

TOWN OF CONCORD
CONCORD PUBLIC WORKS

STORM WATER REGULATIONS

March 15, 2011

These regulations were adopted by the Public Works Commission at a public hearing held on Tuesday, March 15, 2011.

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These Regulations govern storm water management in the Town of Concord, including connections to and discharges into the Town's storm drain system. They are enacted by the Public Works Commission of the Town of Concord under the authority of M.G.L. c. 83, § 10, and the Town of Concord's Private Digging of Roads bylaw. They take effect on the date of publication of notice of their enactment.

ARTICLE I. PURPOSE

The purpose of these Regulations is to provide for the health, safety and general welfare of the citizens of the Town of Concord and the protection of surface water, groundwater, and wetlands through the regulation of storm water management and discharges to the storm drain system. The objectives of these Regulations are:

1. To protect surface water and ground water from degradation and promote ground water recharge.
2. To prohibit illicit connections and discharges to the storm drain system.
3. To establish a procedure for permitting allowable connections to the storm drain system.
4. To require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbance activities.
5. To require practices to control the flow of storm water from new and redeveloped sites in order to prevent flooding and erosion.
6. To ensure adequate long-term operation and maintenance of structural storm water best management practices so that they work as designed.
7. Comply with state and federal statutes and regulations relating to storm water discharges.
8. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with these Regulations.

ARTICLE II. DEFINITIONS

For the purposes of these Regulations, the following shall mean:

Agricultural Activities: The normal maintenance or improvement of land in agricultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

Concord Public Works: The Public Works Department of the Town of Concord, Massachusetts.

Connection: A temporary or permanent, surface or subsurface, installation and/or physical link to the Town's storm sewer system of a drainage conduit or conduits and the entire related upstream drainage system, including but not limited to any pumps, conduits, pipes, swales, leaching and/or water quality structures, back-flow devices, clean-outs, special backfill, and geotextiles.

Disturbance of Land: Any activity that causes any of the following:

- (a) a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material, not related to agricultural activities;
- (b) a change of cover type; or

(c) a change in the ability of the land to infiltrate storm water.

Drainage Conduit: Any enclosed conveyance, including but not limited to flexible or rigid pipes, serving to convey storm water, ground water, or other discharges directly into the Town storm sewer system.

Hazardous Material: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Illicit Connection: Any connection that allows an illicit discharge to enter the storm drain system, including but not limited to any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency.

Illicit Discharge: Any direct or indirect non-storm water discharge to the Town's storm sewer system (including dumping), except as exempted in Article III of these Regulations.

Permanent Connection: A connection that will be in place for more than three months.

Person: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee or agent of such person.

Right of Way: A public way in the Town of Concord. Private use of the right-of-way is governed by the Private Digging of Roads Bylaw and regulations and policies thereunder.

Storm Sewer System (also, "Storm Drain System"): Town of Concord-owned facilities by which storm water is collected and/or conveyed, and which are not used for collecting or conveying sewage. The storm sewer system includes but is not limited to municipal roads, catch basins, manholes, gutters, curbs, sidewalks, inlets, piped storm drains, outfalls, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

Storm Water: Any surface flow, runoff or drainage resulting entirely from any form of natural precipitation.

Temporary Connection: A connection that will be in place for less than three months (or longer if permitted by the Town Engineer).

Town: The Town of Concord, Massachusetts, including its employees and designees.

Unapproved Connection: Any connection that is not authorized by a permit issued by the Town under these Regulations.

ARTICLE III. PROHIBITED DISCHARGES TO THE STORM SEWER SYSTEM

Section 1. Prohibition of Illicit Discharges

No person shall commence, conduct or continue any illicit discharge to the storm drain system, or cause or allow others under its control to do so.

The following non-storm water discharges are not considered illicit discharges:

1. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, uncontaminated water from sump pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges and street wash water. Note that these discharges may require a Right-of-Way Permit from the Town; see Article IV.
2. Discharges or flow from firefighting, and other discharges specified in writing by the Town as being necessary to protect public health and safety.
3. Discharges associated with dye testing; however, this activity requires a verbal notification to the Town before the test.

Section 2. Prohibition of Illicit Connections

No person shall construct, use, maintain or continue in existence any illicit connection to the storm drain system, or cause or allow others under its control to do so.

