upcoming Father's Day holiday, and that the Londonderry High School varsity baseball and softball teams both won over the weekend.

Town Manager Report

Town Manager Malaguti proved his report on Memorial Day activities; the Ukrainian Festival; the Lions Club yard sale; Leach Library activities; a drought update; Old Home Day; Funway Playground updates; the master plan; the successful DRA audit of assessing entries with special thanks to Laura Keeley; and the Aviation Museum's Rail Trail Run/Walk.

MEETING SCHEDULE

- June 17, 2024; Moose Hill Council Chambers, 7:00 p.m.

ADJOURNMENT

Vice-Chair Combes moved to adjourn. Councilor Dunn seconded.

Chad Franz	Yes
Ted Combes	Yes
John Farrell	Yes
Ron Dunn	Yes
Shawn Faber	Yes

Motion passed 5-0-0.

The meeting adjourned at 9:07 p.m.

Minutes prepared by Kirsten Hildonen