ARTICLE IV. PERMITS FOR PERMISSIBLE CONNECTIONS TO THE STORM SEWER SYSTEM

Section 1. Policy Statement

It is the policy of the Town to prohibit connections to the Town's storm drainage infrastructure. However, it is recognized that there may arise a public interest or a hardship situation where such a connection may be warranted. These regulations set forth the conditions under which a connection may be allowed. They are not intended to promote connections to the Town storm drainage system. Rather, they are intended to provide relief to those property owners who are threatened with property damage by excess on-site storm water or high groundwater levels. It is incumbent upon the applicant to demonstrate that the need to connect is dire, and that no reasonable alternate means of disposal exists.

This Article is applicable to all connections to the Town storm drain system, except connections of those drainage systems scheduled to be accepted and maintained by the Town.

Section 2. Right-of-Way Permit Requirement and Application Process

No person shall construct, use, maintain or continue in existence any connection to the storm drain system, or cause or allow others under its control to do so, without obtaining a Right-of-Way Permit.

The issuance of a Right-of-Way Permit by Concord Public Works shall constitute official approval of a drainage connection application. The applicant shall submit a Right-of-Way Permit Application to Concord Public Works, with any documentation required by these Regulations. All costs associated with the application process, construction, maintenance and inspection of the connection shall be the sole responsibility of the applicant. It should be noted that other approvals outside of those issued by Concord Public Works (environmental, health, etc.) may be required before construction can commence. Permission from the Massachusetts Department of Environmental Protection under the Underground Injection Control Program for the installation of portions of the connection may be required. It is the responsibility of the applicant to ensure that all necessary permits are obtained prior to the commencement of work.

Section 3. Criteria

3.1. Connection Criteria

A proposed connection project must meet the following eligibility criteria:

1. The applicant must demonstrate a need for the connection.
2. The applicant must demonstrate that no reasonable alternate means of disposal exists.
3. The need for the connection must not result from the design of any construction or property alteration, if that construction or alteration was commenced after January 1, 1999.
4. The applicant must demonstrate that there exists suitable capacity in the drainage system to which the proposed connection will be made.
5. In no event shall the connection be part of or outfall for a regional or neighborhood drainage system.
6. The drainage structure to which the connection will be made must be part of a closed drainage system that has positive outfall as determined by the Town Engineer or his/her designee.
7. The drainage structure to which the connection will be made must be located within the frontage of, and on the same side of the public way as, the applicant's parcel.
8. All materials and construction must be in accordance with the Town's specifications and those contained in or referenced by these Regulations.
9. The applicant must obtain a Right-of-Way Permit for the work.
10. For permanent connections, the applicant must, prior to approval, execute the attached covenant and record said document with the Registry of Deeds as part of or supplement to the deed for the parcel. The recorded covenant must be submitted prior to the issuance of the Right-of-Way Permit.

11. No portion of the connection shall be located within a public drinking water supply Zone I.
12. If any portion of the proposed connection is located within a public drinking water supply Zone II, the applicant shall submit a copy of the application to the Water & Sewer Superintendent for his review. In such cases, the written approval of the Superintendent is required prior to the issuance of the Right-of-Way Permit.
13. The proposed connection must be used solely for the disposal of storm water, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, uncontaminated water from sump pumps, foundation drains, or footing drains, flows from riparian habitats or wetlands, or dechlorinated swimming pool discharges. It may not be used for the discharge of other materials, including but not limited to greywater, blackwater, solvents, paints or petroleum products.
14. That portion of the connection located within the Town right-of-way must be limited to the shutoff and a single drainage conduit crossing the right-of-way at a 90° angle to minimize the length of conduit within the right-of-way. At no time shall the conduit run parallel with the roadway centerline. The remainder of the connection components must be located within the applicant's parcel.
15. All permanent connections must include a backflow preventer and shutoff, and, if required by the Town Engineer, an oil/water separator and/or leaching structure. All components of the connection shall be approved by the Town Engineer or his/her designee. The leaching structure must be at an elevation at least two feet higher than that of high groundwater as defined by 310 CMR 15.000, unless otherwise approved by the Town Engineer.
16. The conduit must be placed so that neither it nor its discharge impedes or obstructs vehicular, pedestrian, bicycle or other mode of travel normally provided for within the Town right-of-way.
17. Storm water and/or ground water conveyed by the conduit shall be directed to present no safety hazard to vehicular, pedestrian, bicycle or other mode of travel normally provided for within the Town right-of-way. Safety hazards include, but are not limited to, ponding, frozen areas, etc.
18. Storm water and/or ground water conveyed by the conduit shall be directed to minimize erosion or the potential for erosion.
19. If required by the Town Engineer, confirmation testing from a certified laboratory of pollutant levels in the discharge from the connection must be provided.

3.2. Evaluation of Criteria

All decisions concerning eligibility under the criteria shall be made by the Town Engineer or his/her designee.

Section 4. Connection Plans

4.1. Plans to be Submitted With Applications for Permanent Connections

The applicant shall submit with the Right-of-Way Permit Application plans clearly showing the extent and nature of the proposed work. Plans shall be prepared in conformance with the Concord Public Works Design and Construction Standards. Plans shall also include the pump manufacturer's name, model number and capacity, if the discharge will be pumped.

4.2. Plans to be Submitted with Applications for Temporary Connections

The applicant shall submit with the Right-of-Way Permit Application a sketch clearly showing the extent, nature and location of the proposed work. The sketch shall also indicate the pump manufacturer's name, model number and capacity, if the discharge will be pumped.

At the discretion of the Town Engineer or his/her designee, the applicant may be required to provide additional information.

Section 5. Fee Schedule

All costs associated with the design, permitting, construction and maintenance of the connection shall be the sole responsibility of the applicant. In addition to any fees associated with the issuance of a Right-of Way Permit, the applicant for a permanent connection shall pay a one-time, non-refundable Drainage Improvement Fee (DIF) of one thousand dollars (\$1000.00) and a Maintenance and Inspection Fee (MIF) of one hundred dollars (\$100.00) annually. The MIF is meant to cover the inspection of the connection, the cleaning of the catch basin and downstream portions of the drainage system, and any water quality testing of the discharge from the connection. Except for the initial fee, the MIF is due no later than January 15 of each calendar year. Both the initial MIF and the DIF are due upon the issuance of the Right-of-Way Permit. Failure to pay the MIF by the due date is a violation of these Regulations, subject to enforcement pursuant to Article VII of these Regulations.

Section 6. Treatment of Existing Situations

6.1. Grandfathered Connections

To the extent that an existing connection has been authorized in writing by Concord Public Works prior to the adoption of these Regulations, that connection is a validly authorized connection and is considered to be a grandfathered connection, as long as it is used only for the conveyance of storm water, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, uncontaminated water from sump pumps, foundation drains, or footing drains, flows from riparian habitats or wetlands, or dechlorinated swimming pool discharges. However, any modifications made to those grandfathered connections, whether within the Town right-of-way or within the subject parcel, shall be subject to these Regulations. In addition, nothing in these Regulations shall be interpreted to prohibit the Town from revoking said permission, thereby rendering the connection an unapproved connection, if, in the opinion of the Town Engineer or his/her designee, the grandfathered connection jeopardizes public health, safety or natural resources.

6.2. Connections Approved Under These Regulations

Any connection approved after the adoption of these Regulations shall remain subject to the terms and conditions of these Regulations. If, in the opinion of the Town Engineer or his/her designee, the connection fails to meet the terms and conditions of these Regulations, the Town Engineer or his/her designee may revoke the Right-of-Way Permit for the connection. Modifications made to any portion of the connection shall be subject to these Regulations.

ARTICLE V. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials at that facility or operation that are resulting or may result in illicit discharges to the storm sewer system, that person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous material, that person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous material, that person shall notify Concord Public Works in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works within three (3) business days of the phone notice.

ARTICLE VI. STORM WATER MANAGEMENT AND EROSION CONTROL

Section 1. Applicability

Article VI shall apply to the following activities:

- Any project requiring approval by a Town Board or Commission and determined by that Board or Commission, pursuant to its regulations and/or bylaws, to require stormwater review.
- Any activity that results in disturbance of one or more acres of land, or which is part of a common plan for development that will disturb one or more acres of land.

Section 2. Requirements

All activities regulated by Article VI shall comply with the Concord Public Works Design and Construction Standards and Details (“Standards”) regarding drainage and erosion and sedimentation control. No activity regulated by Article VI shall commence construction or land disturbance without approval by the approving authority designated by Section 3 or 4, as applicable.

Section 3. Procedure for Article VI Activities **Requiring** Approval by a Town Board or Commission

3.1 Storm Water Management Plan and/or Erosion and Sedimentation Control Plan

The Storm Water Management Plan and/or Erosion and Sedimentation Control Plan required by the Standards shall be submitted to that Board or Commission in accordance with its requirements. To ensure timely review by CPW, it is the responsibility of the applicant to verify that all plan content and submittal requirements are met. Incomplete submittals will delay the review process. CPW requires a minimum of a two week turnaround for technical review. Larger projects may require additional review time.

3.2 Public Comment

Public comment on the Storm Water Management Plan and/or Erosion and Sedimentation Control Plan required by the Standards will be accepted as part of the review process by that Board or Commission.

3.3 Concord Public Works Review

The Director of Public Works, Town Engineer or their designee will provide the appropriate Town Board or Commission written correspondence indicating acceptability of the plans, deficiencies within the plan/design and/or required additional information, with a copy to the applicant.

3.4 Approval

The Town Board or Commission from which approval of the project is required will serve as the approving authority for the purpose of Article VI, Section 3. Approval of the project by that Board or Commission will serve as approval for the purpose of Article VI.

3.5 Long-Term Operation and Maintenance Plan

If the Standards require a Long-Term Operation and Maintenance Plan (“LTO&M Plan”) for storm water structures or controls, the LTO&M Plan that is approved by the Board or Commission shall be incorporated by reference into the chain of title of the property or properties on which the structures or controls are located, by recording of a notice at the Middlesex South District Registry of Deeds or the Land Court. Prior to the commencement of construction or land disturbance for the approved project, certification of recording shall be sent to the Board or Commission that approved the project and to Concord Public Works. A copy of the LTO&M Plan referenced in the recorded notice shall be sent to Concord Public Works with the certification. Any changes to the LTO&M Plan after recording of the notice must be approved by Concord Public Works.

Section 4. Procedure for Article VI Activities **Not Requiring** Approval by a Town Board or Commission

4.1 Storm Water Management Plan and/or Erosion and Sedimentation Control Plan

The Storm Water Management Plan and/or Erosion and Sedimentation Control Plan required by the Standards shall be submitted as part of the application for a building permit; if no building permit is required for the activity, the plans required by the Standards shall be submitted to the Public Works Director, Town Engineer, or their designee. To ensure timely review by CPW, it is the responsibility of the applicant to verify that all plan content and submittal requirements are met. Incomplete submittals will delay the review process. CPW requires a minimum of a two week turnaround for technical review. Larger projects may require additional review time.

4.2 Public Comment

The plans required by the Standards shall be made available by CPW during business hours for public review and comment for a period of ten days. Notice of the availability of such plans shall be posted on the CPW website and at the Town Clerk's office.

4.3 Review and Approval

Concord Public Works shall serve as the approving authority for the purpose of Article VI, Section 4. The Director of Public Works, Town Engineer or their designee will provide the applicant written correspondence indicating approval, conditional approval, or disapproval of the plans. Conditional approvals and disapprovals will identify deficiencies within the plan/design and/or required additional information.

4.4 Long-Term Operation and Maintenance Plan

If the Standards require a Long-Term Operation and Maintenance Plan ("LTO&M Plan") for storm water structures or controls, the LTO&M Plan that is approved by Concord Public Works shall be incorporated by reference into the chain of title of the property or properties on which the structures or controls are located, by recording of a notice at the Middlesex South District Registry of Deeds or the Land Court. Prior to the commencement of construction or land disturbance for the approved project, certification of recording shall be sent to Concord Public Works with a copy of the LTO&M Plan referenced in the recorded notice. Any changes to the LTO&M Plan after recording of the notice must be approved by Concord Public Works.

ARTICLE VII. VIOLATIONS, ENFORCEMENT AND PENALTIES

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of these Regulations. Any person or landowner who violates, or allows others to violate, these Regulations may be subject to enforcement actions outlined below.

Section 1. Notice of Violation

Whenever the Town finds that a person has violated a portion or failed to meet a requirement of these Regulations, it may order compliance by written notice to the responsible person via certified mail. The notice of the violation shall include the name and address of the alleged violator, the address or area, structure or land upon which the violation is occurring or has occurred, a statement specifying the nature of the violation, a description of the actions needed to resolve the property and come into compliance, and a statement specifying that, if the violator fails to come into compliance acceptable to the Town, the Town shall do the work necessary to resolve the violation at the expense of the violator.

Said notice may require, without limitation:

- elimination of illicit connections or discharges to the storm sewer system;
- elimination of unapproved connections to the storm sewer system
- performance of monitoring, analyses and reporting; and
- remediation of contamination caused by the illicit connection or discharge.

Section 2. Unapproved Connections

If an unapproved connection is discovered, it is the responsibility of the owner of the property from which the connection originates to remove the connection and eliminate the discharge to the Town storm sewer system (including any discharge to the Town Right of Way). Except in the event of a threat to public health, safety or natural resources, that removal shall be performed within thirty (30) days of receipt of the notice of violation and at the sole expense of the property owner. A Right-of-Way Permit shall be obtained for the work. If the connection is not removed within thirty (30) days of receipt of the notice of violation, the Town may remove the connection.

For situations involving a threat to public health, safety or natural resources, the Town may remove the connection immediately. Written notice of the removal shall be provided to the property owner within twenty-four (24) hours of the removal. Any expenses incurred by the Town in conjunction with a removal shall be back-charged to the owner of the property from which the connection originates.

Section 3. Recovery of Costs

Within thirty (30) days after completion of all measures necessary to abate the violation or to perform remediation, the Town will notify the violator and the property owner of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Public Works Commission within thirty (30) days of receipt of the notification of the costs incurred.

Section 4. Civil Relief

If a person violates the provisions of these Regulations or a permit, notice or order issued thereunder, the Town may seek injunctive relief in a court of competent jurisdiction restraining

the person from activities which would create further violations or compelling the person to abate or remedy the violation.

Any person who violates any provision of these Regulations or a permit, notice or order issued thereunder may be punished by a fine of not more than \$5,000 for each day or part thereof that such violation occurs or continues.

Section 5. Ticketing

As an alternative to civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, § 21D and the Town of Concord Bylaw Providing for Non-Criminal Disposition of Violations of Town Bylaws, in which case the Director of Public Works or other authorized agent of the Town shall be the enforcing person. The penalty for the first violation shall be \$50. The penalty for each subsequent violation shall be \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Section 6. Entry to Perform Duties Under these Regulations

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Town and its agents, officers and employees may enter privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Town deems reasonably necessary.

Section 7. Appeals

Any person aggrieved by an enforcement order, or by a decision of the Town Engineer under these Regulations, may appeal the order or decision to the Public Works Director. Appeals shall be made by submitting to the Public Works Director, within 30 days of the decision or order being appealed, a letter explaining why the order or decision was not justified. Relevant documentation, including the order or decision being appealed and any application, plans, etc., shall be attached to the letter.

Any person aggrieved by a decision of the Public Works Director under these regulations or on an appeal made under the previous paragraph may appeal the decision to the Public Works Commission. Appeals shall be made by submitting to the Public Works Commission, within 30 days of the decision, a letter explaining why the decision was not justified. Relevant documentation shall be attached to the letter.

The decisions or orders of the Public Works Commission shall be final. Any further appeal shall be to a court of competent jurisdiction.

Section 8. Remedies Not Exclusive

The remedies listed in these Regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

ARTICLE VIII. COMPATIBILITY WITH OTHER TOWN LAWS AND REGULATIONS

The requirements of these Regulations are in addition to the requirements of any other policy, rule, regulation or other provision of law. Where any provision of these Regulations imposes restrictions different from those imposed by any other policy, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

ARTICLE IX. SEVERABILITY

The provisions of these Regulations are severable. If any provision, clause, sentence or paragraph of these Regulations or the application thereof to any person, establishment or circumstances is held to be invalid, such invalidity shall not affect any other provisions or application of these Regulations.

DRAINAGE CONNECTION COVENANT

_____, having an address of _____, Concord, Massachusetts, has submitted an application dated _____, to the Town of Concord, Concord Public Works, for a Right-of-Way Permit to authorize the connection of a private drainage conduit to the Town of Concord public storm drain system, as shown on a Plan entitled _____, dated _____, prepared by _____.

The proposed drainage conduit will be located within the Right-of-Way of _____.

As a material inducement to the Concord Public Works to issue such a Right-of-Way Permit, and in consideration of \$100.00 and other good valuable consideration receipt of which is hereby acknowledged, the undersigned covenants and agrees to the following conditions to the issuance of such a Permit.

1. The terms and conditions of this Covenant include not only those contained within the language of this Covenant, but also include by reference the terms and conditions of the Right-of-Way Permit issued authorizing the connection as well as the terms and conditions set forth by the Town of Concord's Storm Water Regulations.
2. The undersigned understands and agrees that the Town of Concord retains all rights, title and interest in and to the right-of-way area referenced above. To the extent that the activities of the Town of Concord disturb any of the proposed drainage connection constructed by the undersigned in accordance with the Right-of-Way Permit, the Town of Concord shall be obligated solely to replace and restore in kind the disturbed portion of the drainage connection to the condition in which it existed prior to the disturbance, and shall have no obligation to replace and restore other connection material in the right-of-way outside of that portion disturbed by actions of the Town. In the event that the structure to which the proposed connection is made in accordance with the Right-of-Way Permit is abandoned or relocated, the Town shall not be obligated to extend or modify the existing conduit to provide connection to another structure or the relocated structure. The undersigned releases the Town of Concord (including all officials, contractors, agents and employees), from and against any claims for losses, costs, damage to personal property, death or personal injuries incurred by or asserted against the Town of Concord as a result of the exercise by the Town of Concord of any of its rights within the right-of-way area, except to the extent that the Town of Concord does not perform its obligations under this paragraph or otherwise acts in a grossly negligent manner.
3. The undersigned agrees that the terms of this Covenant shall be conditions precedent to the effectiveness of the Right-of-Way Permit, and in the event the undersigned fails to comply with these terms and conditions at any time, the Right-of-Way Permit shall be deemed void and of no force and effect, and the drainage connection constructed in accordance with such Permit shall no longer be a validly authorized connection and shall be removed by the undersigned within thirty (30) days of receipt of written request to do so.
4. The undersigned agrees to allow representatives of the Town of Concord to enter onto his/her property for the purpose of inspecting the complete drainage connection and ensuring compliance with the terms and conditions of this covenant before, during and after the connection is installed.
5. The undersigned agrees that the permitted connection/system will be used solely for the disposal of uncontaminated storm water and/or groundwater, and at no time will the permitted connection be used for the disposal of any other material.
6. The Town of Concord bears no responsibility for maintenance of any portion of the connection. Any required maintenance of the connection shall be the sole responsibility of the undersigned. A Right-of-Way Permit shall be required for any maintenance activity to be performed within the Town right-of-way.
7. The undersigned agrees that any modifications made to the connection shall be subject to this covenant and no such modification shall be made without the express written consent of the Town Engineer or his/her appointed designee.

8. The Town of Concord reserves the right to require the permanent removal of the connection if it is deemed by the Public Works Commission to be in the best interest of the Town. The undersigned agrees that he will, within thirty (30) days of receipt of written request to do so, remove that portion of the connection located within the Town right-of-way and permanently seal off any materials used in conjunction with the connection. The removal shall also include the restoration of that portion of the Town right-of-way disturbed by the removal to the condition of that area prior to the disturbance. The cost for this removal shall be the sole responsibility of the undersigned.
9. The Town of Concord reserves the right to temporarily or permanently disconnect the previously approved connection from the Town right-of-way without supplying the undersigned with advance notice if, in the opinion of the Town Engineer or his/her appointed designee, the connection poses an immediate threat to public safety, public health, or natural resource.
10. This Covenant executed under seal as of this _____ day of _____, 20__, shall be binding upon the undersigned and its successors and assigns.

Applicant

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, 20__

Then personally appeared the above-named _____ and acknowledged the foregoing to be his free act and deed, before me

Notary Public

My Commission Expires: