

**Exeter Board of Selectmen Meeting  
Monday, April 10<sup>th</sup>, 2017, 7:00 p.m.  
Nowak Room, Town Office Building  
10 Front Street, Exeter, NH**

1. Call Meeting to Order
2. Public Comment
3. Minutes & Proclamations
  - a. Proclamations/Recognitions
4. Approval of Minutes
  - a. April 3<sup>rd</sup>, 2017
5. Appointments – Water/Sewer Advisory Committee, Zoning Board of Adjustment, Memorial Day Parade Committee
6. Discussion/Action Items
  - a. Swasey Parkway Trustees re: Parkway Use During upcoming WWTF project
  - b. Continued 79-E Public Hearing: Soaring Hawk LLC
  - c. MS4 Stormwater Permit Presentation
  - d. Chamber of Commerce re: request to lease Town Hall lower level
7. Regular Business
  - a. Tax, Water/Sewer Abatements & Exemptions
  - b. Permits & Approvals
  - c. Town Manager's Report
  - d. Selectmen's Committee Reports
  - e. Correspondence
8. Review Board Calendar
9. Non-Public Session
10. Adjournment

Don Clement, Chairman  
Exeter Selectboard

Posted: 4/7/17 Town Office, Town Website

Persons may request an accommodation for a disabling condition in order to attend this meeting. It is asked that such requests be made with 72 hours notice. If you do not make such a request, you may do so with the Town Manager prior to the start of the meeting. No requests will be considered once the meeting has begun.

AGENDA SUBJECT TO CHANGE

# **BOARD OF SELECTMEN**

April 3, 2017

## **DRAFT MINUTES**

### **1. Call Meeting to Order:**

At 6:46 pm, Chair Don Clement convened the regular session and immediately moved the session to the Wheelwright Room for Interviews, per the agenda. The minutes of that portion of the session were taken by the Town Manager Russ Dean.

### **2. Board Interviews**

The Board interviewed candidate Ben Mosher for a position on the Water-Sewer Advisory Committee. After some discussion on Mr. Mosher's background, the Board thanked Mr. Mosher for applying. The Board interviewed candidate Mike Lampert for a position on the Memorial Day Parade Committee. The town manager remarked this committee can expand to seven based on the charge so there is a position open. The Board asked a few questions of Mr. Lampert and then thanked him for his application. Chairman Clement indicated the appointments would be taken up by the Board at their next meeting and those appointed would be contacted by the town manager's office.

At the conclusion of the Board Interviews, the Chair reconvened the Board in the Nowak Room at 7:00 pm, to resume the regular session.

Chair Don Clement introduced the members present: Dan Chartrand; Anne Surman, Vice Chair; Don Clement, Chair; Kathy Corson, Clerk; and Julie Gilman.

Staff present were Town Manager Russ Dean and David Pancoast, Recording Secretary. Public Works Director Jennifer Perry later joined the session.

### **3. Public Comment [There was none]**

### **4. Minutes & Proclamations**

- a. **Proclamations/Recognitions [There were none]**

### **5. Approval of Minutes**

- a. **March 27, 2017**

Ms. Gilman moved to approve these minutes, and Mr. Chartrand seconded. On discussion, Ms. Surman made a correction at pg. 5, Committee Reports, in the last sentence about trails, where it said: "replacing a lot of plants," correcting that to read 'planks' not 'plants.' Mr. Clement pointed out on pg. 1, in Public Comments, where he had asked if the Board would feel comfortable having the club come in." There were no other amendments. Ms. Gilman amended her motion to approve as amended, and Mr. Chartrand amended his second. Ms. Corson and

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Mr. Chartrand both abstained from the vote due to not attending that session, and the rest voted aye. It was unanimously approved.

#### **6. Appointments [There were none]**

#### **7. Discussion/Action Items**

##### **a. Wastewater Facility Construction Engineering Services Contract**

Jennifer Perry, Public Works Director presented: the contract is for construction administration, inspection services and construction engineering services by Wright Pierce, for the new waste water facility, the force main and the main pump station upgrade. They need this main engineering services contract in effect before a preconstruction meeting with Apex, the plant contractor (contract already awarded) can be held. This contract has been reviewed by Mitchell Municipal Group, and by Primex (the Town's insurer) and by the State of NH Dept. of Environmental Services (NHDES), so it's had a pretty thorough vetting, but DPW would like the Selectmen's input too. Ms. Gilman said it's thorough as usual. Mr. Clement said the amount of \$5,626,000 is separate from the award for the building of the plant to Apex, but this was approved by the Town last year. Ms. Perry concurred.

Mr. Chartrand asked: given the contract was awarded to Apex, is the Town on track with expenses? Ms. Perry said the Town is right on track with the numbers, but Contracts II (force main) and III (pump station) haven't been awarded yet. \$40 Million will have been awarded with the plant contract and this contract but the remaining \$12 million for the last two contracts hasn't been awarded yet. It's on track for those. Mr. Chartrand moved the Wastewater Facility Construction Engineering Services Contract for plant upgrades/engineering services be approved and awarded to Wright Pearce Engineering for \$5,626,000, and to authorize the Town Manager to sign the contract, seconded by Ms. Surman, and unanimously approved.

##### **b. NHDES Drinking Water Total TTHM ("Tri-Halo-Methanes") Administrative Order**

This was looked at briefly last week but deferred to this session for all members to review it. Mr. Chartrand reflected to Ms. Perry that there are not a lot of options on this matter and Ms. Perry concurred. She said this is on consent and has been worked out between the Town and DES, which feels this requirement is reasonable. The Town can meet the two immediate short term requirements now, but the long term requirement has a work plan and is two years in duration. NHDES understands who the Town is and that good progress has been made. If EPA was the party they were dealing with, it would be much different and a different schedule. The findings are reasonable. It could have been tens of thousands of dollars per day, so this amount of \$2,000 per month is for the compliance assurance response plan. That amount is not much, so this is a much better result under DES jurisdiction. Mr. Chartrand added the bond article was approved in March for this and asked if that money is sufficient for this Order? Ms. Perry said

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that money is the best estimate from last fall and continues as that. The Town will make it work as they have to do.

Mr. Clement added the Water and Sewer Advisory Committee thought DES was not acting in good faith and this was being pushed on the Town. He told the Committee that this had been discussed by staff and DES at length. There are three dates in the order, first one is set for this April 30<sup>th</sup> and that date is key, if Exeter can't meet it, it gets fined \$2,000/month for non-compliance. He asked Ms. Perry if that date viable and she said yes, the date was pushed out an extra month but required work is essentially complete. Mr. Clement said the next date is May 31, 2017, a month later. Ms. Perry said that work is all complete. Mr. Clement added that a memo is forthcoming from the Water & Sewer Committee on this, but the Board hasn't seen it yet.

Ms. Perry said she got a call from DES asking where the signed order is. She hopes it will be signed tomorrow to keep this moving along. Mr. Dean said this situation is "a rock and a hard place," it's a violation of the Safe Drinking Water Act and hasn't been in compliance for a while now, but he agreed that DES is better to deal with than any other entity-they have been working toward deadline on it. Ms. Perry added that regulations for the state trickled down from federal regulations. If EPA felt that DES wasn't moving this along in the best way, EPA would ratchet it up further. Mr. Clement added that good safe drinking water is important and the right thing to do.

Mr. Chartrand moved the Board of Selectmen accept the Administrative Order by Consent, Docket #17-004 WD, and to authorize the Town Manager to sign the Order on behalf of the Town. It was seconded by Ms. Surman and unanimously approved by a 5-0 vote.

#### **c. Solid Waste RFP Discussion**

This came before the Board last week briefly, but there is nothing to sign now. The contract expires at the end of May 2017, so we need potential providers soon. Ms. Perry said this RFP will issue tomorrow, the larger vendors are aware of it and the quick turnaround but know it's coming. DPW wants to be sure of competitive bids.

#### **d. Selectboard Committee Reviews**

Mr. Clement said the Board needs to look at committees the Town has in place and to decide on some of them. There was information in the packets on this. Some existing standing committees may need to be disbanded.

Ms. Gilman said the Recreation Advisory Committee stopped for disinterest. Mr. Favreau appreciated the input, but the department's work is so broad the Committee may not be

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needed, as it's been inactive for a long time. She moved to disband the Recreation Advisory Committee. It was seconded by Ms. Surman and unanimously approved.

Ms. Gilman reported the Transportation Committee Chair is moving out of Town, so that Committee needs some reinvigoration. One role it has is for transportation fund recommendations. Mr. Dean said the taxi ticket piece of that comes from Parks and Recreation and the money is charged to the fund and some other groups are participants in meetings but none distribute any funds. It falls back on the Town Manager and others to decide the issues. Ms. Gilman said the Board needs it to figure out how transportation funds will be used and allocated for disbursement, hence needs to keep it and populate it.

Ms. Gilman said she was not sure about the charge to the Train Committee, which was working on the Lincoln Street Station issues. The Committee met regularly with the state. It was a good intercommunication committee, but she said the membership has dropped. She is not sure really need them due to the New England Transportation Group and we also deal with the State Transportation Authority. Rails entities are in place and things are being taken care of. Don't know if we need it anymore. Mr. Clement said it's been informal committee but has done good work. Bob Hall, 'Mr. Downeaster', has been helpful. Might he be contacted to become involved and make him a standing member of the committee? Ms. Gilman said it would be a good approach but the members might not have interest. Mr. Chartrand suggested they should check with Mr. Hall and others to see if they will become involved. Mr. Clement said that no action would be taken with that committee tonight. It was suggested that the Chair contact Mr. Hall.

Christmas Parade Committee exists, but it is not official and is very informal. They do post their meetings. Ms. Gilman said this is going really well, and if folks get tired of it, they could come to the Board and seek some support. Ms. Corson agreed and said it was well run but might need support. Ms. Surman said she was involved 15 years ago, but there was nothing official for the Board of Selectmen. It would be good to continue to have them. Mr. Clement said it would be good to reach out to them to offer support. Ms. Corson said she would contact them.

Emergency Management Committee: Mr. Dean said it is still in books but need to look into it and see if it's needed for the hazard mitigation plan. Mr. Clement said it's all run in-house.

River Study Committee became River Advisory Committee and it's moving forward.

Ms. Gilman added there is difficulty with the Heritage Commission and the Historic District Commission. Heritage was going to work with Historical Society and its just beginning. The two commissions are barely meeting their quorums. They could be combined but that takes a warrant article. But there tasks are different. Some things overlap but not what to do with them. The Board should look at their missions and see what it thinks. Look at websites and see what we want to do there. Architectural elements are important part of it. There is a sample

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going around the state of what is being done and it's worth looking at it. Ms. Corson asked the number of members and Ms. Gilman said Heritage is 7, Historic District is 5. Ms. Corson said Planning Board has 4 alternate member seats available. Mr. Clement said that the ConCom might be able to appoint a member to serve on the Heritage Commission through the legislation. Ms. Gilman said Natural Resources and Cultural Resources are considered the same so the ConCom is a good fit. She suggested the Planning Dept. ought to have someone with Historical expertise. Ms. Surman said she would talk to the Commission about that. Mr. Clement said that it would be good to have a ConCom member on that Commission.

The Chair summarized that Ms. Corson will contact the Christmas Parade Committee, Mr. Clement with talk to Mr. Hall about the Train Committee and he will contact the Transportation Committee as well.

The Safety Committee does meet quarterly, Mr. Dean will update the Board on the Emergency Management Committee.

#### **e. Selectboard Representatives: Committees**

Land Use Committees are important to the Town and are statutory. Mr. Clement is not going to continue as Planning Board Representative. After the Chair said he would assume the Economic Development Commission representation instead, Mr. Chartrand said he is interested in serving as Representative on the Planning Board. Ms. Corson then asked to be considered for that as well, since she served on that Board for 16 years, it is her expertise, her interest in the Master Plan is related, and since she is no longer a member of that Board due to taking her seat on the Selectboard. Ms. Corson was aware that she could no longer Co-Chair the Master Plan Steering Committee. After discussion, the Chair brought it to a vote by motion. He asked for nominations for Selectboard Representative on the Planning Board. Mr. Chartrand nominated himself, seconded by Ms. Gilman. Ms. Surman then nominated Ms. Corson, seconded by Ms. Corson. Before the vote, Ms. Gilman said she thinks the Land Use tasks should be spread out but there should be a Selectboard Rep on both the Planning Board and the Master Plan Steering Committee and she thought that Ms. Corson had done a great job on the latter Committee and would like to see her continue that work. Ms. Surman said that Ms. Corson has years of planning experience so she is qualified for that. But also Mr. Chartrand hasn't served on the Planning Board, and should be considered due to his long tenure on the Selectboard. Mr. Chartrand said he had never expressed his interest because Mr. Clement did such an excellent job and Mr. Ferraro before him. Given that the Chair wants to take up required ordinance responsibilities with Economic Development, he has interest in the Planning Board position. Ms. Corson said the Master Plan is about  $\frac{3}{4}$  done so she doesn't see needing to be Co-Chair and it is not a big commitment in the near term. The Planning Board is a big commitment in the long term but she wants to see some important unfinished projects done, such as the flexible zoning initiative. She has worked on those things for years. Mr. Clement clarified it is Selectboard

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Representative to the Planning Board, but not Selectboard Representative to the Master Plan Steering Committee. The Board concurred.

On the vote for Mr. Chartrand: Mr. Chartrand voted aye and Ms. Gilman voted aye. On the vote for Ms. Corson: Ms. Corson voted aye and Ms. Surman voted aye. Mr. Clement broke the tie by casting an aye vote for Ms. Corson, so she will serve.

The Chair said the Selectmen still need a Planning Board Alternate Selectmen's Representative in case the Selectmen's Representative can't make a meeting and the Alternate would serve as a voting Selectboard Representative to the Planning Board in that case. A regular Planning Board alternate cannot assume that role. Mr. Chartrand nominated himself for that, Ms. Corson seconded it and there were no other nominations. All voted unanimously to designate Mr. Chartrand as Planning Board Alternate Selectmen's Representative.

The Chair said he would assume the role of Selectmen's Representative to the Economic Development Commission.

Conservation Commission: Ms. Surman explained the Board of Selectmen's Representative to the ConCom originally came about due to not enough voting members. Ms. Surman said don't reappoint me tonight but decide how to do it so that it is done correctly. Mr. Dean said there is no statutory position of Selectboard Rep on the ConCom, so the Board has to vote to make the Selectboard's Representative either a full member or an alternate member. Mr. Clement said the Selectboard Representative on the ConCom can't vote. He asked for interested Selectmen for that position. Ms. Surman said she was still interested. Ms. Corson nominated her. The Chair assigned the position to her with unanimous consent.

Heritage Commission and Historical District Commission: Ms. Gilman is interested and was assigned the position.

The Arts Committee meets on Monday nights but that got changed to Wednesday nights. Mr. Chartrand said he wants to step aside on that Committee. The dates of the Wednesday meetings was unknown. Ms. Surman said she would consider it but it would mean three meetings in a row some weeks-if it alternates, it might work. Mr. Clement said she is penciled in to serve on it.

Mr. Clement: the Cable TV ("CATV") Advisory Committee has issues because no one volunteered for that Committee. He would entertain a motion to disband that Committee. Mr. Chartrand asked about the current contract. Mr. Dean said the Comcast contract is set for 10/24/17 expiration. The Board of Selectmen is franchisor. Ms. Gilman asked if Cable Access Advisory Committee is involved in the current EXTV procedures. Mr. Dean said yes, the policies were written to involve a Cable TV Advisory Committee. Difficult to fill spaces on that Committee. Selectmen could resuscitate it in the future if needed. The work falls back on the

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Manager. Mr. Chartrand moved to disband the Committee, Ms. Surman seconded and the vote was unanimously approved.

The Chair said the E-911 Committee was newly charged this winter, and has done a new ordinance for street names and numbering. He is happy to continue on it unless someone else wants to do it. They are daytime meetings. Ms. Gilman said she is interested depending on the day of the week of their meetings. She is freer in the second half of this year. Mr. Clement suggested they share coverage-for him to continue on it now and Ms. Gilman take over for him later on when her time frees up.

Housing Advisory Committee (“HAC”): Ms. Corson worked on that Committee. It meets once per month on Friday mornings. Mr. Chartrand said he would serve on that Committee. Ms. Gilman said she thought it was unsettled. Ms. Corson said that was discussed by the HAC. There was not much activity in past year. Mr. Chartrand said his track record of service on the Economic Development Commission and his skillset are a good fit. Mr. Clement agreed and designated him to serve.

Memorial Day Parade Committee: Mr. Clement will continue on it for continuity and then change it later after this coming Memorial Day. Ms. Gilman said if they could change their meeting date, she could do it.

River Advisory Committee: Mr. Clement said it meets at 9 am on Thursdays once a month, but he didn’t know the exact schedule. Mr. Clement will assume that role.

Safety Committee: handles liabilities review related to employee safety and recommendations. They meet four times per year. Mr. Clement assumed that role. Ms. Surman offered to cover that instead of the Chair or as alternate if he can’t make a meeting, to ensure continuity.

TIF Advisory Board: Ms. Corson said she is interested in it. It meets quarterly.

Train and Transportation Committee: Ms. Gilman will serve on this Committee.

Water and Sewer Committee: Mr. Chartrand will assume that position.

Rockingham Planning Commission: Ms. Gilman will serve that position.

Swasey Park Trustees: Ms. Surman will continue for one more year at least.

Budget Recommendations Committee: all Selectmen work on this.

Exeter Local Advisory Committee has been Mr. Clement and Mr. Dave O’Hearn. The Lamprey River Local Advisory Committee also exists but the Exeter volunteer stepped down so if anyone



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knows anyone interested, have them come forward. Mr. Clement clarified these are state appointments.

Southeast Watershed Alliance: there is a staff representative but Ms. Perry has difficulty making the meetings and wants to step down. It is a highly technical committee. The Chair said he would like her to find another Exeter Staffer to assume that role. Ms. Perry said she hasn't followed up yet on it with her staff. Technically she is still on it, but it's hard for her to do it. Mr. Clement has been going due to his environmental background. It would benefit Exeter if a skilled staff member could do it. This was deferred until Ms. Perry can get back to her staff on someone doing it.

Master Plan Steering Committee: Mr. Chartrand will serve on that.

Healthy Lawns Clean Water Committee: Ms. Corson wanted to continue on that Committee to clean up the zoning ordinance language. Ms. Gilman said the purpose was great but this Board never appointed a Representative to it. She said they need a charge and recommendations for populating it. Mr. Clement agreed. Discussion on the staffing elements and a charge was held. Ms. Gilman will work up a draft charge.

#### **f. Selectboard Goal Setting Session**

Last week there was talk about a different way of doing this. Mr. Clement said a higher level of strategic planning was discussed, rather than specific goal-setting. He used Water & Sewer as an example of how it might work. Mr. Chartrand asked if Mr. Alpers might facilitate it. Mr. Clement agreed. Mr. Dean said Mr. Alpers is flexible and he will talk to him about it. Mr. Alpers is from Primex and does it gratis, so it is not charged. Mr. Chartrand suggested Mr. Alpers be consulted to see if he is interested.

Ms. Gilman said she can't quite get her focus right on this concept. If Master Plan has goals, maybe the Selectmen need to use those. Mr. Clement said the Master Plan won't be done for about 5 months. Should they hold off on this to then? Ms. Gilman said she wasn't sure. Ms. Corson said the initial Master Plan will come out soon and they can look at that for this purpose. Mr. Chartrand said it would be a good starter. Ms. Surman said it should be blended together to a higher level than just specific goals. Ms. Gilman said that the Master Plan overview would help the Board decide what to focus on and how.

There was discussion on the Master Plan connection to this. Mr. Dean said a Strategic Plan would be where Exeter wants to be in five years, then the administrative Staff executes it for the Board. Discussion on the process and concerns/methods ensued. The first step is to talk to Mr. Alpers and get his input.

#### **8. Regular Business**

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**a. Tax, Water/Sewer Abatements & Exemptions [There were none]**

**b. Permits & Approvals**

Mr. Chartrand recused himself from this matter. Ms. Gilman moved to approve use of Town Hall Main Floor for Water St Bookstore for Tuesday, May 9, 2017, 4 to 10 pm. It was seconded by Ms. Surman. All voted aye except Mr. Chartrand's recusal.

Mr. Dean mentioned other approvals: the IT Dept. has requested a disposal of property but is unlikely to realize much return on it. Mr. Chartrand moved approval to dispose of the Surplus Property of EXTV as listed. Ms. Surman seconded and it was approved unanimously.

There is a Town Ordinance to be signed which has had the third reading recently. A corrected signature sheet will be provided by Mr. Dean.

**c. Town Manager's Report**

Mr. Dean applauded DPW efforts on the recent storm.

County meeting was held on March 30<sup>th</sup>, with many town officials including the County Finance Director-they are looking to change the County fiscal year, but need to issue a third tax bill or change the dates to do it. He will keep the Board posted.

He met last Friday on the MS4 permit, and is discussing it with other communities. There are costs of implementation concerns. Exeter has an appeal right on it, which is a June 1<sup>st</sup> deadline. While that's separate the Board should hear the broad issues.

Flushing water mains is ongoing from March 27<sup>th</sup> to May 5<sup>th</sup>-done during the day. They are doing all roads west of the river. Mr. Clement commented on the process, for folks without any water early in the am-need to get better word out to Town. Ms. Perry responded the portable message board has been used. DPW does its best on assuring awareness-specific schedule depends on how quickly lines are cleared.

SST: Comcast is working on live broadcast capabilities to be forthcoming.

Planning Conference at OEP is in Concord on April 29<sup>th</sup>. It is \$55 per person-good training if folks want to go.

Ms. Perry discussed drought issues and water conservation. The Board acted this past fall for water ban ordinances and water conservation and an outdoor water ban was instituted over the winter. Surface waters have made a decent recovery but still below the mean. Groundwater conditions are slower to recover, takes years to get back to normal levels-a moderate drought

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still exists. Wells are recovering but very slowly. Rain is in forecasts, so it seems reasonable to take the Town off the outdoor watering ban and go to a recommendation for voluntary conservation steps but with a caution that we might need to go back to the mandatory outdoor watering ban. She has received phone calls from landscaping businesses etc. She spoke to the State hydrogeologist thought it was a prudent step to take at this time. Mr. Chartrand asked if businesses want to water now. Ms. Perry said they want to make landscaping decisions decide whether to postpone plantings. Mr. Chartrand said the caution is good but wonders if can delay it a little longer. Ms. Perry said interested callers are nearing the height of their season. Mr. Clement agreed with Mr. Chartrand and suggested next Monday's session for a decision. Ms. Gilman said delaying it for more thought is fine with her. Ms. Surman agreed, the voluntary part of the ordinance has bothered her all along. Going back on it might not work out.

Mr. Clement summarized the discussion in that the Board will wait at least a week to decide this. Mr. Chartrand added that caution is warranted and all this may be changing the outlook for a long time-may not be able to go back to what once was.

It's not a good idea to encourage plantings that might not be sustainable later. Ms. Gilman said the Municipal and County Government group had a discussion on this and what is and is not regulated. There was discussion on updating the local ordinance. The final sense of the Board was to hold off for a week or more. DPW will update Mr. Dean. Mr. Clement summarized by saying the first priority is to be sure of the drinking water supply, not outdoor watering.

#### **d. Selectmen's Committee Reports**

Ms. Surman met with the Swasey Parkway Trustees. The Trustees will be coming next week which has to do with the fall and the Force Main Project coming up. The Town will still be able to use the parkway.

Water & Sewer Advisory Committee: Mr. Clement said the Committee will be commenting on the DES Consent Order. He attended Economic Development Commission and Mr. Winham gave an overview of the RSA 79-E project. Exeter is also looking at things called incubators to help launch business enterprises.

Ms. Gilman said Senate Bill #108 which is to ratify town meeting votes that were postponed from March 14<sup>th</sup>. But it hasn't come to the House yet, so not sure what will happen yet. But there's a deadline on whether to hold a special town meeting ("STM") which has to be on May 23<sup>rd</sup> if one is held. If there is no STM, then what has been voted on becomes legal. Mr. Chartrand asked if this is just covering differences of opinion on the state level. Ms. Gilman said yes, it is. Mr. Chartrand added the state makes the local job harder. Effect of this undermines the efficiency of Town Government. The lack of direction was solely at State level. Town moved forward clearly in the right direction with the election under RSAs. [Discussion was held.]

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Ms. Gilman: House Finance Committee met today for its version of the proposed budget-Governor's Budget was over 1000 pages. The Finance Committee made 200 pages of amendments. Governor recommended funding for all-day kindergarten funding, but the Finance Committee cut it out. Charter schools will be funded at a higher rate than public schools. No money proposed for affordable housing, but it might be amended. Reorganizations of departments occurred. Cultural Resources and Dept. of Resource and Economic Development are melded now. Perambulation of Town Boundaries is being done tomorrow. Proposed legislation is to make it optional but the thought is to still do it. This drought situation was not handled the same in all area towns. Discussion on that ensued.

Mr. Dean added that every dollar that comes off the budget in form of Public Schools area or aid to Cities and Towns, impacts the local tax bill and the residents. Ms. Gilman added there is going to be better distribution of rooms and meals taxes to the towns. State Aid to municipalities might increase too.

#### **e. Correspondence**

SAIL Grant Correspondence. Mr. Clement said the Town of Exeter Master Plan grant application to support augmentation of the Master Plan should have the Town Planner's input to be sure no strings are attached to any grant. The Town might not want restrictions that could come with it. The Board agreed. Mr. Dean will handle that with the Planner.

Authorization of award contract to Wright Pierce was handled earlier this session. This letter is NHDES approval of the Apex Construction contract for the Wastewater Facility.

Doug Eastman, the Code Enforcement Officer, wrote regarding the Exeter Sportsman's Club and the Board's decision last week that the building permit was to be held until the Club comes in to discuss its latest plans with the Board. This memo was referred to at the last board meeting.

#### **9. Review Board Calendar**

Next week continuation of RSA 79-E public hearing, possibly the Exeter Sportsmen's Club discussion, Swasey Parkway Trustees' presentation, and the MS4 permit presentation. There was discussion of a Selectboard meeting after April 10<sup>th</sup>, but the Chair said he doesn't know for sure yet because of things still evolving. The 17<sup>th</sup> is a possibility when a decision is made on it by him.

#### **10. Non-Public Session**

A motion to go into RSA 91-A-3, 2c non-public session was made by Ms. Gilman and seconded by Ms. Surman. The roll call vote taken by the Clerk was unanimously approved. The Board went into Non-public session at 9:18 pm.

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After emerging from non-public session, the Board convened to finalize the regular session.

Selectman Clement moved to seal the minutes of the non public session, seconded by Selectman Chartrand. Motion carried by 5-0 vote.

**11. Adjournment**

There being no further business before the Board, Selectwoman Surman moved to adjourn, seconded by Selectman Chartrand, and the vote was unanimous. The meeting adjourned at 10:10 pm.

Respectfully submitted by David Pancoast, Recording Secretary.

**Appointments – April 10<sup>th</sup>, 2017**

**Water/Sewer Advisory Committee**

Brett Mosher, term effective 5/1/17, to expire 4/30/20

\*will take Gene Lambert's place who is not re-upping.

**Zoning Board of Adjustment**

Joanne Petito, Alternate Member, Term to expire 4/30/18

**Memorial Day Parade Committee**

Mike Lampert (no term)

# Memo

**To:** Board of Selectmen  
**From:** Darren Winham, Director  
**CC:** Russell Dean, Town Manager  
**Date** 3/24/17  
**Re:** Soaring Hawk LLC 79-E request

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Soaring Hawk LLC, owner of 1 – 9 Water Street (former Loaf and Ladle), is requesting from the Town of Exeter consideration for the Community Revitalization Tax Relief Incentive (RSA 79-E). Enclosed please find Soaring Hawk LLC's application received on February 22, 2017. This is Exeter's first application so the process may evolve as we move forward. According to the application process outlined on the town website, the Economic Development Department receives the application for review. Upon review, the application appears complete as it details the cost of rehabilitation which totals \$1,434,350 which meets the 15% of the assessed valuation requirement set forth in Section 2 as the current building is valued at \$417,900. The application outlines the public benefits the applicant feels are being achieved as addressed in Section 7 of the attached legislation.

The procedure for action by the Board of Selectmen is as follows:

- The Selectmen holds a public hearing on the application;
- After the hearing, the Selectmen determines if one or more of the Public Benefits listed in Section 7 have been met;
- If the Selectmen determines that one or more of the Public Benefits have been met then they must decide the period of tax relief to be granted. In this case, it could be anywhere from one (1) to eleven (11) years that begins when the substantial rehabilitation is complete;
- If tax relief is granted, the Selectmen should determine the length of the covenant to protect the Public Benefit(s) identified. At a minimum, the covenant needs to run as long as the tax relief period but can be increased up to twice the length of the tax relief period;
- The Covenant should be reviewed by our legal counsel at the applicant's expense so I would recommend any motion to grant tax relief includes this requirement.

I have enclosed: RSA 79-E legislation; Reference Map of 79-E District Areas; Soaring Hawk LLC Application; Substantial Rehabilitation Budget; Photos of the property; National Register of Historic Places Nomination Form (as consideration for Section 5.4), Property record card, and; Examples from Pittsfield and Durham, NH of Covenant to Protect Public Benefit.

# TITLE V TAXATION

## CHAPTER 79-E COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

### Section 79-E:1

#### **79-E:1 Declaration of Public Benefit. –**

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

II-b. It is further declared to be a public benefit to encourage the rehabilitation of historic structures in a municipality by increasing energy efficiency in the preservation and reuse of existing building stock.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

Source. 2006, 167:1. 2009, 200:3, 4, eff. July 15, 2009. 2013, 78:1, eff. April 1, 2013.

### Section 79-E:2

#### **79-E:2 Definitions. –** In this chapter:

I. "Historic structure" means a building that is listed on or determined eligible for listing on the National Register of Historic Places or the state register of historic places.

II. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. Qualifying structure shall also mean historic structures in a municipality whose preservation and reuse would conserve the embodied energy in existing building stock. Cities or towns may further limit "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within such districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals. Cities or towns may further modify "qualifying structure" to include buildings that have been destroyed by fire or act of nature, including



where such destruction occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town.

III. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

IV. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. In addition, in the case of historic structures, substantial rehabilitation means devoting a portion of the total cost, in the amount of at least 10 percent of the pre-rehabilitation assessed valuation or at least \$5,000, whichever is less, to energy efficiency in accordance with the U.S. Secretary of the Interior's Standards for Rehabilitation. Cities or towns may further limit "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs a percentage greater than 15 percent of pre-rehabilitation assessed valuation or an amount greater than \$75,000 based on local economic conditions, community character, and local planning and development goals.

V. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

VI. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

(c) For a qualifying structure which is a building destroyed by fire or act of nature, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on such qualifying structure shall not exceed the tax on the assessed value of the structure that would have existed had the structure not been destroyed.

VII. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

**Source.** 2006, 167:1. 2009, 200:5-7. 2010, 329:1, 2. 2011, 237:1, 2, eff. July 5, 2011. 2013, 78:2, eff. April 1, 2013.

### Section 79-E:3

#### **79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program –**

I. Any city or town may adopt or modify the provisions of this chapter by voting whether to accept for consideration or modify requirements for requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of any town or city that has adopted this program may consider

rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.

Source. 2006, 167:1. 2010, 329:3, eff. July 20, 2010.

### **Section 79-E:4**

#### **79-E:4 Community Revitalization Tax Relief Incentive. –**

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

(1) The governing body finds a public benefit under RSA 79-E:7; and

(2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and

(3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and

(4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical resources conduct a technical evaluation in order to satisfy the governing body that historical resources will not be adversely affected.

(b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be

accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

- (a) The development program or financing plans for such tax increment finance districts; or
- (b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or
- (c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

**Source.** 2006, 167:1. 2009, 200:8-11, eff. July 15, 2009.

### **Section 79-E:5**

#### **79-E:5 Duration of Tax Relief Period. –**

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

**Source.** 2006, 167:1. 2009, 200:12. 2010, 329:4, eff. July 20, 2010.

### **Section 79-E:6**

**79-E:6 Resumption of Full Tax Liability. –** Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

**Source.** 2006, 167:1, eff. April 1, 2006.

### Section 79-E:7

**79-E:7 Public Benefit.** – In order to qualify for tax relief under this chapter, the proposed substantial rehabilitation must provide at least one of the public benefits, and the proposed replacement must provide one or more of the public benefits to a greater degree than would a substantial rehabilitation of the same qualifying structure, as follows:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located;
  - II-a. It promotes the preservation and reuse of existing building stock throughout a municipality by the rehabilitation of historic structures, thereby conserving the embodied energy in accordance with energy efficiency guidelines established by the U.S. Secretary of the Interior's Standards for Rehabilitation.
- III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
- IV. It increases residential housing in urban or town centers.

Source. 2006, 167:1. 2009, 200:13, eff. July 15, 2009. 2013, 78:3, eff. April 1, 2013.

### Section 79-E:7-a

**79-E:7-a Public Benefit Determinations.** – Cities or towns may adopt according to the procedure in RSA 79-E:3 provisions that further define the public benefits enumerated in RSA 79-E:7 to assist the governing body in evaluating applications made under this chapter based on local economic conditions, community character, and local planning and development goals.

Source. 2010, 329:5, eff. July 20, 2010.

### Section 79-E:8

**79-E:8 Covenant to Protect Public Benefit.** –

I. Tax relief for the substantial rehabilitation or replacement of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.

II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.

III. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition or damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:9, I.

IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.

V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review, and/or execution of the covenant. The applicant also shall be responsible for the cost of

recording the covenant.

**Source.** 2006, 167:1. 2009, 200:14, eff. July 15, 2009.

### **Section 79-E:9**

#### **79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty. –**

I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.

II. Any tax payment required under paragraph I shall be payable according to the following procedure:

(a) The commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment according to RSA 75:1, and the amount payable.

(b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.

(c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of payment.

(d) Payment shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted.

**Source.** 2006, 167:1. 2009, 200:15, eff. July 15, 2009.

### **Section 79-E:10**

**79-E:10 Lien for Unpaid Taxes. –** The real estate of every person shall be held for the taxes levied pursuant to RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

### **Section 79-E:11**

**79-E:11 Enforcement. –** All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80.

**Source.** 2006, 167:1. 2007, 42:3, eff. July 20, 2007.

### **Section 79-E:12**

**79-E:12 Rulemaking. –** The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the payment and collection procedures under RSA 79-E:9.

Source. 2006, 167:1, eff. April 1, 2006.

### Section 79-E:13

#### **79-E:13 Extent of Tax Relief. –**

I. (a) Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or

(b) Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this chapter, provided that for a qualifying structure which is a building destroyed by fire or act of nature, original assessed value shall mean the value as of the date of approval of the application for tax relief of the qualifying structure that would have existed had the structure not been destroyed.

II. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter, provided that in the case of a qualifying structure which is a building destroyed by fire or act of nature, and which occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town, the tax relief may apply to such qualifying structure for which replacement has begun, but which has not been completed, on the date the application for relief under this chapter is approved.

Source. 2006, 167:1. 2010, 329:6. 2011, 237:3, eff. July 5, 2011.

### Section 79-E:14

**79-E:14 Other Programs. –** The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

Source. 2006, 167:1, eff. April 1, 2006.



**RSA 79E Reference Map of District Areas:**

**C-1 Lincoln Street, C-1 Central/downtown, WC- Waterfront Commercial, and C-1 Portsmouth Ave**



# Town of Exeter

## Community Revitalization Tax Relief Incentive (RSA 79-E)

### Application Form

Office Use Only  
(do not write in shaded area)

Date Application Submitted: 2/22/17

Received by: Darren Winham

#### Building Information

Building Name (if any): former loaf and Ladle

Building Address: 1-9 Water Street

Eligible Zoning District WC

Tax Map 72 Lot 41

Contact throughout this application process will be made through the applicant listed below. The property owner may designate an agent as the coordinator for the project. This person (the applicant) shall attend public hearings, will receive comments, recommendation, staff reports, and will communicate all case information to the other parties as required.

The Property Owner may act as the Applicant. If so, list under Applicant's Name, "Owner", and complete owner's information as requested.

Applicant's Name Owner

Owner's Name Soaring Hawk LLC

Address: \_\_\_\_\_

c/o Catamount  
Address: 6 Kimball Lane

City/Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

City/Town: Lynnfield State: MA Zip: 01940

Phone \_\_\_\_\_ Fax: \_\_\_\_\_

Phone 617.660.7403 Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: skanebe.catamountmanagement.com

#### Existing Building Information:

Existing Uses (describe current use, size, and number of employees):

The building is currently vacant. It was most recently opened  
as a restaurant which closed in the 4th quarter of 2013.

The building has 3 floors and approximately 7,500 sf, not including  
exterior decks.

Gross Square Footage of Building: 7,500 Year Building was Built: 1940

Is the building listed on or eligible for listing on the National Register of Historic Places?  Yes  No

Is the building listed on or eligible for listing on the state register of historic places?  Yes  No

Is the building located within and import to locally designated historic district?  Yes  No



**Project Description**

Proposed Uses (describe use, size, and number of employees):

Restaurant (approximately 6,700 s.f.) and residential (approximately 1200)

Employees 32 full time  
19 part time

Is this a change of use associated with this Project?  Yes  No

Will the project include new residential units?  Yes  No

If yes, please describe: One apartment in the upper level

Will the project include affordable residential units?  Yes  No

If yes, please describe:

Has an abatement application been filed or has abatement been awarded on this property within the past year?

Yes  No

Will any state or federal grants be used with this project?  Yes  No

If yes, describe and detail any terms of repayment:

**Replacement of Qualifying Structure**

Does the project involve the replacement of a qualifying structure?  Yes  No

If yes, the owner shall submit with this application the following:

1. A New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian.
2. A letter from the Exeter Historic District Commission that identifies any and all historical, cultural, and architectural value of the structure or structures that are property on which those structures are located.

Note: The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structures as required under RSA 79-E:4, II until the inventory form and letter, as well as all other required information, have been submitted, if required.

**Public Benefit (RSA 79:E-7)**

In order to qualify for tax relief under this program, the proposed substantial rehabilitation must provide at least one of the public benefits listed below. Any proposed replacement must provide one or more of the public benefits listed below to a greater degree than would a substantial rehabilitation of the same qualifying structure.

Does the project provide the following public benefits?

(Check all that apply)

Enhances the economic vitality of the designated area.  Yes  No

If yes, please describe: The fully renovated and significantly expanded  
restaurant will draw business from a wider area than  
downtown Exeter currently enjoys. The restaurant will be a  
destination, thereby enhancing vitality of Exeter's core area.

Enhances and improves a culturally or historically important structure  Yes  No

If yes, please describe: The building was constructed around the same time  
as the Exeter Mill. It has served the downtown in a variety  
of ways. When the Lord and Liddle closed, the community was  
left with a significant void, that will be filled with the  
new restaurant.

Promotes development of the designated area, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B?  Yes  No

If yes, please describe: As described above, the Lord and Liddle provided a great  
community gathering place, enhancing the quality of life for residents  
and visitors. The downtown will be livelier for longer hours which  
will make better use of the river for all.

It increase residential housing in urban or town centers?  Yes  No

If yes, Please describe: The apartment upstairs will add a use that is  
not currently part of the property.

Other issues and matters applicant deems relevant to this request?  Yes  No

If yes, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Substantial Rehabilitation**

Describe the work to be done and estimated costs. *See attached description.*

1. Attach additional sheets if necessary and any written construction estimates.
2. Attach any project narratives, plot plans, building plans, sketches, rendering, or photographs that will help explain this application.

Structural: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Cost:

Electrical: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Cost:

Plumbing/Heating: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Cost:

Mechanical: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Cost:

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Cost:

**Total Estimated Project Cost:** \$ 1,300,000

**Expected Project Start Date:** 5/1/17 **Expected Project Completion Date:** 10/1/17

**Applicant/Owner Signature**

To qualify for this tax relief incentive, the cost the project must be at least 15% of the pre-rehabilitation assessed value or \$75,000, whichever is less.

I/we certify the estimated costs are reasonable and the costs of the project meet the above requirement.

Initial here: SK \_\_\_\_\_

I/We understand that failure to meet this threshold or the listing unreasonable construction costs will result in the denial of the application and forfeiture of the application fee.

Initial here: SK \_\_\_\_\_

I/We have read and understand the Community Revitalization Tax Relief Incentive, RSA 79-E, and am/are aware that this will be a public process including public hearing to be held to discuss the merits of this application and the subsequent need to enter into a covenant with the Town and pay all reasonable expenses associated with the drafting/recording of the covenant.

Initial here: SK \_\_\_\_\_

The undersigned hereby certifies the foregoing information is true and correct;

                      Stephen Kanel, Manager                      2/24/17  
Signature                                      (printed name)                                      Date

\_\_\_\_\_  
Signature                                      (printed name)                                      Date

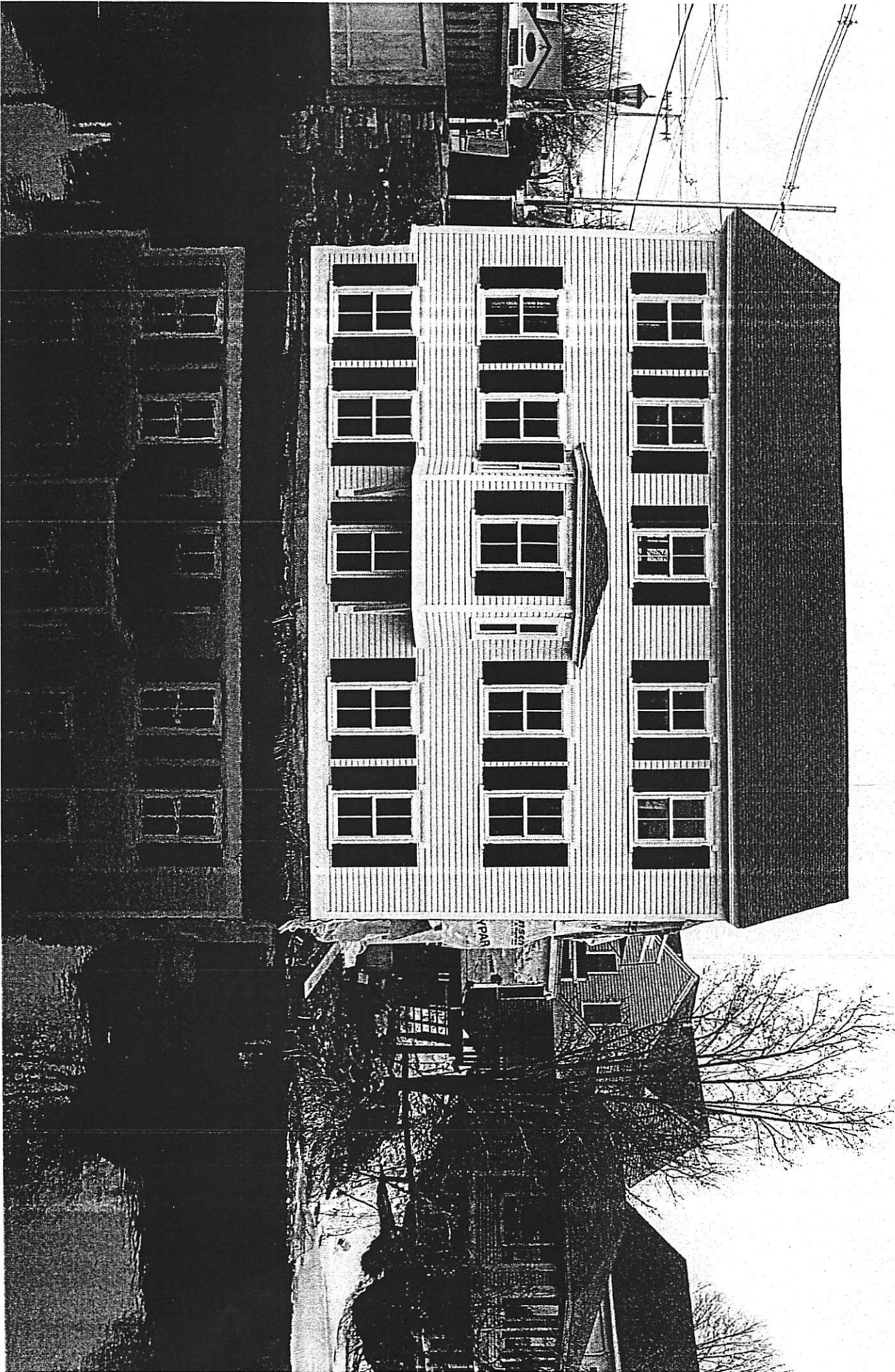
\_\_\_\_\_  
Signature                                      (printed name)                                      Date

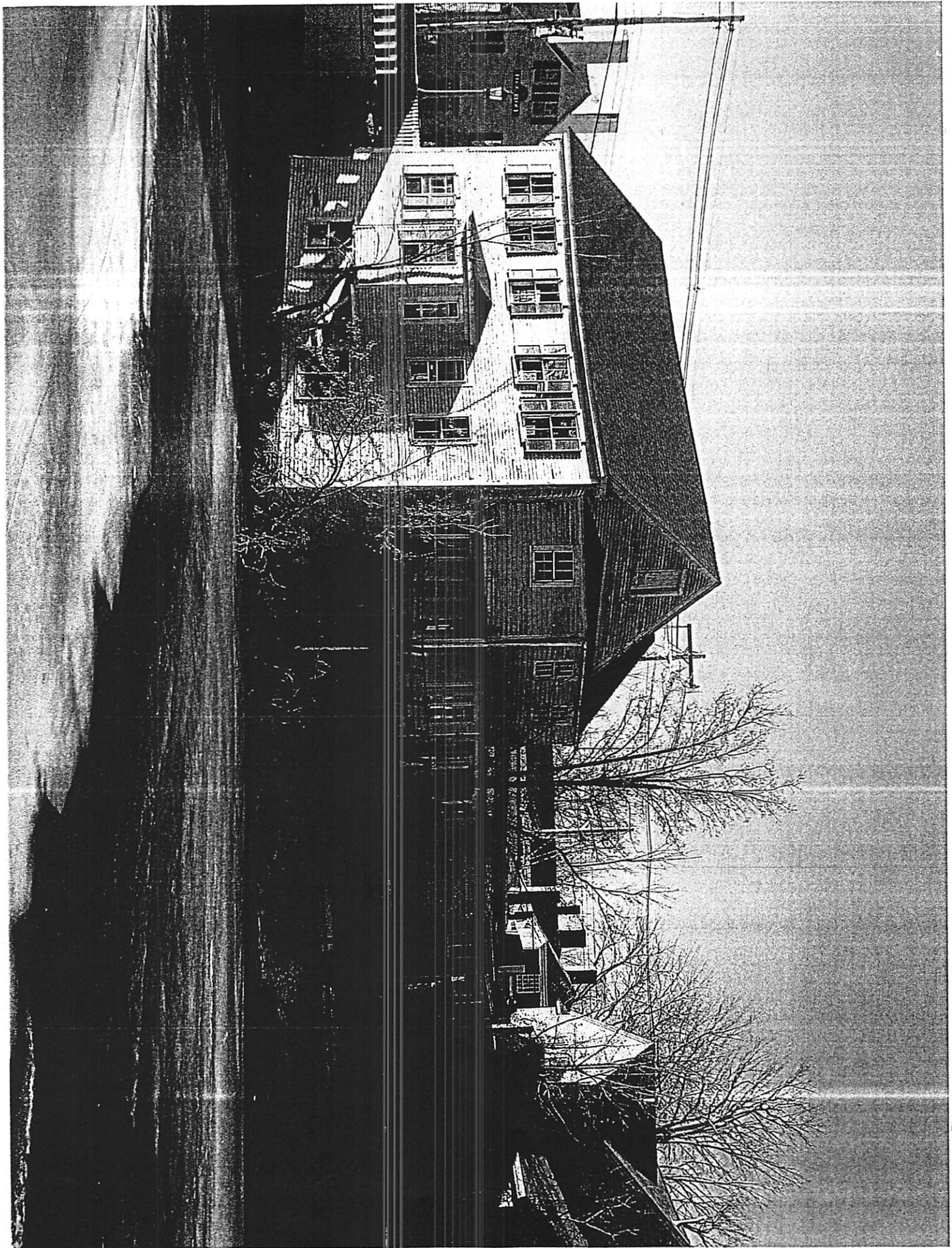
\_\_\_\_\_  
Signature                                      (printed name)                                      Date

\_\_\_\_\_  
Signature                                      (printed name)                                      Date

79-E Sea Dog Exeter 1-9 Water Street

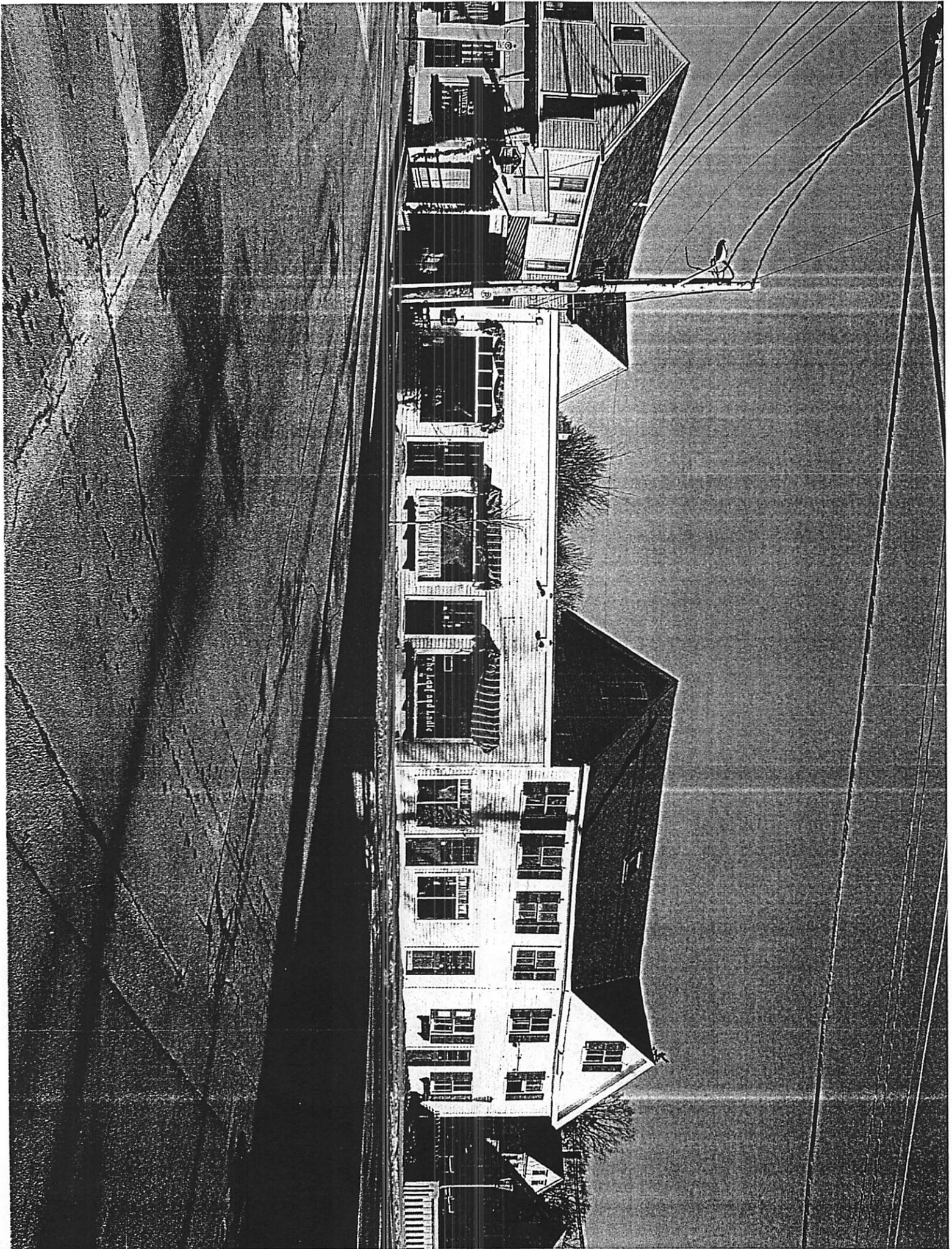
Engineering and Architects	18,500
Municipal Fees	23,000
Dump,temp toilet, equip	11,500
Electrical	70,750
Plumbing	57,500
HVAC	140,000
Sprinkler and Alarm	80,500
Kitchen hood and make up air	69,000
Rough and Structural framing, demo, decks a	224,000
Insulation	38,000
Drywall	45,000
Painting	22,000
Finish labor and materials	135,500
Apt Kitchen	20,000
Hardwood flooring	50,600
Tile flooring and wall treatment	28,000
Apt Carpet and staircase	3,500
Misc expenses	20,000
Cleaning	5,000
Tenant Furniture, Fixtures and Equipment	372,000
Total	1,434,350

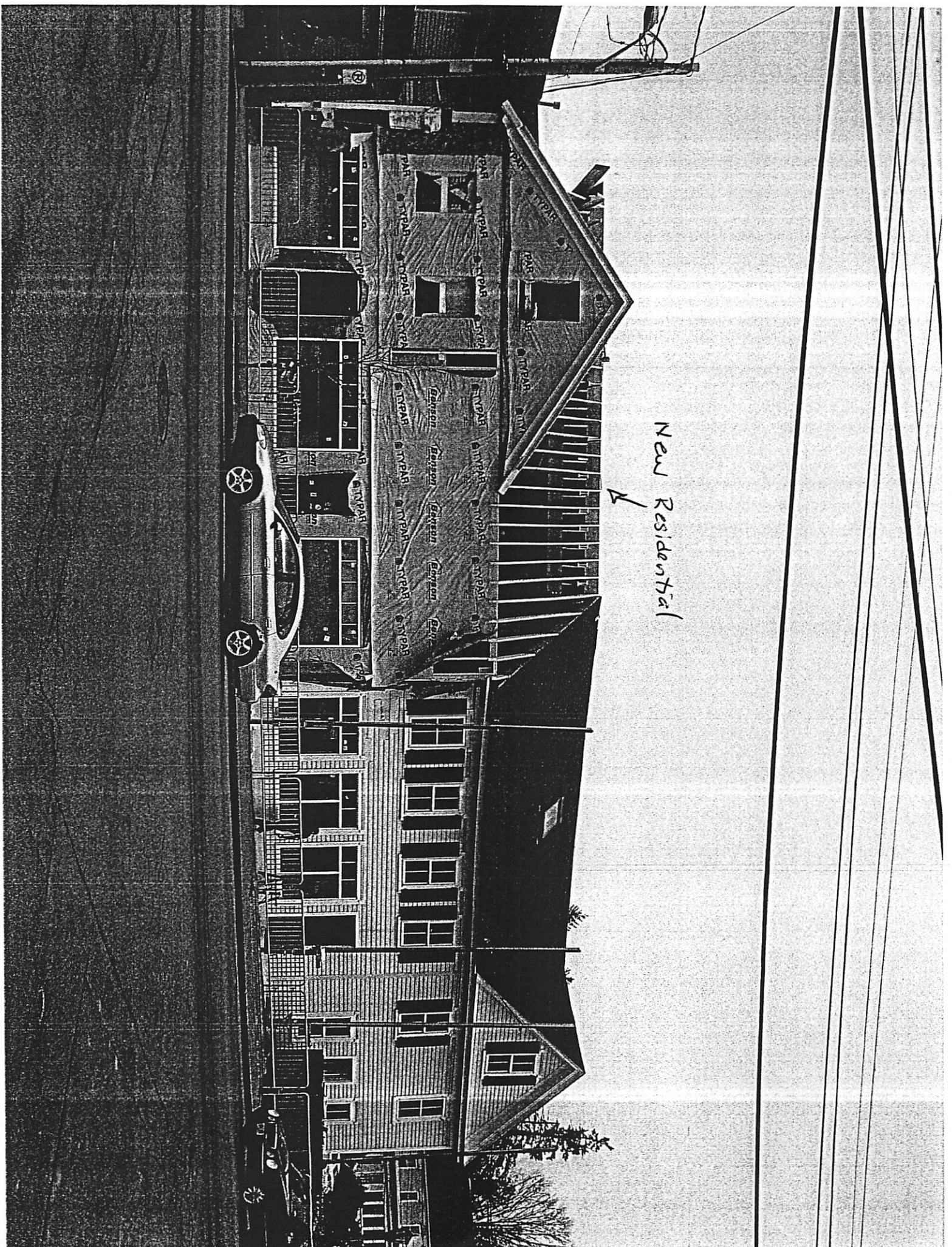




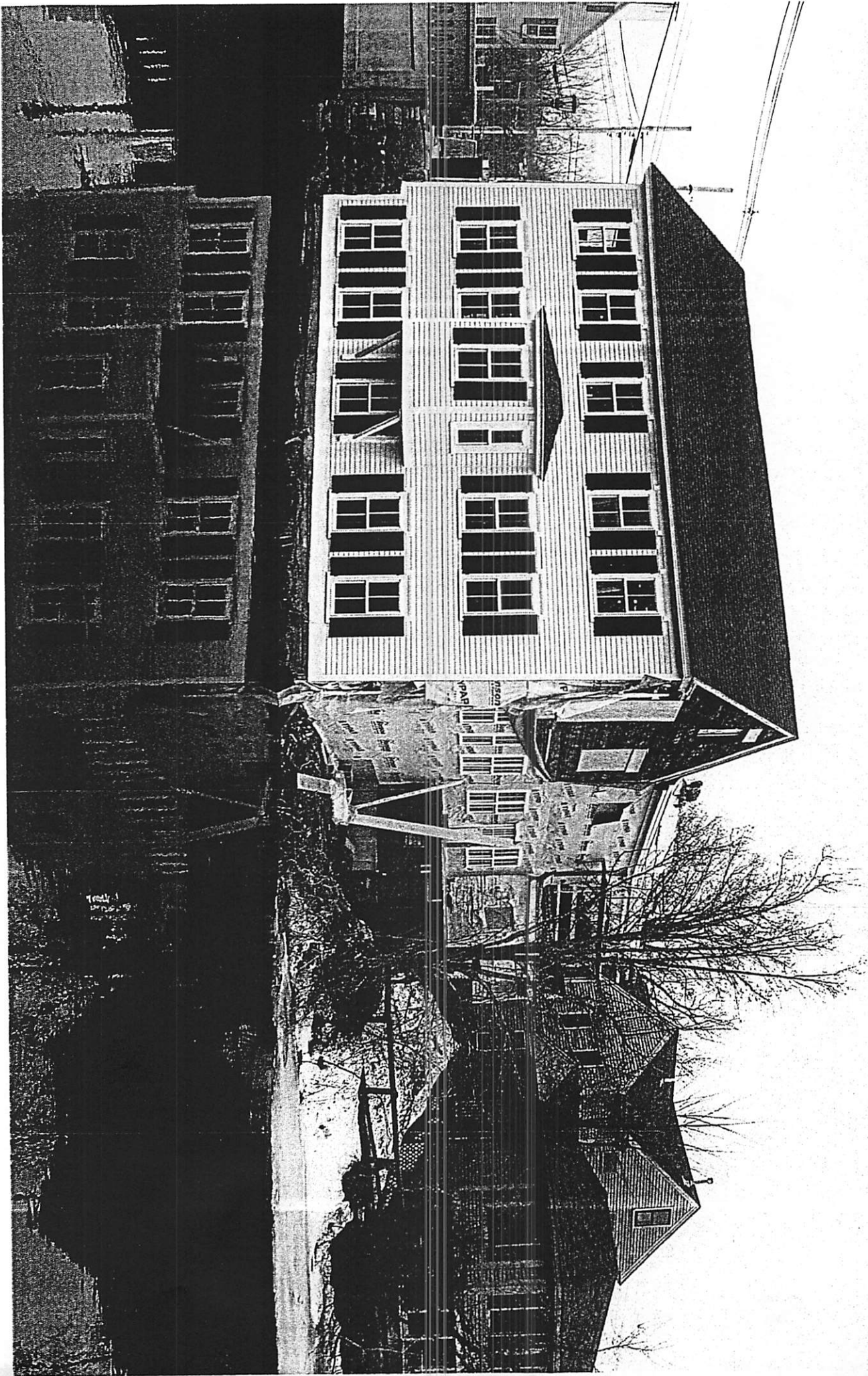








New Residential  
↓



UNITED STATES DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES  
INVENTORY -- NOMINATION FORM

FOR NPS USE ONLY  
RECEIVED AUG 13 1980  
DATE ENTERED DEC 3 1980

SEE INSTRUCTIONS IN HOW TO COMPLETE NATIONAL REGISTER FORMS  
TYPE ALL ENTRIES -- COMPLETE APPLICABLE SECTIONS

1 NAME

HISTORIC  
Exeter Waterfront Commercial-Historic District  
AND/OR COMMON

2 LOCATION

STREET & NUMBER  
Water St., Franklin St., Pleasant St., High St. <sup>and</sup> Chestnut Sts, Chestnut Hill Ave.  
CITY, TOWN  
Exeter  
STATE, VICINITY OF, COUNTY, CODE  
New Hampshire 33 Rockingham 015

3 CLASSIFICATION

CATEGORY	OWNERSHIP	STATUS	PRESENT USE
<input checked="" type="checkbox"/> DISTRICT	<input type="checkbox"/> PUBLIC	<input checked="" type="checkbox"/> OCCUPIED	<input type="checkbox"/> AGRICULTURE <input checked="" type="checkbox"/> MUSEUM
<input type="checkbox"/> BUILDING(S)	<input checked="" type="checkbox"/> PRIVATE	<input type="checkbox"/> UNOCCUPIED	<input checked="" type="checkbox"/> COMMERCIAL <input type="checkbox"/> PARK
<input type="checkbox"/> STRUCTURE	<input type="checkbox"/> BOTH	<input type="checkbox"/> WORK IN PROGRESS	<input type="checkbox"/> EDUCATIONAL <input checked="" type="checkbox"/> PRIVATE RESIDENCE
<input type="checkbox"/> SITE	<input type="checkbox"/> PUBLIC ACQUISITION	<input type="checkbox"/> ACCESSIBLE	<input checked="" type="checkbox"/> ENTERTAINMENT <input type="checkbox"/> RELIGIOUS
<input type="checkbox"/> OBJECT	<input type="checkbox"/> IN PROCESS	<input type="checkbox"/> YES: RESTRICTED	<input type="checkbox"/> GOVERNMENT <input type="checkbox"/> SCIENTIFIC
	<input type="checkbox"/> BEING CONSIDERED	<input checked="" type="checkbox"/> YES: UNRESTRICTED	<input type="checkbox"/> INDUSTRIAL <input type="checkbox"/> TRANSPORTATION
		<input type="checkbox"/> NO	<input type="checkbox"/> MILITARY <input type="checkbox"/> OTHER:

4 OWNER OF PROPERTY

NAME  
Multiple Ownership  
STREET & NUMBER

CITY, TOWN STATE  
VICINITY OF

5 LOCATION OF LEGAL DESCRIPTION

COURTHOUSE, REGISTRY OF DEEDS, ETC.  
Rockingham County Register of Deeds  
STREET & NUMBER  
Rockingham County Courthouse  
CITY, TOWN STATE  
Exeter New Hampshire 03833

6 REPRESENTATION IN EXISTING SURVEYS

TITLE  
(See Continuation Sheet 6-1)  
DATE

FEDERAL  STATE  COUNTY  LOCAL

DEPOSITORY FOR SURVEY RECORDS  
CITY, TOWN STATE

**NATIONAL REGISTER OF HISTORIC PLACES  
INVENTORY -- NOMINATION FORM**

FOR HCRS USE ONLY	
RECEIVED	AUG 17 1980
DATE ENTERED	5

CONTINUATION SHEET

ITEM NUMBER 7

PAGE 10

District Map &  
Survey number

Description

34. Wooden Building, 23-25 Water Street: 2½ stories, 5x5 bays, post and beam structure, with the gable oriented toward the street. The front wall is rusticated with staggered quoins, a projecting cornice with returns, and evenly spaced shallow scroll brackets. Window surrounds are two-over-two and consist of a plain wooden lintel supported by paneled pilasters and a plain sill with two wooden corbels beneath the pilasters. At street level are plate glass windows, a recessed central entry, six fluted pilasters and a projecting cornice supported by evenly spaced simple brackets. Italianate, c. 1860 (09-10;13;010)
35. Wooden Commercial Building, 19-21 Water Street: 2½ story, 6x6 bay, low pitched gable roof concealed by a wooden parapet. The west storefront consisting of paired plate glass windows, a recessed entry, and a bracketed entablature over the storefront. The second floor contains six-over-one window sash. The east facade, contains plate glass windows, a shingled shed projection over the first floor facade, two-over-one window sash on the second floor, and six-over-six smaller attic windows. All windows have simple surrounds. Two doors are located in the center of the building, one with a six light transom. The entire building is sided with asphalt shingles. A simple wooden entablature runs across the front of the building beneath the parapet. Multiple additions have been attached to the rear of the building. Italianate Vernacular, c. 1870 (09-10;13;011)
36. Wooden Building, 9-11 Water Street: 2½ story, 3x5 bay, gable oriented, clapboarded, commercial building. The center facade entry is flanked by two large display windows, each having a transom with two lights above. All windows have two over two sash with plain surrounds and architrave trim. The boxed cornice returns. A 2x2 bay flat roof single story projects off the rear. The entry to this ell is covered by a shed roof porch supported by a square column which also supports an elliptical archway between it and the main block. Vernacular, c. 1870 (09-10;13;012)
37. Wooden Building, 1-9 Water Street: 2½ story, 3x5 bay, structure with stone foundations, clapboards, plain cornerboards, and a pedimented gable oriented toward the street. A gable-roofed, 2:1/2 story wing extends from the southwest corner of the building and a one story addition is attached to the wing. Windows are two-over-two with plain surrounds containing cornerblocks. The 2½ story wing and 1 story addition contains plate glass windows at street level. The addition has a plain parapet. Greek Revival, c. 1840 (09-10;13;013)

**NATIONAL REGISTER OF HISTORIC PLACES  
INVENTORY -- NOMINATION FORM**

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DATE ENTERED

CONTINUATION SHEET

ITEM NUMBER 4 PAGE 5

- |     |  |                                |
|-----|--|--------------------------------|
| 37. | Exeter Investment Co., Inc.<br>String Bridge<br>Exeter, NH. 03833  | 09-10;13;013                   |
| 38. | Exeter Restaurant Inc,<br>42 Water Street<br>Exeter, NH. 03833   | 09-10;15;001                   |
| 39. | Bouchard, Carl E. & Pauline M.<br>Epping Road<br>Exeter, NH. 03833                                       | 09-10-15;018                   |
| 40. | Bukowski, J. Joseph<br>Kingston Road<br>Exeter, NH. 03833  | 09-10;15;017                   |
| 41. | Society for the Preservation<br>of New England Antiquities<br>141 Cambridge Street<br>Boston, Ma. 02114  | 09-10;15;016                   |
| 42. | Society for the Preservation<br>of New England Antiquities.<br>141 Cambridge Street<br>Boston, Ma. 02114 | 09-10;15;015                   |
| 43. | Car-Go Home<br>& Auto Centers Inc.<br>Elm Street<br>Manchester, NH. 03100                                | 09-10;20;001                   |
| 44. | Lapert, Harold & Frances,<br>Trustees Lapert Realty Trust<br>20 Franklin Street<br>Exeter, NH. 03833     | 09-10;21;010                   |
| 45. | Lampert, Harold & Frances<br>Trustees Lampret Realty Trust<br>20 Franklin Street<br>Exeter, NH. 03833    | 09-10;21;011 &<br>09-10;21;012 |

Property Location: 1-9 WATER ST  
 Vision ID: 2336

Account # U0135R

MAP ID: 72 / 41 /

Bldg #: 1 of 1

Bldg Name:  
 Sec #: 1 of 1 Card 1 of 1

State Use: 3220  
 Print Date: 03/24/2017 12:59

CURRENT OWNER		TOPO.	UTILITIES	STRT/ROAD	LOCATION	CURRENT ASSESSMENT				
SOARING HAWK LLC C/O CATAMOUNT MANAGEMENT C SIX KIMBALL LANE  LYNNFIELD, MA 01940 Additional Owners:		1 Level		1 Paved		Description	Code	Appraised Value	Assessed Value	2211 EXETER, NH
						COMMERC. COM LAND	3220 3220	249,500 168,400	249,500 168,400	
<b>SUPPLEMENTAL DATA</b>										
Other ID: 0072 0041 0000		A12: Historic: YES		Antenna: 79E Dist: Yes						
Easement: Book/Page: TIF Dist: TIF Value: A9: GIS ID: 072-041-0000		ASSOC PID#								
						Total		417,900	417,900	<b>VISION</b>

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	q/u	v/i	SALE PRICE	V.C.	PREVIOUS ASSESSMENTS (HISTORY)								
SOARING HAWK LLC		5505/0874	12/27/2013	U	I	375,000	13	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
A MERRY LEGUMES REALTY TR		3107/1361	04/15/1993	U	I		1N	2016	3220	249,500	2015	3260	25,100	2015	3260	25,100
A MERRY LEGUMES REALTY TR		2626/1523		U		0		2016	3220	168,400	2015	3260	168,400	2015	3260	168,400
								2015	3260	4,200	2015	3260	4,200	2015	3260	4,200
						Total:		417,900	Total:	197,700	Total:	197,700	Total:	197,700		

EXEMPTIONS			OTHER ASSESSMENTS					
Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.
Total:								

This signature acknowledges a visit by a Data Collector or Assessor

ASSESSING NEIGHBORHOOD				
NBHD/SUB	NBHD Name	Street Index Name	Tracing	Batch
0001/A				

APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	249,500
Appraised XF (B) Value (Bldg)	0
Appraised OB (L) Value (Bldg)	0
Appraised Land Value (Bldg)	168,400
Special Land Value	0
Total Appraised Parcel Value	417,900
Valuation Method:	C
Adjustment:	0
Net Total Appraised Parcel Value	417,900

**NOTES**

04-15 BUILDING BEING TOTALLY RENOVATED - RECK 2016  
 4/16-EXTERIOR RENOVATED, ADD FUS,UAT  
 4/16-INTERIOR GUTTED TO STUDS  
 9/16 NO CHANGE

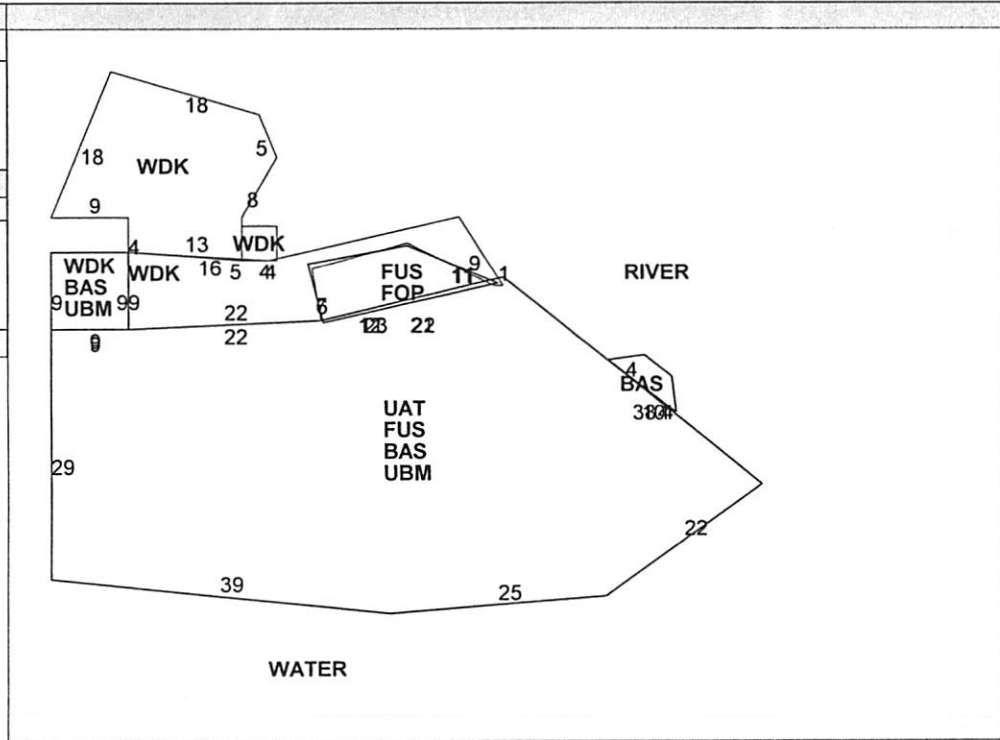
NOTE: HISTORIC DISTRICT

BUILDING PERMIT RECORD										VISIT/ CHANGE HISTORY					
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	Type	IS	ID	Cd.	Purpose/Result	
EXPIRED	01/12/2015	RE	Remodel	630,000	09/23/2016	50		EXPIRED/BUILD 3 ON	09/23/2016			MO	60	BP Review - Ext	
									04/01/2016			PM	60	BP Review - Ext	
									04/08/2015			JQ	60	BP Review - Ext	
									05/12/2010			JW	14	Commercial Field Review	
									06/21/2004			EB	00	Measur+Listed	

LAND LINE VALUATION SECTION																			
B #	Use Code	Use Description	Zone	D	Front	Depth	Units	Unit Price	I. Factor	S.A.	Acre Disc	C. Factor	ST. Idx	Adj.	Notes- Adj	Special Pricing	S Adj Fact	Adj. Unit Price	Land Value
1	3220	STORE/SHOP MDL-94	WC				3,485 SF	16.10	1.0000	5	1.0000	1.00	C28	3.00	SIZE		1.00	48.31	168,400

Total Card Land Units: 0.08 AC Parcel Total Land Area: 0.08 AC Total Land Value: 168,400

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)				
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description
Style	80		Stores/Apt Com				
Model	94		Commercial				
Grade	04		Average +10				
Stories	1						
Occupancy	1						
Exterior Wall 1	11		Clapboard				
Exterior Wall 2							
Roof Structure	03		Gable/Hip				
Roof Cover	03		Asph/F Gls/Cmp				
Interior Wall 1	05		Drywall/Sheet				
Interior Wall 2							
Interior Floor 1	09		Pine/Soft Wood				
Interior Floor 2							
Heating Fuel	03		Gas				
Heating Type	04		Forced Air-Duc				
AC Type	01		None				
Bldg Use	3220		STORE/SHOP MDL-94				
Total Rooms							
Total Bedrms	00						
Total Baths	0						
%Taxable							
Heat/AC	00		NONE				
Frame Type	02		WOOD FRAME				
Baths/Plumbing	02		AVERAGE				
Ceiling/Wall	06		CEIL & WALLS				
Rooms/Prtns	02		AVERAGE				
Wall Height	8						
% Comn Wall	0						
				<b>MIXED USE</b> Code Description Percentage 3220 STORE/SHOP MDL-94 100			
				<b>COST/MARKET VALUATION</b> Adj. Base Rate: 94.62 Net Other Adj: 554,485 Replace Cost: 0.00 AYB: 554,485 EYB: 1900 Dep Code: 1985 A Remodel Rating Year Remodeled Dep %: 60 Functional Obslnc External Obslnc Cost Trend Factor: 1 Condition: UC % Complete: 45 Overall % Cond: 45 Apprais Val: 249,500 Dep % Ovr: 0 Dep Ovr Comment Misc Imp Ovr: 0 Misc Imp Ovr Comment Cost to Cure Ovr: 0 Cost to Cure Ovr Comment			



OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)												
Code	Description	Sub	Sub Descript	L/B	Units	Unit Price	Yr	Gde	Dp Rt	Cnd	%Cnd	Apr Value

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprec. Value
BAS	First Floor	2,456	2,456	2,456	94.62	232,392
FOP	Porch, Open, Finished	0	109	27	23.44	2,555
FUS	Upper Story, Finished	2,463	2,463	2,463	94.62	233,054
UAT	Attic, Unfinished	0	2,354	235	9.45	22,236
UBM	Basement, Unfinished	0	2,435	609	23.67	57,625
WDK	Deck, Wood	0	699	70	9.48	6,624
<b>Til. Gross Liv/Lease Area:</b>		<b>4,919</b>	<b>10,516</b>	<b>5,860</b>		<b>554,485</b>



**TOWN OF EXETER, NH**  
**COVENANT TO PROTECT PUBLIC BENEFIT**  
**Soaring Hawk, LLC of 1 - 9 Water Street, Exeter, NH**  
**Per RSA 79E (Community Revitalization Tax Relief Incentive)**

Soaring Hawk, LLC of 1 - 9 Water Street, Exeter, NH 03833 (hereinafter referred to, collectively, if appropriate, as “GRANTOR”), owner of property situated at 1 - 9 Water Street, Exeter, NH (hereinafter referred to as the “PROPERTY”), for itself and for its successors and assigns, for consideration of tax relief granted to GRANTOR by GRANTEE pursuant to the provisions of RSA 79E, agree to the following Covenants imposed by the Town of Exeter, (hereinafter referred to as “GRANTEE”), 10 Front Street, Exeter, County of Rockingham, State of New Hampshire.

These covenants are made in exchange for **TBD years of property tax relief** granted with respect to the PROPERTY as a result of the redevelopment of the PROPERTY to be accomplished by the GRANTOR in accordance with GRANTOR’S proposal. The specific approved scope of work is attached as “SOARING HAWK, LLC - COMMUNITY REVITALIZATION TAX RELIEF APPLICATION (PER RSA 79E) approved by GRANTEE (by vote of the Exeter Board of Selectmen) on DATE TBD, and in accordance with the site plan approved by the Exeter Planning Board and the site plan as subsequently amended and approved by the Town of Exeter (by the Planning Board or through an administrative approval process). In case of any conflict between the attached scope of work and the approved site plan (as amended and approved by the Town), shall prevail.

This Covenant is to protect the public benefit in accordance with the provisions of RSA 79-E for a term of TBD years (Note, however, that the period of tax relief is for TBD years) beginning on April first of the first tax year commencing immediately after the completion of the redevelopment work. Notwithstanding the foregoing, the contemplated tax relief shall be null and void if the proposed redevelopment work is not completed by DATE TBD.

All applicable provisions of RSA 79E shall apply to these covenants.

The PROPERTY is designated GRANTEE’S Tax Map 72 Lot 41 in the Town of Exeter.

The GRANTEE agrees that the PROPERTY, if substantially rehabilitated (or “redeveloped”) in accordance with GRANTOR’S proposal approved by GRANTEE on DATE TBD, provides a demonstrated public benefit in accordance with the provisions of RSA 79-E:7 inasmuch as the redevelopment of said property:

- I. Enhances the economic vitality of downtown; and
- II. Enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district,

town center, or village center in which the building is located; and

III. Promotes development of municipal centers, providing for efficiency, safety and a greater sense of community consistent with RSA 9-B; and

IV. Increases residential housing in urban or town centers.

The terms of the Covenant, which is hereby granted by the GRANTOR to the GRANTEE with respect to the above described PROPERTY, and which shall commence simultaneously with the period of tax relief but shall continue for an additional TBD years beyond the termination of the TBD-year tax relief period, are as follows:

**GRANTOR'S COVENANTS:**

**REDEVELOPMENT OF PROPERTY.** The Grantor agrees to redevelop the PROPERTY during the term of this Agreement in accordance with GRANTOR'S proposal approved by GRANTEE on DATE TBD. The redevelopment contemplated by GRANTOR'S proposal approved by GRANTEE on DATE TBD shall be completed by the GRANTOR on or before DATE TBD. All of the work on the attached scope of work, and on the site plan as approved by the Exeter Planning Board, with amendments approved by the Town, must be completed in order for the tax relief to take effect. If only some of the work on the attached scope of work and the site plan as approved by the Exeter Planning Board, is completed prior to DATE TBD, then the PROPERTY shall be fully assessed for the value of that work during the tax year commencing 2017.

**MAINTENANCE AND USE OF THE PROPERTY.** The GRANTOR agrees to maintain, use and keep the structure in a condition that furthers the public benefits for which the tax relief was granted and accepted during the term of the tax relief under RSA 79-E. The GRANTOR agrees to continue to use the property as described in the attached "SOARING HAWK, LLC." The use of the property shall not be converted to a different use inconsistent with the description in the attached "SOARING HAWK, LLC."

**REQUIRED INSURANCE, USE OF INSURANCE PROCEEDS, AND TIMEFRAME TO REPLACE OR REMOVE DAMAGED PROPERTY.** The GRANTOR agrees and is required to obtain and maintain casualty insurance, as well as flood insurance, if appropriate. The GRANTEE requires a lien against proceeds for any insurance claims to ensure proper restoration or demolition of any damaged structures and property. The GRANTEE further requires that the restoration or demolition commence within one year following any insurance claim incident; otherwise the GRANTOR shall be subject to the termination provisions set forth in RSA 79-E:9, I.

**RECORDING.** The GRANTOR agrees to and shall provide for the recording of this covenant with the Rockingham County Registry of Deeds expeditiously upon signing of this covenant. It shall be a burden upon the PROPERTY and bind all transferees and assignees of such

PROPERTY. The GRANTOR will be solely responsible for payment of the recording fees.

**ASSESSMENT OF THE PROPERTY.** The GRANTEE agrees that the PROPERTY shall be assessed, during the term of the Tax Relief Granted based on the pre-rehabilitation (or redevelopment) value or such other value utilized by the Assessor to address improvements not covered by RSA 79-E. If the terms of these covenants are not met, the Property Tax Relief will be discontinued. Furthermore, the GRANTEE will assess all taxes to the owner as though no tax relief was granted, with interest in accordance with RSA 79-E:9, II. Provided that the Grantor complies with all the terms of the agreement, the property tax relief will commence on DATE TBD and end on DATE TBD.

**RELEASE, EXPIRATION, CONSIDERATION.**

- I. **RELEASE.** The GRANTOR may apply to the local governing body of the Town of Exeter for a release from the foregoing discretionary tax relief and associated covenant within the duration of the tax relief period of the RSA 79-E upon a demonstration of extreme personal hardship. Upon release from such covenants, the GRANTOR shall thereafter pay the full value assessment of such structure(s) and land to the Tax Collector of the Town of Exeter.
- II. **EXPIRATION.** Upon final expiration of the terms of the tax relief the tax assessment will convert to the then full fair market value. Upon final expiration of the terms of this covenant, these covenants will be concluded.
- III. **CONSIDERATION.** The Tax Collector shall issue a summary receipt to the owner of such PROPERTY and a copy of the governing body of the Town of Exeter for the sums of tax relief accorded during the term of this Agreement. The local governing body shall, upon receiving a copy of the above-mentioned consideration and upon the expiration of this covenant execute a release of the Covenant to the GRANTOR who shall record such a release with the Rockingham County Registry of Deeds. A copy of such release or renewal shall also be sent to the local assessing official.
- IV. **MAINTENANCE OF STRUCTURE.** If, during the term of the covenant , the GRANTOR shall fail to maintain and use the structure in conformity with the foregoing agreement, or shall cause the structure(s) to significantly deteriorate or be demolished or removed, the covenants shall be terminated and a penalty shall be assessed as provided for RSA 79E .

**ENFORCEMENT.** If a breach of this Covenant is brought to the attention of the GRANTEE, the GRANTEE shall notify the GRANTOR, in writing of such breach, which notification shall be delivered in hand or by certified mail, return receipt requested to the GRANTOR. The GRANTOR shall have 30 days after receipt of such notice to undertake those actions, including restorations, which are reasonably calculated to cure the said breach and to notify the GRANTEE thereof.

If the GRANTOR fails to take such curative action, the GRANTEE may undertake any actions that are reasonably necessary to cure such breach, and the cost thereof, including GRANTEE'S expenses, court costs and legal fees, shall be paid by the GRANTOR, provided the said GRANTOR is determined to be directly or indirectly responsible for the breach.

The GRANTOR, by accepting and recording this Covenant to the GRANTEE agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein provided for and incumbent upon the GRANTOR, all in furtherance of the purposes for which this Tax Relief and associated Covenant is delivered.

WITNESS MY/OUR/ITS HAND this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_

Witness

\_\_\_\_\_

Grantor

\_\_\_\_\_  
Print Name

\_\_\_\_\_

Witness

\_\_\_\_\_

Grantor

\_\_\_\_\_  
Print Name

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

On this \_\_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared the above

\_\_\_\_\_ and \_\_\_\_\_, known to me, or satisfactorily proven, to be the same, and acknowledged that he/she/they executed the same for the purposes contained therein.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My commission expires: \_\_\_\_\_

**ACCEPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by the Town of Exeter

TOWN OF EXETER

By: \_\_\_\_\_  
Duly Authorized

Print  
Name: \_\_\_\_\_



**United States Environmental Protection Agency (EPA)  
National Pollutant Discharge Elimination System (NPDES)**

**GENERAL PERMITS FOR STORMWATER DISCHARGES FROM  
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. §1251 *et seq.*), any operator of a small municipal separate storm sewer system whose system

- Is located in the areas described in Part 1.1;
- Is eligible for coverage under Part 1.2 and Part 1.9; and
- Submits a complete and accurate Notice of Intent in accordance with Part 1.7 of this permit and receives written authorization from EPA

is authorized to discharge in accordance with the conditions and the requirements set forth herein.

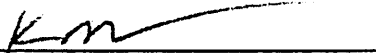
The following appendices are also included as part of these permits:

- Appendix A – Definitions, Abbreviations, and Acronyms;
- Appendix B – Standard permit conditions applicable to all authorized discharges;
- Appendix C – Endangered Species Act Eligibility Guidance;
- Appendix D – National Historic Preservation Act Eligibility Guidance;
- Appendix E – Information required for the Notice of Intent (NOI);
- Appendix F – Requirements for NH Small MS4s Subject to Approved TMDLs;
- Appendix G – Impaired Waters Monitoring Parameter Requirements; and
- Appendix H – Requirements related to discharges to certain impaired waterbodies

These permits become effective on **July 1, 2018**.

These permits and the authorization to discharge expire at midnight on June 30, 2023.

Signed this 18<sup>th</sup> day of January, 2017

  
\_\_\_\_\_  
Ken Moraff, Director  
Office of Ecosystem Protection  
United States Environmental Protection Agency  
5 Post Office Square – Suite 100  
Boston, Massachusetts 02109-3912

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## **1.0 Introduction**

This document consists of three (3) general permits listed in Part 1.1. Each general permit is applicable to a particular type of municipal system within New Hampshire. Many of the permit terms and conditions are applicable across all regulated entities, and therefore are presented just once in Parts 1-2, Part 4, and Appendices A through E. Other conditions are applicable to a particular set of authorized entities; these terms and conditions are included in Parts 3, 5 and 6 and Appendices F through H. Throughout the permit, the terms “this permit” or “the permit” will refer to all three general permits.

### **1.1 Areas of Coverage**

This permit covers small municipal separate storm sewer systems (MS4s) located in the State of New Hampshire:

- Traditional Cities and Towns (NPDES Permit No. NHR041000)
- State, federal, county and other publicly owned properties (Non-traditional) (NHR042000)
- State transportation agency (NHR043000)

### **1.2 Eligibility**

The MS4 shall meet the eligibility provisions described in Part 1.2.1 and Part 1.9 to be eligible for authorization under this permit.

#### **1.2.1 Small MS4s Covered**

This permit authorizes the discharge of stormwater from small MS4s as defined at 40 CFR § 122.26(b)(16) and Appendix A. This includes MS4s described in 40 CFR §122.32(a)(1) or (a)(2). An MS4 is eligible for authorization under this permit if it is:

- a. An MS4 (see definition in Appendix A) within the permit areas described in Part 1.1;
- b. Not a large or medium MS4 as defined in 40 CFR §§122.26(b)(4) or (7); and
- c. Either:
  1. Located fully or partially within an urbanized area as determined by the 2010 Decennial Census by the Bureau of Census; or
  2. Located in a geographic area designated by EPA as requiring a permit.

If the small MS4 is not located entirely within an urbanized area, only the portion of the MS4 that is located within the urbanized area is regulated consistent with 40 CFR §122.32(a)(1).

### **1.3 Limitations on Coverage**

This permit does not authorize the following:

- a. Stormwater discharges mixed with sources of non-stormwater, unless the non-stormwater discharges are either (1) authorized under a separate NPDES permit, or (2) allowed under Part 1.4.
- b. Stormwater discharges associated with industrial activity as defined in 40 CFR §122.26 (b) (14) (i)-(ix) and (xi).

- c. Stormwater discharges associated with construction activity as defined in 40 CFR §122.26(b) (14) (x) or (b) (15).
- d. Stormwater discharges currently covered under another NPDES permit, including discharges covered under other regionally issued general permits.
- e. Stormwater discharges or discharge related activities that are likely to adversely affect any species that are listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. The permittee shall follow the procedures detailed in Appendix C to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted NOI.
- f. Stormwater discharges whose direct or indirect impacts do not prevent or minimize adverse effects on any Essential Fish Habitat.
- g. Stormwater discharges, allowable non-stormwater discharges, or stormwater discharge-related activities that have an effect on a property that is listed or eligible for listing on the National Register of Historic Properties (NRHPS). The permittee shall follow the procedures detailed in Appendix D to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted NOI.
- h. Stormwater discharges to territorial seas, the waters of the contiguous zone, or the oceans.
- i. Stormwater discharges prohibited under 40 CFR § 122.4.
- j. Stormwater discharges to the subsurface subject to state Underground Injection Control (UIC) regulations at N.H. Code Admin. R. Part Env-Wq 404. Although the permit includes provisions related to infiltration and groundwater recharge, structural controls that dispose of stormwater into the ground may be subject to UIC regulation requirements. Authorization for such discharges shall be obtained from the New Hampshire Department of Environmental Services, Groundwater Discharge Permitting and Registration Program.

#### **1.4 Allowable Non-Stormwater Discharges**

The following categories of non-stormwater discharges are allowed under this permit unless the permittee, EPA, or the state agency identifies any category of non-stormwater discharge in Part 1.4.a-r as a significant contributor of pollutants to the MS4, then that category is not allowed under Part 1.4, but rather shall be deemed an “illicit discharge” under Part 2.3.4.1. and the permittee shall address that category as part of the Illicit Discharge Detection and Elimination (IDDE) Program described in Part 2.3.4 of this permit.

- a. Water line flushing
- b. Landscape irrigation

- c. Diverted stream flows
- d. Rising ground water
- e. Uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(20))
- f. Uncontaminated pumped ground water
- g. Discharge from potable water sources
- h. Foundation drains
- i. Air conditioning condensation
- j. Irrigation water, springs
- k. Water from crawl space pumps
- l. Footing drains
- m. Lawn watering
- n. Individual resident car washing
- o. Flows from riparian habitats and wetlands
- p. De-chlorinated swimming pool discharges
- q. Street wash waters
- r. Residential building wash waters without detergents

Discharges or flows from fire fighting activities are allowed under this permit need only be addressed where they are identified as significant sources of pollutants to waters of the United States.

### **1.5 Permit Compliance**

Any non-compliance with any requirement of this permit constitutes a violation of the permit and the CWA and may be grounds for an enforcement action and may result in the imposition of injunctive relief and/or penalties.

### **1.6 Continuation of this Permit**

If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect for discharges that were authorized prior to expiration. If a small MS4 was granted permit authorization prior to the expiration date of this permit, it will automatically remain authorized by this permit until the earliest of:

- Authorization under a reissued general permit following timely and appropriate submittal of a complete and accurate NOI requesting authorization to discharge under the reissued permit; or
- Issuance or denial of an individual permit for the MS4's discharges; or
- Authorization or denial under an alternative general permit.

If the MS4 operator does not submit a timely, appropriate, complete and accurate NOI requesting authorization to discharge under the reissued permit, or a timely request for authorization under an individual or alternative general permit, authorization under this permit will terminate on the due date for the NOI under the reissued permit unless otherwise specified in the reissued permit.

### **1.7 Obtaining Authorization to Discharge**

### 1.7.1 How to Obtain Authorization to Discharge

To obtain authorization under this permit, a small MS4 shall:

1. Be located in the areas listed in Part 1.1 of this permit;
2. Meet the eligibility requirements in Part 1.2 and Part 1.9;
3. Submit a complete and accurate Notice of Intent (NOI) in accordance with the requirements of Part 1.7.2; and
4. Receive written authorization from EPA.

### 1.7.2 Notice of Intent

- a. Operators of Small MS4s seeking authorization to discharge under the terms and conditions of this permit shall submit a Notice of Intent that contains the information identified in Appendix E<sup>1</sup>.
- b. Operators of Small MS4s that have developed Alternative Pollutant Reduction Plan(s) to meet TMDL Waste Load Allocations in accordance with Appendix F Part I.2, II.2, and/or III.2 shall attach their proposed NHDES-approved Alternative Pollutant Reduction Plan(s) to their NOI.
- c. The NOI shall be signed by an appropriate official (see Appendix B Subparagraph 11).
- d. The NOI shall contain the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Print the name and title of the official, followed by signature and date.

- e. The NOI shall be submitted within 90 days of the effective date of the permit. If EPA notifies an MS4 that it is designated under 40 CFR §122.32(a) (2) or (b), the NOI shall be submitted within 180 days of receipt of notice unless granted a longer period of time by EPA.

### 1.7.3 Submission of Notice of Intent

- a. All small MS4s shall submit a complete and accurate Notice of Intent to EPA-Region 1 at the following address:

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<sup>1</sup> This includes operators of small MS4s that were previously authorized under the May 1, 2003 small MS4 general permit (MS4-2003)

United States Environmental Protection Agency  
ATTN: Stormwater and Construction Permits Section  
5 Post Office Square – Suite 100  
Mail Code – OEP06-1  
Boston, Massachusetts 02109-3912

- b. New Hampshire Department of Environmental Services (NHDES) may request that a permittee submit their NOI to NHDES, upon receipt of such request the small MS4s must also submit a copy of the NOI at the following address:

New Hampshire Department of Environmental Services  
Water Division – Wastewater Engineering Bureau  
P.O. Box 95  
Concord, New Hampshire 03302-0095  
ATTN: Stormwater Permits Coordinator

- c. Late notification: A small MS4 is not prohibited from submitting an NOI after the dates provided in Part 1.7.2.e. However, if a late NOI is submitted, authorization is only for discharges that occur after permit authorization is granted. EPA reserves the right to take enforcement actions for any unpermitted discharges.

#### **1.7.4 Effective Date of Coverage**

- a. Based on a review of an NOI, EPA may grant authorization under this permit or deny authorization under this permit and require submission of an application for an individual or alternative NPDES permit (see Part 1.8). A small MS4 operator will be authorized to discharge under the terms and conditions of this permit upon written receipt of notice of authorization from EPA.
- b. For operators of small MS4s that submitted Alternative Pollutant Reduction Plan(s) seeking operator-specific permit requirements (see Appendix F Part I.2, II.2, and/or III.2) EPA will provide a public notice and opportunity for comment on the Alternative Pollutant Reduction Plan(s) as well as operator-specific permit requirements. The public comment period will be a minimum of 30 calendar days and will be conducted in accordance with 40 CFR §§ 124.10 through 124.13 (excluding § 124.10(c)(2)). Based on a review of the Alternative Pollutant Reduction Plan(s), comments received, and other relevant information, EPA will issue a response to all significant comments received consistent with 40 CFR §124.17 and may grant or deny authorization to discharge under the proposed operator-specific permit requirements (see Appendix F Part I.2, II.2, and III.2) via written correspondence and will post the final operator-specific permit requirements on EPA's website.
- c. Permittees whose authorization to discharge under the MS4-2003 which expired on May 1, 2008 has been administratively continued in accordance with the Administrative Procedures Act (5 U.S.C. 558(c)) and 40 CFR § 122.6, who wish to obtain coverage

under this permit, must submit a new complete and accurate NOI requesting permit coverage in accordance with the requirements of Part 1.7 of this permit to EPA within 90 days after the effective date of this permit. For enforcement purposes, permittees whose authorization to discharge under the expired MS4-2003 was administratively continued, who fail to submit a timely, complete and accurate NOI requesting authorization to discharge under the reissued permit or an application for an individual NPDES permit within 90 days after the effective date of this permit, will be considered to be discharging without a permit.

### **1.8 Individual Permits and Alternative General Permits**

- a. EPA may require a small MS4 to apply for and obtain authorization under either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition EPA in accordance with the provisions of 40 CFR §122.26(f) to require a small MS4 to apply for and/or obtain authorization under either an individual NPDES permit or an alternative NPDES general permit. If EPA requires a small MS4 to apply for an individual or alternative NPDES permit, EPA will notify the small MS4 in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and will provide application information and an application deadline. If a small MS4 is authorized under the MS4-2003 or this permit and fails to submit an individual NPDES or an alternative general permit NPDES permit application as required by EPA, then the authorization under the MS4-2003 or this permit to the small MS4 is automatically terminated at the end of the date specified by EPA as the deadline for application submittal. EPA reserves the right to take enforcement action for any unpermitted discharge.
- b. A small MS4 may request to be excluded from this general permit by applying for an individual permit or authorization under an alternative general permit. In such a case, a small MS4 shall submit an individual permit application in accordance with the requirements of 40 CFR §122.33(b) (2) (i) or §122.33(b) (2) (ii), with reasons supporting the request, to EPA at the address listed in Part 1.7.3 of this permit. The request may be granted by issuance of an individual permit or authorization under an alternative general permit if EPA determines that the reasons stated by the small MS4 are adequate to support the request. (See 40 CFR § 122.28(b) (3)).
- c. When an individual NPDES permit is issued, or a small MS4 is authorized to discharge under an alternative NPDES general permit, authorization under this permit automatically terminates on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

### **1.9 Special Eligibility Determinations**

#### **1.9.1 Documentation Regarding Endangered Species**

EPA will work with the U.S. National Marine Fisheries Service (NMFS) directly to fulfill ESA requirements of this permit related to species under their jurisdiction. The small MS4 shall certify eligibility regarding federally listed endangered or threatened species (or critical habitat) under the jurisdiction of the U.S. Fish and Wildlife Service in the NOI required by Part 1.7.2.

The Stormwater Management Program (SWMP) shall include documentation supporting the permittee's eligibility determination with regard to federal Endangered and Threatened Species and Critical Habitat Protection, including:

- a. Information on whether federally listed endangered or threatened species, or critical habitat are found in proximity to the MS4's stormwater outfalls, or activities or structures involved in stormwater best management practices (BMPs);
- b. Whether such species or habitat are likely to be adversely affected by the stormwater discharges or stormwater discharge-related activities, e.g., BMP installation;
- c. Results of the Appendix C endangered species screening determinations; and
- d. If any such species or habitat are present, a description of the measures the MS4 shall implement to protect federally listed endangered or threatened species, or critical habitat, including any conditions imposed by the U.S. Fish and Wildlife Service. If a permittee fails to document and implement such measures, those discharges are ineligible for coverage under this permit.

#### **1.9.2 Documentation Regarding Historic Properties**

The small MS4 shall certify eligibility regarding historic properties on the NOI required by Part 1.7.2. The SWMP shall include documentation supporting the MS4's eligibility determination with regard to Historic Properties Preservation, including:

- a. Information on whether the permittee's stormwater discharges, allowable non-stormwater discharges, or stormwater discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Properties (NRHP);
- b. Where such effects may occur, any documents received by the permittee or any written agreements the permittee has made with the State Historic Preservation Officer (SHPO) representative to mitigate those effects;
- c. Results of the Appendix D historic property screening investigations; and
- d. If applicable, a description of the measures the permittee shall implement to avoid or minimize adverse impacts on places listed, or eligible for listing, on the NRHP, including any conditions imposed by the SHPO. If the permittee fails to document and implement such measures, those discharges are ineligible for coverage under this permit.

#### **1.10 Stormwater Management Program (SWMP)**

- a. The permittee shall develop, implement, and enforce a written SWMP (hardcopy or electronic). The SWMP shall be signed in accordance with Appendix B, Subsection 11, including the date of signature. A signature and date is required for initial program preparation and for any significant revision to the program. The initial written SWMP shall be completed within one (1) year of the effective date of the permit and be updated as necessary to include necessary elements to ensure compliance with schedules and requirements contained in this permit.

The SWMP is the document used by the permittee to describe the activities and measures that will be implemented to meet the terms and conditions of the permit. The initial SWMP shall accurately describe the permittee's plans and activities as described in the notice of intent and be updated as needed. The document shall be updated and/or

modified during the permit term as the permittee's activities change and to comply with schedules and requirements contained in the permit.

- b. Permittees authorized by the MS4-2003 shall modify or update their existing Best Management Practices (BMPs) and measurable goals to meet the terms and conditions of this permit within one (1) year of the effective date of the permit. These modifications and updates shall be reflected in the written SWMP. Permittees authorized by the MS4-2003 shall continue to implement their existing SWMP until the program has been updated.
- c. Implementation of one or more of the permit requirements may be shared with another entity (including another interconnected MS4) or the other entity may fully implement the measure or requirement, if the following requirements are satisfied:
  - The other entity, in fact, implements the required task or program.
  - The particular task or program undertaken by the other entity is at least as stringent as the corresponding permit requirement.
  - The other entity agrees to implement the task or program on the permittee's behalf. The annual reports must specify that the permittee is relying on another entity to satisfy some of its permit obligations and specify what those obligations are. The permittee remains responsible for reporting compliance with all permit obligations.
  - See Part 2.3.1. for further requirements related to the permit's 6 minimum control measures.

#### **1.10.1 Stormwater Management Program Availability**

- a. The permittee shall retain a copy of the current SWMP required by this permit at the office or facility of the person listed as the program contact on the submitted Notice of Intent (NOI). The SWMP shall be immediately available to representatives from EPA; a State agency; the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) at the time of an onsite inspection or upon request.
- b. The permittee shall make the SWMP available to the public during normal business hours. The permittee may charge a reasonable fee for copy requests. The permittee is encouraged to satisfy this requirement by posting the SWMP online or making it available on written request.

#### **1.10.2 Contents of the Stormwater Management Program for Permittees Covered Under the 2003 Permit**

- a. The following information must be included in the SWMP within one (1) year of the permit effective date and updated annually thereafter, as necessary:
  1. Identification of names and titles of people responsible for program implementation. If a position is currently unfilled, list the title of the position and modify the SWMP with the name once the position is filled;
  2. Listing of all receiving waterbody segments, their classification under the applicable state water quality standards, any impairment(s) and associated



pollutant(s) of concern, applicable TMDLs and WLAs, and number of outfalls from the MS4 that discharge to each waterbody. In addition to the receiving water, the permittee shall document in the SWMP all public drinking water sources (surface water and groundwater) that may be impacted by MS4 discharges;

3. Documentation of compliance with Part 1.9.1;
  4. Documentation of compliance with Part 1.9.2;
  5. The map of the separate storm sewer system required by Part 2.3.4.6;
  6. Listing of all discharges identified pursuant to Part 2.1.1.d. and description of response;
  7. Description of practices to achieve compliance with Part 2.3 (MEP requirements); For each permit condition in Part 2.3 identify:
    - a. The person(s) or department responsible for the measure;
    - b. The BMPs for the control measure or permit requirement;
    - c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal shall have a measure of assessment associated with it.
  8. Description of measures to avoid or minimize impacts to public and known private drinking water sources (surface water and groundwater). The permittee is also encouraged to include provisions to notify public water supplies in the event of an emergency. For more information or assistance, contact: New Hampshire Department of Environmental Services, Drinking Water Source Protection Program. Description of activities to achieve compliance with Part 3.0;
  9. Annual program evaluation (Part 4.1). Update annually and maintain copies.
- b. The following information must be included in the SWMP within two (2) years of the permit effective date and updated annually thereafter, as necessary:
1. Listing of all interconnected MS4s and other separate storm sewer systems receiving a discharge from the permitted MS4, the receiving waterbody segment(s) ultimately receiving the discharge, their classification under the applicable state water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and the number of interconnections;
  2. Written procedures (hardcopy or electronic) to require submission of as-built drawings and ensure long term operation and maintenance in accordance with Part 2.3.6.b.
  3. The map of the separate storm sewer system required by Part 2.3.4.5.
- c. The following information must be included in the SWMP within four (4) years of the permit effective date and updated annually thereafter, as necessary:
1. Report(s) assessing current street design and parking lot guidelines and other local requirements within the municipality that affect the creation of impervious cover.

- d. The following information must be included in the SWMP concurrent with the applicable deadlines in Appendix F and H and updated annually thereafter, as necessary:
  1. Description of practices to achieve compliance with Part 2.2.1 (TMDL requirements) including:
    - a. The person(s) or department responsible for the measure;
    - b. The BMPs for the control measure or permit requirement;
    - c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment.
  2. Description of practices to achieve compliance with Part 2.2.2 (discharges to certain water quality limited waters subject to additional requirements) including:
    - a. The person(s) or department responsible for the measure;
    - b. The BMPs for the control measure or permit requirement;
    - c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment;
  3. Description of any other practices to achieve compliance with Part 2.1 (water quality based requirements).

### **1.10.3 Contents and Timelines of the Stormwater Management Program for New Permittees**

Permittees seeking authorization for the first time shall meet all deadlines contained in this permit except the following:

1. Timelines for public education requirements in Part 2.3.2.c shall be extended by one (1) year and need to include one (1) message to each audience over the permit term;
2. The ordinances, by-laws, or other regulatory mechanisms required by Parts 2.3.4, 2.3.5 and 2.3.6 shall be completed as soon as possible, but no later than three (3) years from the permit effective date; and
3. All other deadlines in Part 2.3.4.4 through 2.3.4.11 shall be extended by three (3) years.
4. All other deadlines in Part 2.3.5, 2.3.6 and 2.3.7 shall be extended by two (2) years.
5. All deadlines for discharges to water quality limited waters without a TMDL under Part 2.2.2 shall be extended by two (2) years.

#### **Contents of the Stormwater Management Program for New Permittees**

- a. The following information must be included in the SWMP within one (1) year of the permit effective date and updated annually thereafter, as necessary:
  1. Identification of names and titles of people responsible for program

- implementation. If a position is currently unfilled, list the title of the position and modify the SWMP with the name once the position is filled;
2. Documentation of compliance with Part 1.9.1;
  3. Documentation of compliance with Part 1.9.2;
  4. Documentation of authorization of all new or increased discharges granted by NHDES in compliance with Part 2.1.2;
  5. Listing of all discharges identified pursuant to Part 2.1.1 and description of response;
  6. Description of practices to achieve compliance with Part 2.3 (MEP requirements) identified in the permittee's NOI and any updates to those BMPs within the first year; For each permit condition in Part 2.3 identify:
    - a. The person(s) or department responsible for the measure;
    - b. The BMPs for the control measure or permit requirement;
    - c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal shall have a measure of assessment associated with it;
  7. Description of measures to avoid or minimize impacts to public surface waterbody drinking water supplies. The permittee is also encouraged to include provisions to notify public water supplies in the event of an emergency. New Hampshire Department of Environmental Services, Drinking Water Source Protection Program. Description of activities to achieve compliance with Part 3.0;
  8. Annual program evaluation (Part 4.1). Update annually and maintain copies.
- b. The following information must be included in the SWMP within three (3) years of the permit effective date and updated annually thereafter, as necessary:
1. Written procedures for site inspections and enforcement of sediment and erosion control procedures in accordance with Part 2.3.5;
  2. Written operation and maintenance procedures for municipal activities in Part 2.3.7.a.ii;
  3. Written program detailing the activities and procedures the permittee will implement so that the MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants from the MS4 in accordance with Part 2.3.7.a.iii.1;
  4. Written procedures to require submission of as-built drawings and ensure long term operation and maintenance in accordance with Part 2.3.6.a.iii;
- c. The following information must be included in the SWMP within four (4) years of the permit effective date and updated annually thereafter, as necessary:
1. Outfall and interconnection inventory;
  2. Sanitary Sewer Overflow (SSO) inventory including all of the information required in Part 2.3.4.4.b;

3. Written IDDE Program pursuant to Part 2.3.4.6.

- d. The following information must be included in the SWMP within five (5) years of the permit effective date and updated annually thereafter, as necessary:
1. Phase 1 of the map of the separate storm sewer system required by Part 2.3.4.5;
  2. Listing of all receiving waterbody segments, their classification under the applicable state water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and number of outfalls from the MS4 that discharge to each waterbody. In addition to the receiving water, the permittee shall document in the SWMP all surface public drinking water sources that may be impacted by MS4 discharges;
  3. Listing of all interconnected MS4s and other separate storm sewer systems receiving a discharge from the permitted MS4, the receiving waterbody segment(s) ultimately receiving the discharge, their classification under the applicable state water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and the number of interconnections;
- e. The following information must be included in the SWMP within six (6) years of the permit effective date and updated annually thereafter, as necessary:
1. Report(s) assessing current street design and parking lot guidelines and other local requirements within the municipality that affect the creation of impervious cover.
- f. The following information must be included in the SWMP concurrent with the applicable deadlines in Appendix F and H (extended by two (2) years) and updated annually thereafter, as necessary:
1. Description of practices to achieve compliance with Part 2.2.1 (discharges subject to requirements related to approved TMDLs) including:
    - a. The person(s) or department responsible for the measure;
    - b. The BMPs for the control measure or permit requirement;
    - c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment.
  2. Description of practices to achieve compliance with Part 2.2.2 (discharges to certain water quality limited waters subject to additional requirements) including:
    - a. The person(s) or department responsible for the measure;
    - b. The BMPs for the control measure or permit requirement;
    - c. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or

quality associated with its endpoint. Each goal must have an associated measure of assessment;

3. Description of any other practices to achieve compliance with Part 2.1 (water quality based requirements).

## **2.0 Non-Numeric Effluent Limitations**

The permittee shall develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act and the New Hampshire Water Quality Standards.

### **2.1 Water Quality Based Effluent Limitations**

Pursuant to Clean Water Act 402(p)(3)(B)(iii), this permit includes provisions to ensure that discharges from the permittee's small MS4 do not cause or contribute to an exceedance of water quality standards, in addition to requirements to reduce the discharge of pollutants to the maximum extent practicable. The requirements found in this Part and Part 2.2 constitute the water quality based effluent limits of this permit. Requirements to reduce the discharge of pollutants to the maximum extent practicable are set forth in Part 2.3.

#### **2.1.1 Requirement to Meet Water Quality Standards**

- a. The permittee shall reduce the discharge of pollutants such that discharges from the MS4 do not cause or contribute to an exceedance of water quality standards.
- b. If there is a discharge from the MS4 to a waterbody (or its tributaries in some cases) that is subject to an approved TMDL identified in Part 2.2.1, the permittee is subject to the requirements of Part 2.2.1 and Appendix F of this permit and the permittee shall comply with all applicable schedules and requirements in Appendix F for that discharge. A permittee's compliance with all applicable requirements and BMP implementation schedules in Appendix F applicable to it will constitute compliance with Part 2.1.1.a. of the Permit.
- c. If there is a discharge from the MS4 to a waterbody (or its tributaries in some cases) that is water quality limited (see definition in Appendix A) due to nutrients (total nitrogen or total phosphorus), metals (cadmium, copper, iron, lead, or zinc), solids (sedimentation/siltation or turbidity), bacteria/pathogens (E. Coli, Enterococcus or fecal coliform), chloride or oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) and is not subject to an approved TMDL, or the MS4 is located within a municipality listed in Part 2.2.2.a.-b., the permittee is subject to the requirements of Part 2.2.2 and Appendix H of this permit and the permittee shall comply with all applicable schedules and requirements in Appendix H for that discharge. A permittee's compliance with all applicable requirements and BMP implementation schedules in Appendix H applicable to it will constitute compliance with Part 2.1.1.a. of the Permit.
- d. Except where a pollutant of concern in a discharge is subject to the requirements of Part 2.2.1 and/or Part 2.2.2 of this permit or is the result of an illicit discharge and subject to Part 2.3.4 of this permit, if a pollutant in a discharge from the MS4 is causing or

contributing to a violation of applicable water quality criteria<sup>2</sup> for the receiving water, the permittee shall, as expeditiously as possible, but no later than 60 days of becoming aware of the situation, reduce or eliminate the pollutant in its discharge such that the discharge meets applicable water quality criteria.

### 2.1.2 Increased Discharges

- a. Any increased discharge (including increased pollutant loadings) through the MS4 to waters of the United States is subject to New Hampshire antidegradation regulations. The permittee shall comply with the provisions of N.H. Code Admin. R. Part Env-Wq 1708.04 and 1708.06 including information submittal requirements and obtaining authorization for increased discharges where appropriate. Any authorization of an increased discharge by NH DES shall be incorporated into the permittee's SWMP. If an applicable NH DES approval specifies additional conditions or requirements, then those requirements are incorporated into this permit by reference. The permittee must comply with all such requirements<sup>3</sup>.
- b. There shall be no new or increased discharges from the MS4 to *impaired waters* listed in categories 5 or 4b on the most recent EPA-approved New Hampshire Integrated Report of waters listed pursuant to Clean Water Act section 303(d) and 305(b) unless the permittee demonstrates that there is no net increase in loading from the MS4 to the impaired water of the pollutant(s) for which the waterbody is impaired. The permittee may demonstrate compliance with this provision by *either*:
  1. Documenting that the pollutant(s) for which the waterbody is impaired is not present in the MS4's discharge and retain documentation of this finding with the SWMP; *or*
  2. Documenting that the total load of the pollutant(s) of concern from the MS4 to any impaired portion of the receiving water will not increase as a result of the activity and retain documentation of this finding in the SWMP. Unless otherwise determined by the Permittee, USEPA or by NH DES that additional demonstration is necessary, compliance with the requirements of Part 2.2.2 and Part 2.3.6 of this permit, including all reporting and documentation requirements, shall be considered as demonstrating no net increase as required by this Part.
- c. The requirements of this section are independent of permit conditions requiring reduction in discharges of pollutants as set forth in Parts 2.1.1 and 2.2 (water quality based requirements) and 2.3 (requirements to reduce discharge of pollutants to the maximum extent practicable). Permittees remain subject to requirements to reduce the discharge of pollutants from the MS4 as set forth in those Parts.

## 2.2 Discharges to Certain Impaired Waters

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<sup>2</sup> Applicable water quality criteria are part of the state standards that have been federally approved as of the effective date of this permit and are compiled by EPA at <http://www.epa.gov/waterscience/standards/wqslibrary/>

<sup>3</sup> For information regarding compliance with N.H. Code Admin. R. Part Env-Wq 1708.04 and 1708.06, contact the NHDES Watershed Management Bureau.

The permittee shall identify in the SWMP and Annual Reports all discharges, including both outfalls and interconnections to other MS4 or other separate storm sewer systems, that:

- a. Are subject to an approved Total Maximum Daily Load (TMDL) as identified in Part 2.2.1;
- b. Are subject to additional requirements to protect water quality as identified in Part 2.2.2.

The discharge location from an interconnection shall be determined based on the receiving water of the ultimate outfall in the interconnected system.

**2.2.1 Discharges Subject to Requirements Related to an Approved TMDL**

- a. “Approved TMDLs” for discharges from the permittee’s MS4 are those that have been approved by EPA as of the issuance date of this permit.
- b. For those TMDLs that specify a wasteload allocation or other requirements either individually or categorically for the MS4 discharge, the permittee shall comply with the applicable requirements of Appendix F. Appendix F identifies, by section, the provisions and schedules the permittee shall comply with to be consistent with the terms of the approved TMDL.
- c. The “TMDL for 158 Acid Impaired Ponds and 21 Aluminum Impaired Lakes” and the “Northeast Regional Mercury TMDL” do not specify wasteload allocations or other requirements either individually or categorically for the MS4 discharges and specify that load reductions are to be achieved through reduction in atmospheric deposition sources. No requirements related to these TMDLs are imposed on MS4 discharges under this Part. However, if the permittee becomes aware, or EPA or NHDES determines, that an MS4 discharge is causing or contributing to such impairments to an extent that cannot be explained by atmospheric deposition (e.g. chemical spill, acid landfill leachate or other sources), the permittee shall comply with the requirements of Part 2.1.1.d.
- d. The following is a list of municipalities that contain waters subject to an approved TMDL for chlorides:

1. DERRY  
LONDONDERRY  
SALEM  
WINDHAM

The operators of MS4s located in municipalities listed above that discharge to Beaver Brook, Dinsmore Brook, North Tributary to Canobie Lake, or Policy-Porcupine Brook and any other MS4 that discharges directly to Beaver Brook, Dinsmore Brook, North Tributary to Canobie Lake, or Policy-Porcupine Brook shall meet the requirements of Appendix F Part I with respect to reduction of chloride discharges from their MS4.

- e. The following is a list of municipalities that contain waters subject to an approved TMDL for bacteria or pathogens.



1.

ALLENSTOWN	MILFORD
AMHERST	MILTON
ATKINSON	NASHUA
AUBURN	NEW CASTLE
BEDFORD	NEWMARKET
DERRY	NORTH HAMPTON
DOVER	PELHAM
DURHAM	PLAISTOW
EXETER	PORTSMOUTH
GOFFSTOWN	RAYMOND
GREENLAND	ROCHESTER
HAMPSTEAD	ROLLINSFORD
HAMPTON	RYE
HOLLIS	SALEM
HOOKSETT	SANDOWN
HUDSON	SEABROOK
KINGSTON	SOMERSWORTH
LITCHFIELD	STRATHAM
LONDONDERRY	WILTON
MANCHESTER	WINDHAM
MERRIMACK	

The operators of MS4s located in municipalities listed above that discharge to a waterbody segment listed on Table F-1 in Appendix F and any other MS4 that discharges directly to a waterbody segment listed on Table F-1 in Appendix F shall meet the requirements of Appendix F, Part II with respect to reduction of bacteria/pathogens discharges from their MS4.

- f. The following is a list of municipalities that contain a lake or pond subject to an approved lake or pond phosphorus TMDL,
  1.  
AMHERST  
BEDFORD  
DERRY  
HOLLIS  
HUDSON  
KINGSTON  
MANCHESTER  
MERRIMACK  
NEWTON

**RAYMOND  
SANDOWN**

The operators of MS4s located in municipalities listed above that discharge to a waterbody segment listed on Table F-2 in Appendix F or their tributaries, and any other permittee that discharges to waterbodies listed on Table F-2 in Appendix F or their tributaries, shall meet the requirements of Appendix F, Part III with respect to reduction of phosphorus discharges from their MS4.

**2.2.2 Discharge to Certain Water Quality Limited Waters without an Approved TMDL**

For purposes of this permit, a ‘water quality limited water body’ is any water body that does not meet applicable water quality standards, including but not limited to waters listed in categories 5 or 4b on the most recent EPA-approved New Hampshire Clean Water Act section 303(d) list or New Hampshire Integrated Report under Clean Water Act section 305(b).

If there is a discharge from the MS4 to a water quality limited waterbody where pollutants typically found in stormwater (specifically nutrients (Total Nitrogen or Total Phosphorus), solids (Sedimentation/Siltation or Turbidity), bacteria/pathogens (Enterococcus, fecal coliform, or Escherichia Coli), chloride (Chloride), metals (Cadmium, Copper, Iron, Lead or Zinc) and oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs )) are the cause of the impairment and there is not an approved TMDL, or the MS4 is located in a town listed in Part 2.2.2.a.-e. the permittee shall comply with the provisions in Appendix H applicable to it.

In the absence of a defined pollutant reduction target and where no approved TMDL has been established, this permit Part and Appendix H define an iterative approach addressing pollutant reductions to waterbodies where the permittee’s discharge is causing or contributing to an excursion above water quality standards due to nutrients (nitrogen or phosphorus), solids, bacteria/pathogens, chloride, metals or oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)).

- a. Discharges to water quality limited waterbodies where nitrogen (Total Nitrogen) is the cause of the impairment, or their tributaries
  - i. The requirements of this Part are applicable to:
    1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to nitrogen, or their tributaries.
      - DANVILLE
      - DERRY
      - DOVER
      - DURHAM
      - EXETER
      - GREENLAND
      - HAMPSTEAD

HAMPTON  
KINGSTON  
MILTON  
NEW CASTLE  
NEWMARKET  
NORTH HAMPTON  
PORTSMOUTH  
RAYMOND  
ROCHESTER  
ROLLINSFORD  
RYE  
SANDOWN  
SOMERSWORTH  
STRATHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is impaired due to nitrogen, or a tributary of such water.
  - ii. Permittees subject to Part 2.2.2.a.i above shall meet the requirements of Appendix H Part I with respect to the control of nitrogen discharges from their MS4;
  - iii. During development of their Notice of Intent, the permittee may determine that there are no regulated discharges of stormwater to a waterbody (or a tributary to a waterbody) on the most recent EPA-approved New Hampshire 303(d) list (as of the effective date of this permit) where Nitrogen (“Total Nitrogen) is the cause of impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.a.i and Appendix H Part I.
- b. Discharges to water quality limited waterbodies where phosphorus (Total Phosphorus) is the cause of the impairment, or their tributaries
  - i. The requirements of this Part are applicable to:
    1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to phosphorus, or their tributaries.

ATKINSON  
DERRY  
DOVER  
GOFFSTOWN  
HAMPSTEAD  
KINGSTON

LITCHFIELD  
MANCHESTER  
NEWTON  
PELHAM  
RAYMOND  
ROLLINSFORD  
SALEM  
SANDOWN  
SOMERSWORTH  
WINDHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to phosphorus, or to a tributary of such water.
  - ii. The permittees subject to Part 2.2.2.b.i. above shall meet all requirements of Appendix H Part II with respect to the control of phosphorus discharges from the MS4.
  - iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are outside of a watershed with a downstream segment on the most recent EPA-approved New Hampshire 303(d) list (as of the effective date of this permit) where phosphorus (“Total Phosphorus) is listed as the cause of impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.b.i and Appendix H Part II.
- c. Discharges to water quality limited waterbodies where bacteria or pathogens (Enterococcus, fecal coliform, or Escherichia Coli) is the cause of the impairment
  - i. The requirements of this Part are applicable to:
    1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to bacteria or pathogens.

DERRY  
EXETER  
HOLLIS  
HUDSON  
KINGSTON  
MANCHESTER  
MILTON

NEW CASTLE  
NORTH HAMPTON  
ROCHESTER  
RYE  
SALEM  
WINDHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to bacteria or pathogens
  - ii. The permittees subject to Part 2.2.2.c.i. shall meet all requirements of Appendix H Part III with respect to reduction of bacteria or pathogens discharges from the MS4.
  - iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are not discharging directly to an impaired waterbody on the most recent EPA-approved New Hampshire 303(d) list where bacteria or pathogens (E. Coli, Enterococcus or Fecal Coliform) is the cause of the impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.c.i and Appendix H Part III.
- d. Discharges to water quality limited waterbodies where chloride (Chloride) is the cause of the impairment
  - i. The requirements of this Part are applicable to:
    1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to chloride.

BEDFORD  
DERRY  
DOVER  
DURHAM  
EXETER  
GOFFSTOWN  
GREENLAND  
HOOKSETT  
LONDONDERRY  
MANCHESTER  
NASHUA  
PORTSMOUTH  
RYE

SALEM  
SEABROOK  
STRATHAM

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to chloride.
  - ii. The permittees subject to Part 2.2.2.d.i. shall meet all requirements of Appendix H Part IV with respect to reduction of chloride discharges from the MS4.
  - iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are not discharging directly to an impaired waterbody on the most recent EPA approved New Hampshire 303(d) list where chloride (Chloride) is the cause of the impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.d.i and Appendix H Part IV.
- e. Discharges to water quality limited waterbodies where solids (Total Suspended Solids (TSS) or Turbidity), metals (Cadmium, Copper, Iron, Lead or Zinc) and oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)), is the cause of the impairment
  - i. The requirements of this Part are applicable to:
    1. Permittees (including traditional and non-traditional MS4s) that own or operate an MS4 in the following municipalities. Discharges from MS4s within these municipalities are to waterbodies that are impaired due to solids, oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) or metals.

DERRY  
DOVER  
EXETER  
GOFFSTOWN  
GREENLAND  
HAMPTON  
LONDONDERRY  
MANCHESTER  
MERRIMACK  
NASHUA  
NEWMARKET  
PORTSMOUTH  
RAYMOND  
ROCHESTER  
SEABROOK

STRATHAM  
WILTON

2. Any permittee that, during the permit term, becomes aware that its discharge is to a waterbody that is water quality limited due to solids, oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) or metals.
- ii. The permittees subject to Part 2.2.2.e.i. shall meet all requirements of Appendix H Part V with respect to reduction of solids, oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)) or metals discharges from the MS4.
- iii. During development of their Notice of Intent, the permittee may determine that all discharges from the regulated area through their MS4 are not discharging directly to an impaired waterbody on the most recent EPA approved New Hampshire 303(d) list where oil and grease (Oil Slicks, Benzo(a) pyrene (PAHs)), solids (TSS or Turbidity) or metals (Cadmium, Copper, Iron, Lead or Zinc) is the cause of the impairment. The permittee shall retain all documentation used in this determination as part of their NOI and are relieved from the requirements of Part 2.2.2.e.i and Appendix H Part V.

**2.3 Requirements to Reduce Pollutants to the Maximum Extent Practicable (MEP)**

The permittee shall reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), as set forth in Parts 2.3.2 through 2.3.7.

**2.3.1 Control Measures**

- a. Permittees authorized under the MS4-2003 shall continue to implement their existing SWMPs while updating their SWMPs pursuant to this permit. This permit does not extend the compliance deadlines set forth in the MS4-2003.
- b. Implementation of one or more of the minimum control measures described in Parts 2.3.2- 2.3.7 or other permit requirements may be shared with another entity (including another interconnected MS4) or the other entity may fully implement the measure or requirement, if the following requirements are satisfied:
  1. The other entity, in fact, implements the control measure.
  2. The particular control measure or component thereof undertaken by the other entity is at least as stringent as the corresponding permit requirement.
  3. The other entity agrees to implement the control measure on the permittee's behalf. The annual reports must specify that the permittee is relying on another entity to satisfy some of its permit obligations and specify what those obligations are.
  4. If the permittee is relying on another governmental entity regulated under 40 CFR §122 to satisfy all of its permit obligations, including the obligation to file annual reports, the permittee shall note that fact in its NOI, but is not required to file annual reports.

5. The permittee remains responsible for compliance with all permit obligations if the other entity fails to implement the control measures (or component thereof). The permittee may enter into a legally binding agreement with the other entity regarding the other entity's performance of control measures, but the permittee remains ultimately responsible for permit compliance.

### **2.3.2 Public Education and Outreach**

**Objective:** The permittee shall implement an education program that includes educational goals based on stormwater issues of significance within the MS4 area. The ultimate objective of a public education program is to increase knowledge and change behavior of the public so that pollutants in stormwater are reduced.

2.3.2.1 - The permittee shall continue to implement the public education program required by the MS4-2003 by distributing educational material to the MS4 community. The educational program shall define educational goals, express specific messages, define the targeted audience for each message, and identify responsible parties for program implementation. If appropriate for the target audience, materials may be developed in a language other than English. At a minimum, the program shall provide information concerning the impact of stormwater discharges on water bodies within the community, especially those waters that are impaired or identified as priority waters. The program shall identify steps and/or activities that the public can take to reduce the pollutants in stormwater runoff and their impacts to the environment.

- a. The educational program shall include education and outreach efforts for the following four audiences: (1) residents, (2) businesses, institutions (private colleges, private schools, hospitals), and commercial facilities, (3) developers (construction), and (4) industrial facilities, unless one or more of these audiences is not present in the MS4 community. In such a situation, the MS4 must document in both the NOI and SWMP which audience(s) is(are) absent from the community. No educational messages are required to the absent audience(s).
- b. Beginning the first year of the permit the permittee shall distribute a minimum of two (2) educational messages over the permit term to each audience identified in Part 2.3.2.1.a.. (The permittee shall distribute at least eight educational messages during the permit term). The distribution of materials to each audience shall be spaced at least a year apart. Educational messages may be printed materials such as brochures or newsletters; electronic materials such as websites; mass media such as newspaper articles or public service announcement (radio or cable); or displays in a public area such as town/city hall. The permittee may use existing materials if they are appropriate for the message the permittee chooses to deliver or the permittee may develop its own educational materials. The permittee may partner with other MS4s, community groups or watershed associations to implement the education program. Some EPA educational materials are available at: <http://cfpub.epa.gov/npstbx/index.html>.
- c. The permittee shall at a minimum consider the topics listed in paragraphs 2.3.2.1c.i – iv. when developing the outreach/education program. The topics are not exclusive and the permittee shall focus on those topics most relevant to the community.



- i. Residential program: effects of outdoor activities such as lawn care (use of pesticides, herbicides, and fertilizers) on water quality; benefits of appropriate on-site infiltration of stormwater; effects of automotive work and car washing on water quality; proper disposal of swimming pool water; proper management of pet waste; maintenance of septic systems. If the small MS4 area has greater than thirty percent of its residents serviced by septic systems, the permittee shall include maintenance of septic systems as part of its education program.
- iv. Business/Commercial/Institution program: proper lawn maintenance (use of pesticides, herbicides and fertilizer); benefits of appropriate on-site infiltration of stormwater; building maintenance (use of detergents); use of salt or other de-icing and anti-icing materials (minimize their use); proper storage of salt or other de-icing/anti-icing materials (cover/prevent runoff to storm system and contamination to ground water); proper storage of materials (emphasize pollution prevention); proper management of waste materials and dumpsters (cover and pollution prevention); proper management of parking lot surfaces (sweeping); proper car care activities (washing of vehicles and maintenance); and proper disposal of swimming pool water by entities such as motels, hotels, and health and country clubs (discharges must be dechlorinated and otherwise free from pollutants).
- v. Developers and Construction: proper sediment and erosion control management practices; information about Low Impact Development (LID) principles and technologies; and information about EPA's construction general permit (CGP). This education can also be a part of the Construction Site Stormwater Runoff Control measure detailed in Part 2.3.5.
- vi. Industrial program: equipment inspection and maintenance; proper storage of industrial materials (emphasize pollution prevention); proper management and disposal of wastes; proper management of dumpsters; minimization of use of salt or other de-icing/anti-icing materials; proper storage of salt or other de-icing/anti-icing materials (cover/prevent runoff to storm system and ground water contamination); benefits of appropriate on-site infiltration of stormwater runoff from areas with low exposure to industrial materials such as roofs or employee parking; proper maintenance of parking lot surfaces (sweeping); and requirements for coverage under EPA's Multi-Sector General Permit.

2.3.2.2 - An effective program shall show evidence of focused messages for specific audiences as well as evidence that progress toward the defined educational goals of the program has been achieved. The permittee shall identify methods that it will use to evaluate the effectiveness of the educational messages and the overall education program. Any methods used to evaluate the effectiveness of the program shall be tied to the defined goals of the program and the overall objective of changes in behavior and knowledge.

2.3.2.3 - The permittee shall modify any ineffective messages or distribution techniques for an audience prior to the next scheduled message delivery.

2.3.2.4 - The permittee shall document in each annual report the messages for each audience; the method of distribution; the measures/methods used to assess the effectiveness of the messages, and the method/measures used to assess the overall effectiveness of the education program in the annual report.

### **2.3.3 Public Involvement and Participation**

Objective: The permittee shall provide opportunities to engage the public to participate in the review and implementation of the permittee's SWMP.

2.3.3.1 - All public involvement activities shall comply with state public notice requirements (NH: RSA Chapter 91-A). The SWMP (consistent with Part 1.10.1) and all annual reports shall be available to the public. The permittee is encouraged to satisfy this requirement by posting records online.

2.3.3.2 - The permittee shall annually provide the public an opportunity to participate in the review and implementation of the SWMP.

2.3.3.3 - The permittee shall report on the activities undertaken to provide public participation opportunities including compliance with Part 2.3.3.1. Public participation opportunities pursuant to Part 2.3.3.2 may include, but are not limited to, websites; hotlines; clean-up teams; monitoring teams; or an advisory committee.

### **2.3.4 Illicit Discharge Detection and Elimination (IDDE) Program**

Objective: The permittee shall implement an IDDE program to systematically find and eliminate sources of non-stormwater discharges to its municipal separate storm sewer system and implement procedures to prevent such discharges.

- a. Legal Authority. - The IDDE program shall include adequate legal authority to: prohibit illicit discharges; investigate suspected illicit discharges; eliminate illicit discharges, including discharges from properties not owned by or controlled by the MS4 that discharge into the MS4 system; and implement appropriate enforcement procedures and actions. Adequate legal authority consists of a currently effective ordinance, by-law, or other regulatory mechanism. For permittees authorized by the MS4-2003 permit, the ordinance, by-law, or other regulatory mechanism was a requirement of the MS4-2003 permit and was required to be effective by May 1, 2008. For new permittees the ordinance, by-law, or other regulatory mechanism shall be in place within 3 years of the permit effective date.
- b. During the development of the new components of the IDDE program required by this permit, permittees authorized by the MS4-2003 permit must continue to implement their existing IDDE program required by the MS4-2003 permit to detect and eliminate illicit discharges to their MS4.

#### 2.3.4.1. Definitions and Prohibitions

The permittee shall prohibit illicit discharges and sanitary sewer overflows (SSOs) to its MS4 and require removal of such discharges consistent with Parts 2.3.4.2 and 2.3.4.4 of this permit.

An SSO is a discharge of untreated sanitary wastewater from a municipal sanitary sewer.

An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

#### 2.3.4.2. Elimination of Illicit Discharges

- a. Upon detection of an illicit discharge, the permittee shall locate, identify and eliminate the illicit discharge as expeditiously as possible. Upon identification of the illicit source the MS4 notify all responsible parties for any such discharge and require immediate cessation of improper disposal practices in accordance with its legal authorities. Where elimination of an illicit discharge within 60 days of its identification as an illicit discharge is not possible, the permittee shall establish an expeditious schedule for its elimination and report the dates of identification and schedules for removal in the permittee's annual reports. The permittee shall immediately commence actions necessary for elimination. The permittee shall diligently pursue elimination of all illicit discharges. In the interim, the permittee shall take all reasonable and prudent measures to minimize the discharge of pollutants to and from its MS4.
- b. The period between identification and elimination of an illicit discharge is not a grace period. Discharges from an MS4 that are mixed with an illicit discharge are not authorized by this Permit (Part 1.3.a) and remain unlawful until eliminated.

#### 2.3.4.3. Non-Stormwater Discharges

The permittee may presume that the sources of non-stormwater listed in Part 1.4 of this permit need not be addressed. However, if the permittee identifies any of these sources as significant contributors of pollutants to the MS4, then the permittee shall implement measures to control these sources so they are no longer significant contributors of pollutants, and/or eliminate them entirely, consistent with Part 2.3.4.

#### 2.3.4.4. Sanitary Sewer Overflows

- a. Upon detection of an SSO the permittee shall eliminate it as expeditiously as possible and take interim mitigation measures to minimize the discharge of pollutants to and from its MS4 until elimination is completed.
- b. The permittee shall identify all known locations where SSOs have discharged to the

MS4 within the previous five (5) years. This shall include SSOs resulting, during dry or wet weather, from inadequate conveyance capacities, or where interconnectivity of the storm and sanitary sewer infrastructure allows for communication of flow between the systems. Within one (1) year of the effective date of the permit, the permittee shall develop an inventory of all identified SSOs indicating the following information, if available:

1. Location (approximate street crossing/address and receiving water, if any);
2. A clear statement of whether the discharge entered a surface water directly or entered the MS4;
3. Date(s) and time(s) of each known SSO occurrence (i.e., beginning and end of any known discharge);
4. Estimated volume(s) of the occurrence;
5. Description of the occurrence indicating known or suspected cause(s);
6. Mitigation and corrective measures completed with dates implemented; and
7. Mitigation and corrective measures planned with implementation schedules.

The permittee shall maintain the inventory as a part of the SWMP and update the inventory annually, all updates shall include the information in Part 2.3.4.4.b.1-7.

- c. In accordance with Paragraph B.12 of Appendix B of this permit, upon becoming aware of an SSO to the MS4, the permittee shall provide oral notice to EPA within 24 hours. Additionally, the permittee shall provide written notice to EPA and NHDES within five (5) days of becoming aware of the SSO occurrence and shall include the information in the updated inventory. The notice shall contain all of the information listed in Part 2.3.4.4.b. Where common notification requirements for SSOs are included in multiple NPDES permits issued to a permittee, a single notification may be made to EPA as directed in the permittee's wastewater or CSO NPDES permit and constitutes compliance with this Part.
- d. The permittee shall include and update the SSO inventory in its annual report, including the status of mitigation and corrective measures implemented by the permittee to address each SSO identified pursuant to this Part.
- e. The period between detection and elimination of a discharge from the SSO to the MS4 is not a grace period. Discharges from an MS4 that are mixed with an SSO are not authorized by this Permit (Part 1.3.a) and remain unlawful until eliminated.

#### 2.3.4.5. System mapping

The permittee shall revise their system mapping required by the MS4-2003 permit to include more detailed system information. This revised map of the MS4 shall be completed in two phases as outlined below. The mapping shall include a depiction of the permittee's separate storm sewer system in the permit area. The mapping is intended to facilitate the identification of key infrastructure and factors influencing proper system operation, and the potential for illicit sanitary sewer discharges.

- a. Phase I: The system map shall be updated within two (2) years of the permit effective date to include the following information:
- Outfalls and receiving waters (required by MS4-2003 permit)
  - Open channel conveyances (swales, ditches, etc.)
  - Interconnections with other MS4s and other storm sewer systems
  - Municipally-owned stormwater treatment structures (e.g., detention and retention basins, infiltration systems, bioretention areas, water quality swales, gross particle separators, oil/water separators, or other proprietary systems)
  - Waterbodies identified by name and indication of all use impairments as identified on the most recent EPA approved New Hampshire Integrated List of waters report pursuant to Clean Water Act section 303(d) and 305(b)
  - Initial catchment delineations. Any available system data and topographic information may be used to produce initial catchment delineations. For the purpose of this permit, a catchment is the area that drains to an individual outfall or interconnection.
- b. Phase II: The system map shall be updated annually as the following information becomes available during implementation of catchment investigation procedures in Part 2.3.4.8. This information must be included in the map for all outfalls within ten (10) years of the permit effective date:
- Outfall spatial location (latitude and longitude with a minimum accuracy of +/-30 feet)
  - Pipes
  - Manholes
  - Catch basins
  - Refined catchment delineations. Catchment delineations shall be updated to reflect information collected during catchment investigations
  - Municipal sanitary sewer system (if available)
  - Municipal combined sewer system (if applicable).
- c. Recommended elements to be included in the system map as information becomes available:
- Storm sewer material, size (pipe diameter) and age
  - Sanitary sewer system material, size (pipe diameter) and age
  - Privately-owned stormwater treatment structures
  - Where a municipal sanitary sewer system exists, properties known or suspected to be served by a septic system, especially in high-density urban areas
  - Area where the permittee's MS4 has received or could receive flow from septic system discharges (e.g., areas with poor soils, or high ground water elevations unsuitable for conventional subsurface disposal systems)

- Seasonal high water table elevations impacting sanitary alignments
  - Topography
  - Orthophotography
  - Alignments, dates and representation of work completed (with legend) of past illicit discharge investigations (e.g., flow isolation, dye testing, CCTV)
  - Locations of suspected, confirmed and corrected illicit discharges (with dates and flow estimates).
- d. The mapping may be produced by hand or through computer-aided methods (e.g. GIS). The required scale and detail of the map shall be appropriate to facilitate a rapid understanding of the system by the permittee, EPA and the state. In addition, the mapping shall serve as a planning tool for the implementation and phasing of the IDDE program and demonstration of the extent of complete and planned investigations and corrections. The permittee shall update the mapping as necessary to reflect newly discovered information and required corrections or modifications.
- e. The permittee shall report on the progress towards the completion of the system map in each annual report.

#### 2.3.4.6. Written Illicit Discharge Detection and Elimination Program

The IDDE program shall be recorded in a written (hardcopy or electronic) document. The IDDE program shall include each of the elements described in Parts 2.3.4.7 and Part 2.3.4.8, unless the permittee provides a written explanation within the IDDE program as to why a particular element is not applicable to the permittee.

Notwithstanding the permittee's explanation, EPA may at any time determine that a particular element is in fact applicable to the permittee and require the permittee to add it to the IDDE program. The written (hardcopy or electronic) IDDE program shall be completed within one (1) year of the effective date of the permit and updated in accordance with the milestones of this Part. The permittee shall implement the IDDE program in accordance with the goals and milestones contained in this Part.

- a. The written (hardcopy or electronic) IDDE program shall include a reference or citation of the authority the permittee will use to implement all aspects of the IDDE program.
- b. Statement of IDDE Program Responsibilities - The permittee shall establish a written (hardcopy or electronic) statement that clearly identifies responsibilities with regard to eliminating illicit discharges. The statement shall identify the lead municipal agency(ies) or department(s) responsible for implementing the IDDE Program as well as any other agencies or departments that may have responsibilities for aspects of the program (e.g., board of health responsibilities for overseeing septic system construction; sanitary sewer system staff; inspectional services for enforcing plumbing codes; town counsel responsibilities in enforcement actions, etc.). Where multiple departments and agencies have responsibilities with respect to the IDDE

program specific areas of responsibility shall be defined and processes for coordination and data sharing shall be established and documented.

- c. Program Procedures – The permittee shall include in the IDDE program all written (hardcopy or electronic) procedures developed in accordance with the requirements and timelines in Parts 2.3.4.7 and 2.3.4.8 below. At a minimum this shall include the written procedures for dry weather outfall screening and sampling and for catchment investigations.

#### 2.3.4.7. Assessment and Priority Ranking of Outfalls/Interconnections

The permittee shall assess and priority rank the outfalls in terms of their potential to have illicit discharges and SSOs and the related public health significance. This ranking will determine the priority order for screening of outfalls and interconnections pursuant to Part 2.3.4.7.b, catchment investigations for evidence of illicit discharges and SSOs pursuant to Part 2.3.4.8, and provides the basis for determining permit milestones of this Part.

a. Outfall/Interconnection Inventory and Initial Ranking:

An initial outfall and interconnection inventory and priority ranking to assess illicit discharge potential based on existing information shall be completed within one (1) year from the effective date of the permit; an updated inventory and ranking will be provided in each annual report thereafter. The inventory shall be updated annually to include data collected in connection with the dry weather screening and other relevant inspections conducted by the permittee.

- i. The outfall and interconnection inventory will identify each outfall and interconnection discharging from the MS4, record its location and condition, and provide a framework for tracking inspections, screenings and other activities under the permittee's IDDE program.
- An outfall means a point source as defined by 40 CFR § 122.2 as the point where the municipal separate storm sewer discharges to waters of the United States. An outfall does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels or other conveyances that connect segments of the same stream or other waters of the United States and that are used to convey waters of the United States. (40 CFR § 122.26(b)(9)). However, it is strongly recommended that a permittee inspect all accessible portions of the system as part of this process. Culverts longer than a simple road crossing shall be included in the inventory unless the permittee can confirm that they are free of any connections and simply convey waters of the United States.
  - An interconnection means the point where the permittee's MS4 discharges to another MS4 or other storm sewer system, through which the discharge is conveyed to waters of the United States or to another storm sewer system and eventually to a water of the United States.

- ii. The permittee shall classify each of the permittee's outfalls and interconnections into one of the following categories:
- **Problem Outfalls:** Outfalls/interconnections with known or suspected contributions of illicit discharges based on existing information shall be designated as Problem Outfalls. This shall include any outfalls/interconnections where previous screening indicates likely sewer input.<sup>4</sup> Problem Outfalls need not be screened pursuant to Part 2.3.4.7.b.
  - **High Priority Outfalls:** Outfalls/interconnections that have not been classified as Problem Outfalls and that are:
    - discharging to an area of concern to public health due to proximity of public beaches, recreational areas, drinking water supplies or shellfish beds;
    - determined by the permittee as high priority based on the characteristics listed below or other available information;
  - **Low Priority Outfalls:** Outfalls/interconnections determined by the permittee as low priority based on the characteristics listed below or other available information.
  - **Excluded outfalls:** outfalls/interconnections with no potential for illicit discharges may be excluded from the IDDE program. This category is limited to roadway drainage in undeveloped areas with no dwellings and no sanitary sewers; drainage for athletic fields, parks or undeveloped green space and associated parking without services; cross-country drainage alignments (that neither cross nor are in proximity to sanitary sewer alignments) through undeveloped land.
- iii. The permittee shall priority rank outfalls into the categories above (except for excluded outfalls), based on the following characteristics of the defined initial catchment area where information is available:
- Past discharge complaints and reports.
  - Poor receiving water quality- the following guidelines are recommended to identify waters as having a high illicit discharge potential: exceeding water quality standards for bacteria; ammonia levels above 0.5 mg/l; surfactants levels greater than or equal to 0.25 mg/l.
  - Density of generating sites- Generating sites are those places, including institutional, municipal, commercial, or industrial sites, with a potential to generate pollutants that could contribute to illicit discharges. Examples of these sites include, but are not limited to, car dealers; car washes; gas stations;

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<sup>4</sup> Likely sewer input indicators are any of the following:

- Olfactory or visual evidence of sewage,
- Ammonia  $\geq 0.5$  mg/L, surfactants  $\geq 0.25$  mg/L, and bacteria levels greater than the water quality criteria applicable to the receiving water, or
- Ammonia  $\geq 0.5$  mg/L, surfactants  $\geq 0.25$  mg/L, and detectable levels of chlorine.



garden centers; and industrial manufacturing areas.

- Age of development and infrastructure – Industrial areas greater than 40 years old and areas where the sanitary sewer system is more than 40 years old will probably have a high illicit discharge potential. Developments 20 years or younger will probably have a low illicit discharge potential.
- Sewer conversion – contributing catchment areas that were once serviced by septic systems, but have been converted to sewer connections may have a high illicit discharge potential.
- Historic combined sewer systems – contributing areas that were once serviced by a combined sewer system, but have been separated may have a high illicit discharge potential.
- Surrounding density of aging septic systems – Septic systems thirty years or older in residential land use areas are prone to have failures and may have a high illicit discharge potential.
- Culverted streams – any river or stream that is culverted for distances greater than a simple roadway crossing may have a high illicit discharge potential.
- Water quality limited waterbodies that receive a discharge from the MS4 or waters with approved TMDLs applicable to the permittee, where illicit discharges have the potential to contain the pollutant identified as the cause of the water quality impairment.
- The permittee may also consider additional relevant characteristics, including location-specific characteristics; if so, the permittee shall include the additional characteristics in its written (hardcopy or electronic) IDDE program.

b. Dry Weather Outfall and Interconnection Screening and Sampling

All outfalls/interconnections (excluding Problem and excluded Outfalls) shall be inspected for the presence of dry weather flow within three (3) years of the permit effective date. The permittee shall screen all High and Low Priority Outfalls in accordance with their initial ranking developed at Part 2.3.4.7.a.

- i. Written procedure: The permittee shall develop an outfall and interconnection screening and sampling procedure to be included in the IDDE program within one (1) year of the permit effective date. This procedure shall include the following procedures for:
  - sample collection,
  - use of field kits,
  - storage and conveyance of samples (including relevant hold times), and
  - field data collection and storage.

An example screening and sampling protocol (*EPA New England Bacterial Source Tracking Protocol*) can be found on EPA's website.

- ii. Weather conditions: Dry weather screening and sampling shall proceed only when

no more than 0.1 inches of rainfall has occurred in the previous 24-hour period and no significant snow melt is occurring.

iii. Screening requirements: For each outfall/interconnection:

1. The permittee shall record all of the following information and include it in the outfall/interconnection inventory and priority ranking:
  - unique identifier,
  - receiving water,
  - date of most recent inspection,
  - dimensions,
  - shape,
  - material (concrete, PVC),
  - spatial location (latitude and longitude with a minimum accuracy of +/-30 feet,
  - physical condition,
  - indicators of potential non-stormwater discharges (including presence or evidence of suspect flow and sensory observations such as odor, color, turbidity, floatables, or oil sheen).
2. If an outfall/interconnection is inaccessible or submerged, the permittee shall proceed to the first accessible upstream manhole or structure for the observation and sampling and report the location with the screening results.
3. If no flow is observed, but evidence of illicit flow exists, the permittee shall revisit the outfall during dry weather within one week of the initial observation, if practicable, to perform a second dry weather screening and sample any observed flow (proceed as in iv. below).
4. Where dry weather flow is found at an outfall/interconnection, at least one (1) sample shall be collected, and:
  - a) Samples shall be analyzed at a minimum for:
    - ammonia,
    - chlorine,
    - conductivity,
    - salinity,
    - *E. coli* (freshwater receiving water) or enterococcus (saline or brackish receiving water),
    - surfactants (such as MBAS),
    - temperature, and

- pollutants of concern<sup>5</sup>
  - b) All analyses with the exception of indicator bacteria and pollutants of concern can be performed with field test kits or field instrumentation and are not subject to 40 CFR Part 136 requirements. Sampling for bacteria and pollutants of concern shall be conducted using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA in accordance with the procedures in 40 CFR §136. Sampling for ammonia and surfactants must use sufficiently sensitive methods to detect those parameters at or below the threshold indicator concentrations of 0.5 mg/L for ammonia and 0.25 mg/L for surfactants. Sampling for residual chlorine must use a method with a detection limit of 0.02 mg/L or 20 ug/L.
  - iv. The permittee may rely on screening conducted under the MS4-2003 permit, pursuant to an EPA enforcement action, or by the state or EPA to the extent that it meets the requirements of Part 2.3.4.7.b.iii.4. All data shall be reported in each annual report. Permittees that have conducted substantially equivalent monitoring to that required by Part 2.3.4.7.b as part of an EPA enforcement action can request an exemption from the requirements of Part 2.3.4.7.b by submitting a written request to EPA and retaining exemption approval from EPA as part of the SWMP. Until the permittee receives formal written approval of the exemption from Part 2.3.4.7.b from EPA the permittee remains subject to all requirements of Part 2.3.4.7.b.
  - v. The permittee shall submit all screening data used in compliance with this Part in its Annual Report.
- c. Follow-up ranking of outfalls and interconnections:
  - i. The permittee's outfall and interconnection ranking (2.3.4.7.a) shall be updated to reprioritize outfalls and interconnections based on information gathered during dry weather screening (Part 2.3.4.7.b).
  - ii. Outfalls/interconnections where relevant information was found indicating sewer input to the MS4 or sampling results indicating sewer input<sup>6</sup> shall be considered highly likely to contain illicit discharges from sanitary sources, and such

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<sup>5</sup> Where the discharge is directly into a water quality limited water or a water subject to an approved TMDL as indicated in Appendix F; the sample shall be analyzed for the pollutant(s) of concern identified as the cause of the impairment as specified in Appendix G

<sup>6</sup> Likely sewer input indicators are any of the following:

- Olfactory or visual evidence of sewage,
- Ammonia  $\geq 0.5$  mg/L, surfactants  $\geq 0.25$  mg/L, and bacteria levels greater than the water quality criteria applicable to the receiving water, or
- Ammonia  $\geq 0.5$  mg/L, surfactants  $\geq 0.25$  mg/L, and detectable levels of chlorine.

outfalls/interconnections shall be ranked at the top of the High Priority Outfalls category for investigation. At this time, permittees may choose to rank other outfalls and interconnections based on any new information from the dry weather screening.

- iii. The ranking can be updated continuously as dry weather screening information becomes available, but shall be completed within three (3) years of the effective date of the permit.

#### 2.3.4.8. Catchment Investigations

The permittee shall develop a systematic procedure to investigate each catchment associated with an outfall or interconnection within their MS4 system.

##### a. Timelines:

- A written catchment investigation procedure (hardcopy or electronic) shall be developed within 18 months of the permit effective date in accordance with the requirements of Part 2.3.4.8.b below.
- Investigations of catchments associated with Problem Outfalls shall begin no later than two (2) years from the permit effective date.
- Investigations of catchments associated with High and Low Priority Outfalls shall follow the ranking of outfalls updated in Part 2.3.4.7.c.
- Investigations of catchments associated with Problem Outfalls shall be completed within seven (7) years of the permit effective date
- Investigations of catchments where any information gathered on the outfall/interconnection identifies sewer input<sup>7</sup> shall be completed within seven (7) years of the permit effective date.
- Investigations of catchments associated with all High- and Low-Priority Outfalls shall be completed within ten (10) years of the permit effective date.

\*For the purposes of these milestones, an individual catchment investigation will be considered complete if all relevant procedures in Part 2.3.4.8.c. and 2.3.4.8.d. below have been completed.

##### b. A written catchment investigation procedure shall be developed that:

- i. **Identifies maps, historic plans and records, and other sources of data,** including but not limited to plans related to the construction of the storm drain and of sanitary sewers, prior work performed on the storm drains or sanitary sewers, board of health or other municipal data on septic system failures or

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<sup>7</sup> Likely sewer input indicators are any of the following:

- Olfactory or visual evidence of sewage,
- Ammonia  $\geq 0.5$  mg/L, surfactants  $\geq 0.25$  mg/L, and bacteria levels greater than the water quality criteria applicable to the receiving water, or
- Ammonia  $\geq 0.5$  mg/L, surfactants  $\geq 0.25$  mg/L, and detectable levels of chlorine.

required upgrades, and complaint records related to SSOs, sanitary sewer surcharges, and septic system breakouts. These data sources will be used in identifying system vulnerability factors within each catchment.

- ii. **Includes a manhole inspection methodology** that shall describe a storm drain network investigation that involves systematically and progressively observing, sampling (as required below) and evaluating key junction manholes (see definition in Appendix A) in the MS4 to determine the approximate location of suspected illicit discharges or SSOs. The manhole inspection methodology may either start from the outfall and work up the system or start from the upper parts of the catchment and work down the system or be a combination of both practices. Either method must, at a minimum, include an investigation of each key junction manhole within the MS4, even where no evidence of an illicit discharge is observed at the outfall. The manhole inspection methodology must describe the method the permittee will use. The manhole inspection methodology shall include procedures for dry and wet weather investigations.
  - iii. **Establishes procedures to isolate and confirm sources of illicit discharges** where manhole investigations or other physical evidence or screening has identified that MS4 alignments are influenced by illicit discharges or SSOs. These shall include isolation of the drainage area for implementation of more detailed investigations, inspection of additional manholes along the alignment to refine the location of potential contaminant sources, and methods such as sandbagging key junction manhole inlets, targeted internal plumbing inspections, dye testing, video inspections, or smoke testing to isolate and confirm the sources.
- c. Requirements for each catchment investigation associated with an outfall/interconnection:
- i. For each catchment being investigated, the permittee shall review relevant mapping and historic plans and records gathered in accordance with Part 2.3.4.8.b.i. This review shall be used to identify areas within the catchment with higher potential for illicit connections. The permittee shall identify and record the presence of any of the following specific **System Vulnerability Factors (SVFs)**:
    - History of SSOs, including, but not limited to, those resulting from wet weather, high water table, or fat/oil/grease blockages;
    - Common or twin-invert manholes serving storm and sanitary sewer alignments;
    - Common trench construction serving both storm and sanitary sewer alignments;
    - Crossings of storm and sanitary sewer alignments where the sanitary system is shallower than the storm drain system;
    - Sanitary sewer alignments known or suspected to have been constructed with an underdrain system;
    - Inadequate sanitary sewer level of service (LOS) resulting in regular

- surcharging, customer back-ups, or frequent customer complaints;
- Areas formerly served by combined sewer systems;
- Sanitary sewer infrastructure defects such as leaking service laterals, cracked, broken, or offset sanitary infrastructure, directly piped connections between storm drain and sanitary sewer infrastructure, or other vulnerability factors identified through Inflow/Infiltration Analyses, Sanitary Sewer Evaluation Surveys, or other infrastructure investigations.

EPA recommends the permittee include the following in their consideration of System Vulnerability Factors:

- Sewer pump/lift stations, siphons, or known sanitary sewer restrictions where power/equipment failures or blockages could readily result in SSOs;
- Any sanitary sewer and storm drain infrastructure greater than 40 years old;
- Widespread code-required septic system upgrades required at property transfers (indicative of inadequate soils, water table separation, or other physical constraints of the area rather than poor owner maintenance);
- History of multiple Board of Health actions addressing widespread septic system failures (indicative of inadequate soils, water table separation, or other physical constraints of the area rather than poor owner maintenance);

The permittee shall document the presence or absence of System Vulnerability Factors for each catchment, retain this documentation as part of its IDDE program, and report this information in Annual Reports. Catchments with a minimum of one (1) System Vulnerability Factor are subject to wet weather sampling requirements of Part 2.3.4.8.c.ii.2.

- ii. For each catchment, the permittee must inspect key junction manholes and gather catchment information on the locations of MS4 pipes, manholes, and the extent of the contributing catchment.
  1. For all catchments
    - a) Infrastructure information shall be incorporated into the permittee's mapping required at Part 2.3.4.5; the permittee will refine their catchment delineation based on the field investigation where appropriate.
    - b) The SVF inventory for the catchment will be updated based on information obtained during the inspection, including common (twin invert) manholes, directly piped connections between storm drains and sanitary sewer infrastructure, common weir walls, sanitary sewer underdrain connections and other structural vulnerabilities where sanitary discharges could enter the storm drain system during wet weather.
      - 1) **Where a minimum of one (1) SVF is identified based on previous information or the investigation, a wet weather investigation must be conducted at the associated outfall (see**

- below).
- c) During dry weather, key junction manholes<sup>8</sup> shall be opened and inspected systematically for visual and olfactory evidence of illicit connections (e.g., excrement, toilet paper, gray filamentous bacterial growth, or sanitary products present).
    - 1) If flow is observed, the permittee shall sample the flow at a minimum for ammonia, chlorine and surfactants and can use field kits for these analyses.
    - 2) Where sampling results or visual or olfactory evidence indicate potential illicit discharges or SSOs, the area draining to the junction manhole shall be flagged for further upstream investigation.
  - d) Key junction and subsequent manhole investigations will proceed until the location of suspected illicit discharges or SSOs can be isolated to a pipe segment between two manholes. If no evidence of an illicit discharge is found, catchment investigations will be considered complete upon completion of key junction manhole sampling.
2. For all catchments with a minimum of one (1) SVF identified
- a) The permittee shall meet the requirements above for dry weather screening
  - b) The permittee shall inspect and sample under wet weather conditions to the extent necessary to determine whether wet weather-induced high flows in sanitary sewers or high groundwater in areas served by septic systems result in discharges of sanitary flow to the MS4.
    - 1) The permittee shall conduct at least one wet weather screening and sampling at the outfall that includes the same parameters required during dry weather screening, Part 2.3.4.7.b.iii.4.
    - 2) Wet weather sampling and screening shall proceed during or after a storm event of sufficient depth or intensity to produce a stormwater discharge. EPA strongly recommends sampling during the spring (March through June) when groundwater levels are relatively high.
    - 3) The permit does not require a minimum rainfall event prior to wet weather screening. However, permittees may incorporate provisions that assist in targeting such discharges, including avoiding sampling during the initial period of discharge (“first flush”) and/or identifying minimum storm event intensities likely to trigger sanitary sewer interconnections.
  - c) This sampling can be done upon completion of any dry weather investigation but must be completed before the catchment investigation is

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<sup>8</sup> Where catchments do not contain junction manholes, the dry weather screening and sampling shall be considered as meeting the manhole inspection requirement. In these catchments, dry weather screenings that indicate potential presence of illicit discharges shall be further investigated pursuant to part 2.3.4.8.d. Investigations in these catchments may be considered complete where dry weather screening reveals no flow; no evidence of illicit discharges or SSOs is indicated through sampling results or visual or olfactory means; and no wet weather System Vulnerability Factors are identified.

marked as complete.

- iii. All data collected as part of the dry and wet weather catchment investigations shall be recorded and reported in each annual report.
- d. Identification/Confirmation of illicit source  
Where the source of an illicit discharge has been approximated between two manholes in the permittee's MS4, the permittee shall isolate and identify/confirm the source of the illicit discharge using more detailed methods identified in their written procedure (2.3.4.8.b.iii). For outfalls that contained evidence of an illicit discharge, catchment investigations will be considered complete upon confirmation of all illicit sources.
- e. Illicit discharge removal  
When the specific source of an illicit discharge is identified, the permittee shall exercise its authority as necessary to require its removal pursuant to Part 2.3.4.2 or 2.3.4.3.
  - i. For each confirmed source the permittee shall include in the annual report the following information:
    - the location of the discharge and its source(s);
    - a description of the discharge;
    - the method of discovery;
    - date of discovery;
    - date of elimination, mitigation or enforcement action OR planned corrective measures and a schedule for completing the illicit discharge removal; and
    - estimate of the volume of flow removed.
  - ii. Within one year of removal of all identified illicit discharges within a catchment area, confirmatory outfall or interconnection screening shall be conducted. The confirmatory screening shall be conducted in dry weather unless System Vulnerability Factors have been identified, in which case both dry weather and wet weather confirmatory screening shall be conducted. If confirmatory screening indicates evidence of additional illicit discharges, the catchment shall be scheduled for additional investigation.

#### 2.3.4.9. Indicators of IDDE Program Progress

The permittee shall define or describe indicators for tracking program success and evaluate and report on the overall effectiveness of the IDDE program in each annual report. At a minimum the permittee shall document in each annual report:

- the number of SSOs and illicit discharges identified and removed,
- the number and percent of total outfall catchments served by the MS4



evaluated using the catchment investigation procedure,

- all dry weather and wet weather screening and sampling results and
- the volume of sewage removed

#### 2.3.4.10 Ongoing Screening

Upon completion of all catchment investigations pursuant to Part 2.3.4.8.c and illicit discharge removal and confirmation (if necessary) pursuant to paragraph 2.3.4.8.e, each outfall or interconnection shall be reprioritized for screening in accordance with Part 2.3.4.7.a and scheduled for ongoing screening once every five years. Ongoing screening shall consist of dry weather screening and sampling consistent with Part 2.3.4.7.b; wet weather screening and sampling shall also be required at outfalls where wet weather screening was required due to SVFs and shall be conducted in accordance with Part 2.3.4.8.c.ii. All sampling results shall be reported in the permittee's annual report.

#### 2.3.4.11 Training

The permittee shall, at a minimum, annually provide training to employees involved in IDDE program about the program, including how to recognize illicit discharges and SSOs. The permittee shall report on the frequency and type of employee training in the annual report.

### 2.3.5 Construction Site Stormwater Runoff Control

**Objective:** The objective of an effective construction stormwater runoff control program is to minimize or eliminate erosion and maintain sediment on construction sites so that it is not transported in stormwater and allowed to discharge to a water of the U.S. through the permittee's MS4.

The construction site stormwater runoff control program required by this permit is a separate and distinct program from EPA's stormwater construction permit program (see <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#cgp> for further information).

2.3.5.1 – Permittees shall implement and enforce a program to reduce pollutants in any stormwater runoff discharged to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee's program shall include disturbances less than one acre if that disturbance is part of a larger common plan of development or sale that would disturb one acre or more. Permittees authorized under the MS4-2003 shall continue to implement their existing programs and shall modify them as necessary to meet the requirements of this Part.

2.3.5.2 - The permittee does not need to apply its construction program requirements to projects that receive a waiver from EPA under the provisions of 40 CFR § 122.26(b) (15) (i).

2.3.5.3 - The construction site stormwater runoff control program shall include the elements in Paragraphs a. through e. of this Part:

- a. An ordinance or other regulatory mechanism that requires the use of sediment and erosion control practices at construction sites. In addition to addressing sediment and erosion control, the ordinance must include controls for other wastes on construction sites such as demolition debris, litter and sanitary wastes. Development of an ordinance or other regulatory mechanism was a requirement of the MS4-2003 (See Part III.B.4) and was required to be effective by May 1, 2008.
- b. Written procedures (hardcopy or electronic) for site inspections and enforcement of sediment and erosion control measures. If not already existing, these procedures shall be completed within one (1) year from the effective date of the permit. The procedures shall clearly define who is responsible for site inspections as well as who has authority to implement enforcement procedures. The program shall provide that the permittee may, to the extent authorized by law, impose sanctions to ensure compliance with the local program. These procedures and regulatory authorities shall be documented in the SWMP.
- c. Requirements for construction operators to implement a sediment and erosion control program. The program shall include BMPs appropriate for the conditions at the construction site. The program may include references to BMP design standards in state manuals or design standards specific to the MS4. EPA supports and encourages the use of design standards in local programs. Examples of appropriate sediment and erosion control measures for construction sites include local requirements to:
  - minimize the amount of disturbed area and protect natural resources;
  - stabilize sites when projects are complete or operations have temporarily ceased;
  - protect slopes on the construction site;
  - protect all storm drain inlets and armor all newly constructed outlets;
  - use perimeter controls at the site;
  - stabilize construction site entrances and exits to prevent off-site tracking;  
and
  - inspect stormwater controls at consistent intervals.
- d. Requirements to control wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes. These wastes may not be discharged to the MS4.
- e. Written procedures (hardcopy or electronic) for site plan review. If not already existing, the procedure for site plan review shall be completed within one (1) year from the effective date of the permit. Site plan review shall include a review by the permittee of the site design, the planned operations at the construction site, planned BMPs during the construction phase, and the planned BMPs to be used to manage runoff created after development. The review procedure shall incorporate procedures for the consideration of potential water quality impacts; procedures for pre-construction review; and procedures

for receipt and consideration of information submitted by the public. Site plan review procedure shall include evaluation of opportunities for use of low impact design and green infrastructure. When the opportunity exists, the permittee shall encourage project proponents to incorporate these practices into the site design. The permittee shall track the number of site reviews, inspections, and enforcement actions. This information shall be included as part of each annual report required by Part 4.4.

### **2.3.6 Stormwater Management in New Development and Redevelopment (Post Construction Stormwater Management)**

Objective: The objective of this control measure is to minimize the water quality impact from new development and reduce the water quality impact due to stormwater runoff from a redeveloped site.

- a. Permittees shall develop, implement, and enforce a program to address post-construction stormwater runoff from all new development and redevelopment projects that disturb a minimum of one or more acre(s) and discharge into the permittees MS4 at a minimum. Permittees authorized under the MS4-2003 permit shall continue to implement and enforce their program and modify as necessary to meet the requirements of this Part.
  - i. The permittee's new development/ redevelopment program shall include projects less than one acre if the project is part of a larger common plan of development or redevelopment which disturbs one or more acre.
  - ii. The permittee shall develop or modify, as appropriate, an ordinance or other regulatory mechanism within two (2) years of the effective date of the permit to be consistent with Section 4 Element C and Element D of the Southeast Watershed Alliance's Model Stormwater Standards for Coastal Watershed Communities<sup>9</sup>; OR contain provisions that are as least as stringent as the following:
    - a) Low Impact Development (LID) site planning and design strategies must be used to the maximum extent feasible in order to reduce the discharge of stormwater from new development.
    - b) Salt storage areas on commercial and industrial new and redevelopment sites shall be covered and loading/offloading areas shall be designed and maintained in accordance with NH DES published guidance (Fact Sheets WD-WMB-4<sup>10</sup> and WD-DWGB-22-30<sup>11</sup>) such that no untreated discharge to receiving waters results. Snow storage areas shall be located in

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<sup>9</sup> Model Stormwater Standards for Coastal Watershed Communities, Southeast Watershed Alliance, December 2012. [http://southeastwatershedalliance.org/wp-content/uploads/2013/05/Final\\_SWA\\_SWStandards\\_Dec\\_20121.pdf](http://southeastwatershedalliance.org/wp-content/uploads/2013/05/Final_SWA_SWStandards_Dec_20121.pdf).

<sup>10</sup> Environmental Fact Sheet: Road Salt and Water Quality, New Hampshire Department of Environmental Services, 2016. <http://des.nh.gov/organization/commissioner/pip/factsheets/wmb/documents/wmb-4.pdf>.

<sup>11</sup> Environmental Fact Sheet: Storage and Management of Deicing Materials, New Hampshire Department of Environmental Services, 2011. <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-22-30.pdf>.

accordance with NH DES published guidance (Fact Sheets WD-WMB-4 and WD-DWGB-22-30) such that no direct untreated discharges to receiving waters are possible from the storage site. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater.

- c) The selection and design of treatment and infiltration practices shall follow the guidance in Volume 2 of the New Hampshire Stormwater Manual<sup>12</sup>, where applicable.
- d) Post construction stormwater runoff from new development sites shall be controlled by:
  - 1) Retention or treatment of stormwater runoff to the MS4 by one of the following:
    - a. Require BMPs that are designed to retain the Water Quality Volume calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.10. OR
    - b. Require BMPs that are designed to remove 90% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious area<sup>13</sup> AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious area<sup>14</sup>. Pollutant removal shall be evaluated consistent with Attachment 3 to Appendix F and the Stormwater Best Management Practices (BMP) Performance Analysis<sup>15</sup> or other tools provided by EPA Region 1 consistent with these resources. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or State approved<sup>16</sup> BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
  - 2) Implement long term maintenance practices of BMPs in accordance with N.H. Code Admin. R. Part Env-Wq 1507.08.

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<sup>12</sup> New Hampshire Stormwater Manual Volume 2: Post-Construction Best Management Practices Selection & Design, New Hampshire Department of Environmental Services, December, 2008.

<http://des.nh.gov/organization/commissioner/pip/publications/wd/documents/wd-08-20b.pdf>.

<sup>13</sup> The required removal percentage is not required for each storm, it is the average removal over a year that is required

<sup>14</sup> The required removal percentage is not required for each storm, it is the average removal over a year that is required

<sup>15</sup> Stormwater Best Management Practices (BMP) Performance Analysis, Tetra Tech, Inc. for U.S. EPA Region 1, Rev. March 2010. <https://www3.epa.gov/region1/npdes/stormwater/assets/pdfs/BMP-Performance-Analysis-Report.pdf>.

<sup>16</sup> State approved includes any state in the United States, including, but not limited to, approved guidance by the State of New Hampshire

- e) Post construction stormwater runoff from redevelopment sites shall be controlled by:
- 1) Retention or treatment of stormwater runoff from the disturbed portion of the redevelopment site to the MS4 by one of the following:
    - a. Require BMPs that are designed to retain or treat the Water Quality Volume calculated in accordance with N.H. Code Admin. R. Part Env-Wq 1504.10 and be designed to remove pollutants in accordance with N.H. Code Admin. R. Part Env-Wq 1507.03; OR
    - b. Require BMPs that remove 80% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious area<sup>17</sup> AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface<sup>18</sup>. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, any federally or State approved<sup>19</sup> BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
  - 2) Implement long term maintenance practices of BMPs in accordance with N.H. Code Admin. R. Part Env-Wq 1507.08.
  - 3) Offsite mitigation within the same USGS HUC10 or smaller watershed as the redevelopment site may be used to meet the pollutant removal equivalent of the requirements in Part 2.3.6(a)ii.(e)(1)b. and the equivalent groundwater recharge requirements of Part 2.3.6(a)ii.(e)(2) above.
- f) Redevelopment that disturbs greater than 1 acre and is exclusively maintenance and improvement of existing roadways shall be exempt from Part 2.3.6(a)ii.(e). Roadway maintenance or improvements that increase the amount of impervious area on the redevelopment site shall meet the requirements of Part 2.3.6(a)ii.(e) fully.
- b. For projects subject to the ordinances required by this Part the permittee shall require the submission of as-built drawings within a specified time frame, not to exceed two years from completion of construction projects at a minimum. The as-built drawings must

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<sup>17</sup> The required removal percentage is not required for each storm, it is the average removal over a year that is required

<sup>18</sup> The required removal percentage is not required for each storm, it is the average removal over a year that is required

<sup>19</sup> State approved includes any state in the United States, including, but not limited to, approved guidance by the State of New Hampshire

depict all on-site controls designed to manage the stormwater associated with the completed site (post-construction stormwater management). The new development/redevelopment program shall have procedures to ensure adequate long-term operation and maintenance of stormwater management practices that remain in place after the completion of a construction project. These procedures may include the use of dedicated funds or escrow accounts for development projects or the acceptance of ownership by the permittee of all privately owned BMPs. These procedures may also include the development of maintenance contracts between the owner of the BMP and the permittee. Alternatively, these procedures may include the submission of an annual certification documenting the work that has been done over the last 12 months to properly operate and maintain the stormwater control measures. The procedures to require submission of as-built drawings and ensure long term operation and maintenance shall be a part of the SWMP. The permittee shall report in the annual report on the measures that the permittee has utilized to meet this requirement.

- c. Within four (4) years of the effective date of this permit, the permittee shall develop a report assessing current street design and parking lot guidelines and other local requirements that affect the creation of impervious cover. This assessment shall be used to provide information to determine if the design standards for streets and parking lots can be modified to support low impact design options. If the assessment indicates that changes can be made, the assessment shall include recommendations and proposed schedules to incorporate policies and standards into relevant documents and procedures to minimize impervious cover attributable to parking areas and street designs. The permittee shall implement all recommendations, in accordance with the schedules contained in the assessment. The permittee shall involve any local planning boards and local transportation boards in this assessment to the extent feasible. The permittee shall report in each annual report on the status of this assessment including any planned or completed changes to local regulations and guidelines.
- d. Within four (4) years from the effective date of the permit, the permittee shall develop a report assessing existing local regulations including, but not limited to, zoning and construction codes to determine the feasibility of making, at a minimum, the following green infrastructure practices allowable when appropriate site conditions exist:
  1. Green roofs;
  2. Infiltration practices such as rain gardens, curb extensions, planter gardens, porous and pervious pavements, and other designs to manage stormwater using landscaping and structured or augmented soils; and
  3. Water harvesting devices such as rain barrels and cisterns, and the use of stormwater for non-potable uses.

The assessment shall indicate whether and under what circumstances the practices are allowed in the MS4 jurisdiction. If the practices are not allowed, the permittee shall identify impediments to the use of these practices, and what changes in local regulations may be made to make them allowable, and provide a schedule for implementation of recommendations. The permittee shall implement all recommendations, in accordance with the schedules contained in the assessment. The permittee shall report in each annual

report on its findings and progress towards making the practices allowable. (Information available at:

<http://www.epa.gov/region1/npdes/stormwater/assets/pdfs/AddressingBarrier2LID.pdf> )

- e. Within four (4) years from the effective date of this permit, the permittee shall complete an inventory and priority ranking of permittee-owned property and existing infrastructure that could be retrofitted with BMPs designed to reduce the frequency, volume and pollutant loads of stormwater discharges to its MS4 through the mitigation of impervious area. Properties and infrastructure for consideration shall include those with the potential for mitigation of on-site impervious area, as well as those that could provide mitigation of off-site impervious area. At a minimum, permittees shall consider municipal property with significant impervious area (including parking lots, buildings, and maintenance yards) that could be mitigated, and open space and undeveloped land available to mitigate impervious area and associated stormwater from proximate offsite properties. MS4 infrastructure to be considered includes existing street right-of-ways, outfalls and conventional stormwater conveyances and controls (including swales and detention practices) that could be readily modified to provide reduction in frequency, volume or pollutant loads of such discharges through the mitigation of impervious cover. The permittee may also include in its inventory properties and infrastructure that are privately-held or that do not contribute stormwater to its MS4.

The inventory and priority ranking shall, at minimum, be a screening level ranking that may be based on existing or readily obtainable data. In determining the potential for retrofitting particular properties, the permittee shall consider, on a screening level and subject to availability of data, factors such as access for maintenance purposes; subsurface geology; depth to water table; site slope and elevation; and proximity to aquifers and subsurface infrastructure including sanitary sewers and septic systems. The permittee may consider public safety when evaluating potential retrofits and any other information the permittee deems relevant to the ranking. In determining its priority ranking, the permittee shall consider, on a screening level and subject to availability of data, factors such as schedules for planned capital improvements to storm and sanitary sewer infrastructure and paving projects; current storm sewer level of service; and control of discharges to impaired waters, first or second order streams, and critical receiving waters; the complexity and cost of implementation; and opportunities for public use and education. For the purposes of this Part, critical receiving waters include public swimming beaches, public drinking water supply sources, outstanding resource waters, cold water fisheries, and shellfish growing areas.

Beginning with the fifth year annual report and in each subsequent annual report, the permittee shall report on those permittee-owned properties and infrastructure inventoried pursuant to Part 2.3.6.e. that have been retrofitted with BMPs to mitigate impervious area. The permittee may also include in its annual report non-MS4 owned property that has been retrofitted with BMPs to mitigate impervious area.

### **2.3.7 Good House Keeping and Pollution Prevention for Municipal Operations**

Objective: The permittee shall implement an operations and maintenance program for permittee

operations that includes a training component and has a goal of preventing or reducing pollutant runoff and protecting water quality from all permittee operations.

#### 2.3.7.1 - Operations and Maintenance (O & M) Programs

Within two (2) years from the effective date of the permit, the permittee shall develop, if not already developed, written (hard copy or electronic) operations and maintenance procedures for the municipal activities listed below in Parts 2.3.7.1.a–c. These written O & M procedures shall be included as part of the SWMP.

The permittee must develop an inventory of all such facilities within two (2) years of the effective date of this permit. The permittee shall review this inventory annually and update as necessary.

- a. **Parks and open space:** Establish procedures to address the proper use, storage, and disposal of pesticides, herbicides, and fertilizers (PHF) including minimizing the use of these products and using them only in accordance manufacturer's instruction. Evaluate lawn maintenance and landscaping activities to ensure practices are protective of water quality. Protective practices include reduced use of PHFs, integrated pest management (IPM), recycling or proper disposal of lawn clippings and other vegetative waste, and use of native and drought resistant landscaping materials. Establish procedures for management of trash containers at parks (scheduled cleanings; sufficient number), and for placing signage in areas concerning the proper disposal of pet wastes. Establish procedures to address waterfowl congregation areas where appropriate to reduce waterfowl droppings from entering the MS4. Establish procedures to address erosion or poor vegetative cover when the permittee becomes aware of it; especially if the erosion is within 50 feet of a surface water.
- b. **Buildings and facilities where pollutants are exposed to stormwater runoff:** This includes schools (to the extent they are permittee-owned or operated), town offices, police, and fire stations, municipal pools and parking garages and other permittee-owned or operated buildings or facilities. Evaluate the use, storage, and disposal of petroleum products and other potential stormwater pollutants. Provide employee training as necessary so that those responsible for handling these products know proper procedures. Ensure that Spill Prevention Plans are in place, if applicable, and coordinate with the fire department as necessary. Develop management procedures for dumpsters and other waste management equipment. Sweep parking lots and keep areas surrounding the facilities clean to reduce runoff of pollutants.
- c. **Vehicles and Equipment:** Establish procedures for the storage of permittee vehicles. Vehicles with fluid leaks shall be stored indoors or containment shall be provided until repaired. Evaluate fueling areas owned by the permittee or used by permittee vehicles. If possible, place fueling areas under cover in order to minimize exposure. Establish procedures to ensure that vehicle wash waters are not discharged to the municipal storm sewer system or to surface waters. This permit does not authorize such discharges.
- d. **Infrastructure Operations and Maintenance**



- i. The permittee shall establish within two (2) years of the effective date of the permit a written program (hardcopy or electronic) detailing the activities and procedures the permittee will implement so that the MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants from the MS4. If the permittee has an existing program to maintain its MS4 infrastructure in a timely manner to reduce or eliminate the discharge of pollutants from the MS4, the permittee shall document the program in the SWMP.
- ii. The permittee shall conduct routine inspections, cleaning and maintenance of catch basins such that the following conditions are met:
  - Establish a schedule with the goal that the frequency of routine cleaning will ensure that no catch basin at any time will be more than 50% full. A catch basin sump is more than 50% full if the contents within the sump exceed one half the distance between the bottom interior of the catch basin to the invert of the deepest outlet of the catch basin.
  - Prioritize a 50% full limit for any catch basins serving catchments draining to impaired waters where the pollutant of concern is sedimentation/siltation, Nitrogen (Total) or Phosphorus (Total). If the majority of the waters are impaired, the permittee shall prioritize cleaning efforts based on the cause of the impairment and the potential for the MS4 to contribute to the impairment. The permittee shall document its prioritization in the SWMP.
  - Prioritize inspection and maintenance for catch basins located near construction activities (roadway construction, residential, commercial, or industrial development or redevelopment). Clean catch basins in such areas more frequently if inspection and maintenance activities indicate excessive sediment or debris loadings.
  - If a catch basin sump is more than 50% full during two consecutive routine inspections/cleaning events, the permittee shall document that finding, investigate the contributing drainage area for sources of excessive sediment loading, and to the extent practicable, abate contributing sources. The permittee shall describe any actions taken in its annual report.
  - The permittee shall document in the SWMP and in the first annual report its plan for optimizing catch basin cleaning, inspection plans, or its schedule for gathering information to develop the optimization plan. Documentation shall include metrics and other information used to reach the determination that the established plan for cleaning and maintenance is optimal for the MS4. The permittee shall keep a log of catch basins cleaned or inspected.
  - The permittee shall report in each annual report the total number of catch basins, number inspected, number cleaned, and the total volume or mass of material removed from all catch basins.
- iii. The permittee shall establish and implement procedures for sweeping and/or cleaning streets and permittee-owned parking lots. All streets with curbing and/or

catch basins in the MS4 regulated area shall be swept and/or cleaned a minimum of once per year in the spring (following winter activities such as sanding). The procedures shall also include more frequent sweeping of targeted areas determined by the permittee on the basis of pollutant load reduction potential, based on inspections, pollutant loads, catch basin cleaning or inspection results, land use, impaired or TMDL waters or other relevant factors as determined by the permittee. The permittee shall report in each annual report the number of miles cleaned and the volume or mass of material removed.

- iv. The permittee shall ensure proper storage of catch basin cleanings and street sweepings prior to disposal or reuse such that they do not discharge to receiving waters.
  - v. The permittee shall establish and implement procedures for winter road maintenance including the use and storage of salt and sand; minimize the use of sodium chloride and other salts, and evaluate opportunities for use of alternative materials; and ensure that snow disposal activities do not result in disposal of snow into waters of the United States. See NHDES, Fact Sheet WMB-3 Snow Disposal, for guidance as to selection and maintenance of snow disposal areas. For purposes of this MS4 Permit, salt shall mean any chloride-containing material used to treat paved surfaces for deicing, including sodium chloride, calcium chloride, magnesium chloride, and brine solutions.
  - vi. The permittee shall establish and implement inspection and maintenance frequencies and procedures for the storm drain systems and for all stormwater treatment structures such as water quality swales, retention/detention basins, infiltration structures, proprietary treatment devices or other similar structures. All permittee-owned stormwater treatment structures (excluding catch basins) shall be inspected annually at a minimum.
- e. The permittee shall report in the annual report on the status of the inventory required by this Part and any subsequent updates; the status of the O&M programs for the permittee-owned facilities and activities in Parts 2.3.7.1.a. – d. of this section; and the maintenance activities associated with each.
  - f. The permittee shall keep a written record (hardcopy or electronic) of all required activities including but not limited to maintenance activities, inspections and training required by Part 2.3.7.1. The permittee shall maintain, consistent with Part 4.2.1, all records associated with maintenance and inspection activities required by Part 2.3.7.1

#### 2.3.7.2 - Stormwater Pollution Prevention Plan (SWPPP)

The permittee shall develop and fully implement a SWPPP for each of the following permittee-owned or operated facilities: maintenance garages, public works yards, transfer stations, and other waste handling facilities where pollutants are exposed to stormwater. If facilities are located at the same property, the permittee may develop one SWPPP for the entire property. The SWPPP is a separate and different document from the SWMP required in Part 1.10. A SWPPP

does not need to be developed for a facility if the permittee has either developed a SWPPP or received a no exposure certification for the discharge under the Multi-Sector General Permit or the discharge is authorized under another NPDES permit.

- a. No later than two years from the effective date of the permit, the permittee shall develop and implement a written SWPPP for the facilities described above. The SWPPP shall be signed in accordance with the signatory requirements of Appendix B – Subparagraph 11.
- b. The SWPPP shall contain the following elements:

- i. **Pollution Prevention Team**  
Identify the staff on the team, by name and title. If the position is unstaffed, the title of the position will be included and the SWPPP updated when the position is filled. The role of the team is to develop, implement, maintain, and revise, as necessary, the SWPPP for the facility.
- ii. **Description of the facility and identification of potential pollutant sources.** The SWPPP shall include a map of the facility and a description of the activities that occur at the facility. The map shall show the location of the stormwater outfalls, receiving waters, and any structural controls. Identify all activities that occur at the facility and the potential pollutants associated with each activity including the location of any floor drains. These may be included as part of the inventory required by Part 2.3.7.1.
- iii. **Identification of stormwater controls.** The permittee shall select, design, install, and implement the control measures detailed in paragraph iv below to prevent or reduce the discharge of pollutants from the permittee owned facility.

The selection, design, installation, and implementation of the control measures shall be in accordance with good engineering practices and manufacturer's specifications. The permittee shall also take all reasonable steps to control or address the quality of discharges from the site that may not originate at the facility.

If the discharge from the facility is to an impaired water and the facility has the potential to discharge the pollutant identified as causing the impairment, the permittee shall identify the control measures that will be used to address this pollutant at the facility so that the discharge does not cause or contribute to a violation of a water quality standard.

- iv. The SWPPP shall include the following management practices:

**Minimize or Prevent Exposure:** The permittee shall to the extent practicable either locate materials and activities inside, or protect them with storm-resistant coverings in order to prevent exposure to rain, snow, snowmelt and runoff (although significant enlargement of impervious surface area is not recommended). Materials do not need to be enclosed or covered if stormwater

runoff from affected areas will not be discharged directly or indirectly to surface waters or to the MS4 or if discharges are authorized under another NPDES permit.

**Good Housekeeping:** The permittee shall keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals. Ensure that trash containers are closed when not in use, keep storage areas well swept and free from leaking or damaged containers; and store leaking vehicles needing repair indoors.

**Preventative Maintenance:** The permittee shall regularly inspect, test, maintain, and repair all equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in stormwater to receiving waters. Inspections shall occur at a minimum once per quarter.

**Spill Prevention and Response:** The permittee shall minimize the potential for leaks, spills, and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur. At a minimum, the permittee shall have procedures that include:

- Preventive measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling.
- Response procedures that include notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing, and cleaning up leaks, spills and other releases. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable Resource Conservation and Recovery Act (RCRA) regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the Pollution Prevention Team; and
- Contact information for individuals and agencies that shall be notified in the event of a leak, spill, or other release. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period, the permittee shall notify the National Response Center (NRC) at (800) 424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as the permittee has knowledge of the discharge. State or local requirements may necessitate reporting spills or discharges to local emergency, public health or drinking water supply agencies, and owners of public drinking water supplies. Contact information shall be in locations that are readily accessible and available.

**Erosion and Sediment Control:** The permittee shall use structural and non-

structural control measures at the facility to stabilize and contain runoff from exposed areas and to minimize or eliminate onsite erosion and sedimentation. Efforts to achieve this may include the use of flow velocity dissipation devices at discharge locations and within outfall channels where necessary to reduce erosion.

**Management of Runoff:** The permittee shall manage stormwater runoff from the facility to prevent or reduce the discharge of pollutants. This may include management practices which divert runoff from areas that are potential sources of pollutants, contain runoff in such areas, or reuse, infiltrate or treat stormwater to reduce the discharge of pollutants.

**Salt Storage Piles or Piles Containing Salt:** For storage piles of salt or piles containing salt used for deicing or other purposes (including maintenance of paved surfaces) for which the discharge during precipitation events discharges to the permittee's MS4, any other MS4 or to a Water of the United States, the permittee shall prevent exposure of the storage pile to precipitation by enclosing or covering the storage piles. Such piles shall be enclosed or covered within two (2) years of the permit effective date. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. The permittee is encouraged to store piles in such a manner as not to impact surface water resources, ground water resources, recharge areas, and wells.

**Employee Training:** The permittee shall regularly train employees who work in areas where materials or activities are exposed to stormwater, or who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel), including all members of the Pollution Prevention Team. Training shall cover both the specific components and scope of the SWPPP and the control measures required under this Part, including spill response, good housekeeping, material management practices, any best management practice operation and maintenance, etc. EPA recommends annual training.

The permittee shall document the following information for each training:

- The training date, title and training duration;
- List of municipal attendees
- Subjects covered during training

**Maintenance of Control Measures:** The permittee shall maintain all control measures, required by this permit in effective operating condition. The permittee shall keep documentation onsite that describes procedures and a regular schedule for preventative maintenance of all control measures and discussions of back-up practices in place should a runoff event occur while a control measure is off-line. Nonstructural control measures shall also be diligently maintained (e.g., spill response supplies available, personnel trained).

- v. The permittee shall conduct the following inspections:

**Site Inspections:** Inspect all areas that are exposed to stormwater and all stormwater control measures. Inspections shall be conducted at least once each calendar quarter. More frequent inspections may be required if significant activities are exposed to stormwater. Inspections shall be performed when the facility is in operation. At least one of the quarterly inspections shall occur during a period when a stormwater discharge is occurring.

The permittee shall document the following information for each facility inspection:

- The inspection date and time;
  - The name of the inspector;
  - Weather information and a description of any discharge occurring at the time of the inspection;
  - Identification of any previously unidentified discharges from the site;
  - Any control measures needing maintenance or repair;
  - Any failed control measures that need replacement.
  - Any SWPPP changes required as a result of the inspection.
- vi. If during the inspections, or any other time, the permittee identifies control measures that need repair or are not operating effectively, the permittee shall repair or replace them before the next anticipated storm event if possible, or as soon as practicable following that storm event. In the interim, the permittee shall have back-up measures in place.
- c. The permittee shall report the findings from the Site Inspections in the annual report.
- d. The permittee must keep a written record (hardcopy or electronic) of all required activities including but not limited to maintenance, inspections, and training required by Part 2.3.7.2. The permittee shall maintain all records associated with the development and implementation of the SWPPP required by this section consistent with the requirements of Part 4.2.1.

### **3.0 Additional State Requirements**

#### **3.1 Requirements for MS4s in New Hampshire**

The permittee shall evaluate physical conditions, site design, and best management practices to promote ground water recharge and infiltration where feasible in the implementation of the control measures described in Part 2.3. The permittee shall address recharge and infiltration for the control measures, as well as any reasons for electing not to implement recharge and infiltration. Loss of annual recharge to ground water should be minimized through the use of infiltration to the maximum extent practicable. Any subsurface disposal of stormwater shall be in accordance with applicable groundwater, source water protection and underground injection control requirements (see Part 1.3.j).

3.1.1. Infiltration through stormwater practices shall be prohibited under certain circumstances, including:

- a. When stormwater originates from gasoline dispensing areas at locations with state registered underground storage tanks (UST) and above ground storage tanks (AST);
- b. Within groundwater protection areas (defined under N.H. Code Admin. R. Part Env-Wq 1502.24) when stormwater originates from land uses considered a “high load area” under N.H. Code Admin. R. Part Env-Wq 1502.26; and
- c. Within areas that have contaminants in groundwater above the ambient groundwater quality standards established in N.H. Code Admin. R. Part Env-Or 603.03 or in soil above site-specific soil standards developed pursuant to Env-Or 600.

3.1.2. MS4s that discharge to coastal waters with public swimming beaches shall consider these waters a priority in implementation of the stormwater management program.

3.1.3. When updating stormwater ordinances as required in Part 2.3.6, permittees must consider adding the provisions identified in N.H. Code Admin. R. Part Env-Wq 1507.04 for groundwater recharge, N.H. Code Admin. R. Part Env-Wq 1507.05 for channel protection, and N.H. Code Admin. R. Part Env-Wq 1507.06 for peak runoff control. The last two will help communities to address concerns about streambank erosion and flooding which may cause both water quality violations and significant property damage or loss of life.

#### **3.2 New Hampshire Public Drinking Water Requirements**

3.2.1 MS4s that discharge to public drinking water sources and their source protection areas must consider these sources priority resources when implementing the control measures of Part 2.3.

3.2.2 Discharge to public drinking water supply sources and their protection areas must provide pretreatment and spill control suitable to protect drinking water sources to the extent feasible.

3.2.3 – The permittee shall avoid direct discharges to groundwater and surface water drinking water sources and ensure any discharges near source protection areas of water supply wells or intakes comply with the applicable state requirements. Stormwater systems shall meet the minimum discharge setback requirements of N.H. Code Admin. R. Part Env-Wq 1500 unless exempt under N.H. Code Admin. R. Part Env-Wq 1508.02(c). The following minimum setbacks apply to certain drinking water supply resources, including:

- a. Discharge setbacks from water supply wells in accordance with N.H. Code Admin. R. Part Env-Wq 1508.02(a); and
- b. Discharge setback of 100 feet within water supply intake protection areas as specified under N.H. Code Admin. R. Part Env-Wq 1508(b).

In groundwater protection areas and water supply intake protection areas, infiltration and filtration practices shall provide additional vertical separation to the seasonal high water table in accordance with N.H. Code Admin. R. Part Env-Wq 1500 within local regulations for projects not subject to N.H. Code Admin. R. Part Env-Wq 1500.

The permittee is encouraged to adopt similar requirements or reference these state rule requirements under N.H. Code Admin. R. Part Env-Wq 1500 within local regulations for projects not subject to N.H. Code Admin. R. Part Env-Wq 1500.

3.2.4 – The permittee shall develop and implement a plan to notify public water suppliers in the event of an emergency which has the potential to impact a water supply.



## **4.0 Program Evaluation, Record Keeping, and Reporting**

### **4.1 Program Evaluation**

4.1.1 The permittee shall annually self-evaluate its compliance with the terms and conditions of this permit. The permittee shall maintain the annual evaluation documentation as part of the SWMP.

4.1.2 The permittee shall evaluate the appropriateness of the selected BMPs in achieving the objectives and requirements of each control measure and the defined measurable goals. The permittee may change BMPs in accordance with the following provisions:

- a. Changes adding (but not subtracting or replacing) components or controls may be made at any time.
- b. Changes replacing an ineffective or infeasible BMP specifically identified in the SWMP with an alternative BMP may be made if the proposed changes meet the criteria below:

4.1.3 BMP modification documentation shall include the following information and all documentation shall be kept in the SWMP:

- a. An analysis of why the BMP is ineffective or infeasible;
- b. Expectations on the effectiveness of the replacement BMP; and
- c. An analysis of why the replacement BMP is expected to achieve the defined goals of the BMP to be replaced.

The permittee shall indicate BMP modifications along with a brief explanation of the modification in each Annual Report.

4.1.4 EPA or the state agency may require the permittee to add, modify, repair, replace or change BMPs or other measures described in the annual reports as needed:

- a. To address impacts to receiving water quality caused or contributed to by discharges from the MS4; or
- b. To satisfy conditions of this permit.

Any changes requested by EPA or the state agency will be in writing and will set forth the schedule for the permittee to develop the changes and will offer the permittee the opportunity to propose alternative program changes to meet the objective of the requested modification.

### **4.2 Record Keeping**

4.2.1 The permittee shall keep all records required by this permit for a period of at least five years. Records include information used in the development of any written program required by this permit, any monitoring results, copies of reports, records of screening, follow-up and elimination of illicit discharges; maintenance records; inspection records; and data used in the development of the notice of intent, SWMP, SWPPP, and annual reports. This list provides examples of records that should be maintained, but is not all inclusive.

4.2.2 Records other than those required to be included in the annual report, Part 4.4, shall be submitted only when requested by the EPA or the state agency.

4.2.3 The permittee shall make the records relating to this permit, including the written (hardcopy or electronic) stormwater management program, available to the public. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests. The permittee is encouraged to satisfy this requirement by posting records online.

### 4.3 Outfall monitoring

4.3.1. The permittee shall monitor and sample its outfalls at a minimum through sampling and testing at the frequency and locations required in connection with IDDE screening under Part 2.3.4.8.d. through g. and 2.3.4.9.

- i. IDDE screening shall include collection of grab samples and analysis of said samples for E. coli (for freshwater receiving waters) or enterococcus (for saline or brackish receiving waters). Bacteria analysis shall be conducted using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA in accordance with the procedures in 40 CFR §136. Other IDDE screening parameters shall be considered field screening and are not subject to 40 CFR §136 requirements.
- ii. If the discharge is directly into an impaired water, or if the discharge is subject to a waste load allocation in an approved TMDL as indicated in Appendix F, grab samples shall be collected concurrently with the IDDE investigation required by Part 2.3.4.8.e.(b) and analyzed for the pollutants identified as the cause of the impairment. The required pollutant analyses in connection with causes of impairment are provided in Appendix G.
- iii. The monitoring program may also include additional outfall and interconnection monitoring as determined by the permittee in connection with assessment of SWMP effectiveness pursuant to Part 4.1; evaluation of discharges to impaired waters pursuant to Part 2.2; assessment of BMP effectiveness pursuant to Part 2.2 or 2.3; or otherwise.

4.3.2. The permittee shall document all monitoring results each year in the annual report. The report shall include the date, outfall or interconnection identifier, location, weather conditions at time of sampling, precipitation in previous 48 hours, field screening parameter results, and results of all analyses. The annual report shall include all of this information and data for the current reporting period and may include all data for the entire permit period.

4.3.3. The permittee shall also include in the annual report results from any other stormwater or receiving water quality monitoring or studies conducted during the reporting period. If such monitoring or studies were conducted on behalf of the permittee, or if monitoring or studies

conducted by other entities were reported to the permittee, a brief description of the type of information gathered or received shall be included in the annual report(s) covering the time period(s) the information was received.

#### **4.4 Annual Reporting**

4.4.1 The permittee shall submit an annual report. The reporting period will be a one year period commencing on July 1, 2018, and subsequent anniversaries thereof, except that the first annual report under this permit shall also cover the period from May 1, 2018 to July 1, 2018. The annual report is due ninety days from the close of each reporting period.

4.4.2 The annual reports shall contain the following information:

4.4.2.1 A self-assessment review of compliance with the permit terms and conditions.

4.4.2.2 An assessment of the appropriateness of the selected BMPs.

4.4.2.3 The status of the any plans or activities required by Part 2.1 and/ or Part 2.2, including:

- a. For discharges subject to TMDLs, a description of BMPs implemented to comply with the applicable Part(s) of Appendix F;
- b. For discharges to certain impaired waters (and their tributaries for nutrient-impaired waters), a description of BMPs implemented to comply with the applicable Part(s) of Appendix F

4.4.2.4 An assessment of the progress towards achieving the measurable goals and objectives of each control measure in Part 2.3 including:

- a. Evaluation of the public education program including a description of the targeted messages for each audience; method of distribution and dates of distribution; methods used to evaluate the program; and any changes to the program.
- b. Description of the activities used to promote public participation including documentation of compliance with state public notice regulations.
- c. Description of the activities related to implementation of the IDDE program including: status of the map; status and results of the illicit discharge potential ranking and assessment; identification of problem catchments; status of all protocols described in Parts 2.3.4. (program responsibilities and systematic procedure); number and identifier of catchments evaluated; number and identifier of outfalls screened; number of illicit discharges located; number of illicit discharges removed; gallons of flow removed; identification of tracking indicators and measures of progress based on those indicators; and employee training.
- d. Evaluation of the construction runoff management including number of project plans reviewed; number of inspections; and number of enforcement actions.
- e. Evaluation of stormwater management for new development and redevelopment including status of ordinance development and review and status of the street design assessment.
- f. Status of the O&M Programs required by Part 2.3.7.1.
- g. Status of SWPPP required by Part 2.3.7.2 including inspection results.

h. Any additional reporting requirements in Part 3.0.

4.4.2.5 All outfall screening and monitoring data collected by or on behalf of the permittee during the reporting period, including but not limited to all data collected pursuant to Parts 2.3.4 and 4.3. The permittee shall also provide a description of any additional monitoring data received by the permittee during the reporting period.

4.4.2.6 Description of activities for the next reporting cycle.

4.4.2.7 Description of any changes in identified BMPs or measurable goals.

4.4.2.8 Description of activities undertaken by any entity contracted for achieving any measurable goal or implementing any control measure.

4.4.3 Reports must be submitted to EPA following address:

United State Environmental Protection Agency  
Stormwater and Construction Permits Section (OEP06-1)  
Five Post Office Square, Suite 100  
Boston, MA 02109

NHDES may request that the permittee submit reports to NHDES, upon receipt of this request the reports shall be sent to the following address:

NH Department of Environmental Services  
Wastewater Engineering Bureau  
Permits and Compliance Section  
P.O. Box 95  
Concord, NH 03302-0095

## **5.0 Non-Traditional MS4s**

Non-traditional MS4s are MS4s owned and operated by the State of New Hampshire, counties or other public agencies within the State of New Hampshire, and properties owned and operated by the United States (Federal Facilities) within the States of New Hampshire. This Part addresses all non-traditional MS4s except MS4s that are owned or operated by transportation agencies, which are addressed in Part 6.0 below.

### **5.1. Requirements for Non-Traditional MS4s**

All requirements and conditions of Parts 1 – 4 above apply to all Non-traditional MS4s, except as specifically provided below:

**5.1.1 Public education:** For the purpose of this permit, the audiences for a Non-traditional MS4 include the employees, clients and customers (including students at education MS4s) or visitors to the property, and any contractors working at the facility where the MS4 is located. The permittee may use some of the educational topics included in Part 2.3.2.1.c. as appropriate, or may focus on topics specific to the MS4. The permittee shall document the educational topics for each target audience in the SWMP and annual reports.

**5.1.2 Ordinances and regulatory mechanisms:** Some MS4s may not have authority to enact an ordinance, by-law, or other regulatory mechanisms. MS4s without the authority to enact an ordinance shall ensure that written policies or procedures are in place to address the requirements of Part 2.3.4.6.a., Part 2.3.5.3.a., Part 2.3.6.a., and Part 2.3.6.b. They may rely on EPA, the State environmental agency or State Attorney General Office for enforcement assistance.

**5.1.3 Assessment of Regulations:** Non-traditional MS4s do not need to meet the requirements of Part 2.3.6.c and Part 2.3.6.d. Non-traditional MS4s shall instead evaluate opportunities to include green infrastructure practices in new development and redevelopment at their facilities. Non-traditional MS4s shall evaluate opportunities to reduce the amount of impervious cover due to parking areas and walkways. Non-traditional MS4s shall report on these efforts in each annual report. The permittee shall also ensure adequate long-term operation and maintenance of stormwater management practices installed by the non-traditional MS4 or its agents.

#### **5.1.4 New Dischargers**

New MS4 facilities are subject to additional water quality-based requirements if they fall within the definition of “new dischargers” under 40 CFR § 122.2: “A new discharger is any building, structure, facility or installation (a) from which there is or may be a ‘discharge of pollutants’ (b) that did not commence the ‘discharge of pollutants’ at a particular ‘site’ prior to August 13, 1979; (c) which is not a ‘new source’; and (d) which never received a finally effective NPDES permit for discharges at that ‘site.’ The term “site” is defined in §122.2 to mean “the land or water area where any ‘facility or activity’ is physically located or conducted including adjacent land used in connection with the facility or activity.”

Consistent with these definitions, a Non-traditional MS4 is a “new discharger” if it discharges stormwater from a new facility with an entirely new separate storm sewer system that is not

physically located on the same or adjacent land as an existing facility and associated system operated by the same MS4.

Any Non-traditional MS4 facility that is a “new discharger” and discharges to waterbody listed in category 5 or 4b on the most recent EPA approved New Hampshire Integrated Report of waters listed pursuant to Clean Water Act, section 303(d) and 305(b) due to nutrients (Total Nitrogen or Total Phosphorus), metals (Cadmium, Copper, Iron, Lead, or Zinc), solids (TSS or Turbidity), bacteria/pathogens (E. Coli, Enterococcus or Fecal Coliform), chloride (Chloride) or oil and grease (Oil Slicks or Benzo(a) pyrene (PAHs), or discharges to a waterbody with an approved TMDL for any of those pollutants, is not eligible for coverage under this permit and shall apply for an individual permit.

Any Non-traditional MS4 facility that is a “new discharger” and discharges to a waterbody that is in attainment is subject to New Hampshire antidegradation regulations at N.H. Code Admin. R. Part Env-Wq 1708. The permittee shall comply with the provisions of N.H. Code Admin. R. Part Env-Wq 1708.04 and N.H. Code Admin. R. Part Env-Wq 1708.06 including information submittal requirements and obtaining authorization for new discharges as appropriate<sup>20</sup>. Any authorization of new discharges by NHDES shall be incorporated into the permittee’s SWMP. If an applicable NHDES approval specifies additional conditions or requirements, then those requirements are incorporated into this permit by reference. The permittee must comply with all such requirements.

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<sup>20</sup> Contact NHDES for guidance on compliance.

## **6.0 Requirements for Transportation Agencies**

A transportation agency is the state agency responsible for operation and maintenance of the state owned roadways (New Hampshire Department of Transportation -NHDOT). All requirements and conditions of this permit apply with the following exceptions:

**6.1 Public education:** For the purpose of this permit, the audiences for a transportation agency education program include the general public (users of the roadways), employees, and any contractors working at the location. The permittee may use some of the educational topics included in Part 2.3.2.1.c. as appropriate, or may focus on topics specific to the agency. The permittee shall document the educational topics for each target audience in the SWMP and annual reports.

**6.2 Ordinances and regulatory mechanisms:** The transportation agency may not have authority to enact an ordinance, by-law or other regulatory mechanisms. The agency shall ensure that written agency policies or procedures are in place to address the requirements of Part 2.3.4.6.a., Part 2.3.5.3.a., Part 2.3.6.a., and Part 2.3.6.b. These agencies may rely on EPA or the State environmental agency for enforcement assistance.

**6.3 Assessment of regulations:** The requirements of Part 2.3.6.c. and Part 2.3.6.d. do not apply. The agency shall instead evaluate opportunities to include green infrastructure practices in new development and redevelopment at the facility. The agency shall evaluate opportunities to reduce the amount of impervious cover due to parking areas and walkways. The permittee shall report on these efforts in each annual report. The permittee shall also ensure adequate long-term operation and maintenance of stormwater management practices installed by the agency or its agents.

## **6.4 New Dischargers**

New MS4 facilities are subject to additional water quality-based requirements if they fall within the definition of “new dischargers” under 40 CFR § 122.2: “A new discharger is any building, structure, facility or installation (a) from which there is or may be a ‘discharge of pollutants’ (b) that did not commence the ‘discharge of pollutants’ at a particular ‘site’ prior to August 13, 1979; (c) which is not a ‘new source’; and (d) which never received a finally effective NPDES permit for discharges at that ‘site.’ The term “site” is defined in §122.2 to mean “the land or water area where any ‘facility or activity’ is physically located or conducted including adjacent land used in connection with the facility or activity.”

Consistent with these definitions, a new transportation MS4 is a “new discharger” if it discharges stormwater from a new facility with an entirely new separate storm sewer system that is not physically located on the same or adjacent land as an existing facility and associated system operated by the same MS4.

Any transportation MS4 facility that is a “new discharger” and discharges to a waterbody listed as impaired in category 5 or 4b on the most recent EPA approved New Hampshire Integrated Report of waters listed pursuant to Clean Water Act section 303(d) or 305(b) due to nutrients (Total Nitrogen or Total Phosphorus), metals (Cadmium, Copper, Iron, Lead or Zinc), solids

(TSS or Turbidity), bacteria/pathogens (E. Coli, Enterococcus or Fecal Coliform), chloride (Chloride) or oil and grease (Oil Slicks or Benzo(a) pyrene (PAHs)) or discharges to a waterbody with an approved TMDL for any of those pollutants, is not eligible for coverage under this permit and shall apply for an individual permit.

Any transportation MS4 facility that is a “new discharger” and discharges to a waterbody that is in attainment is subject to New Hampshire antidegradation regulations at N.H. Code Admin. R. Part Env-Wq 1708. The permittee shall comply with the provisions of N.H. Code Admin. R. Part Env-Wq 1708.04 and N.H. Code Admin. R. Part Env-Wq 1708.06 including information submittal requirements and obtaining authorization for new discharges as appropriate<sup>21</sup>. Any authorization of new discharges by NHDES shall be incorporated into the permittee’s SWMP. If an applicable NHDES approval specifies additional conditions or requirements, then those requirements are incorporated into this permit by reference. The permittee must comply with all such requirements.

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<sup>21</sup> Contact NHDES for guidance on compliance.



## Chamber of Commerce Lease of 120 Water Street

**Purpose:** To provide a visible and convenient downtown location for the Chamber of Commerce to act as a visitor and information Center.

**Information:** There is a need for a visitor and information center in downtown Exeter. This need is evidenced by the number of people who find their way to the Chamber's current location (in spite of it being somewhat out of the way) seeking information about Exeter and what to do while visiting. In addition, the Chamber hears from businesses, organizations and other government offices that they too are often approached for information about Exeter and available activities.

The community's organizations such as the Exeter Historical Society, AIM, parks and rec and others would benefit from a central point of information to help visitors and residents find their facilities and know of their event schedule.

There are no trained ambassadors (NH Dept. of Tourism Ambassador program) for Exeter or are there any organizations from which they might work.

**Recommendation:** The Chamber of Commerce Exeter Committee has focused much of their discussion around increasing foot traffic in the downtown area. As part of that discussion, improving visitor and resident experience in downtown is identified as a key need.

Operating a visitor and information center would provide the service to fill the need for information benefiting all organizations. This service will improve the overall value for visitors while in Exeter, increase patronage of the community's cultural assets and help to strengthen the Exeter economic ecosystem.

The Chamber proposes to provide visitor and information services and to maintain both a paid staff and NH state trained ambassadors focusing on the Greater Exeter Area 7 days a week during vacation months/peak seasons and as needed during winter and shoulder seasons.

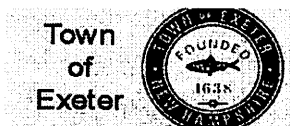
The location at 120 Water Street would be an ideal location for such a service and serve as an excellent partner opportunity between public and private organizations.

-Draft-  
Agreement Between The Town of Exeter (Town)  
and  
The Exeter Area Chamber of Commerce (Chamber)

1. **Term:** This lease shall start on \_\_\_\_\_ and shall continue for twelve (12) months, through \_\_\_\_\_.
2. **Extension:** The Chamber will have the option to extend the lease at the end of the lease for an additional twelve (12) month and may extend the lease on each anniversary thereafter for an additional twelve (12) months.
3. **Rent:** The Chamber shall pay an annual rent of \$5,000.00 for each 12-month period payable in 12 equal monthly installments due on the first business day of each month.
4. **Property Taxes:** The Chamber acknowledges the lessee's obligations to pay property taxes per RSA 72-23. It is agreed that the aforementioned rent of \$5,000 per year includes any real or personal property tax obligations. Further, it is agreed that the lessee shall have no obligation to pay real or personal property taxes on structures or improvements added to benefit the Town.
5. **Leased Space:** The space leased shall be one room shown in the attached sketch formally occupied by the Exeter District Court and the room on the second floor currently used as storage by the Chamber. The sketch is hereby made part of this lease (referred to as Appendix A).
6. **Utilities:** The Town agrees to provide electrical service, heat, water and sewer for said space for no additional cost.
7. **Visitor and Tourism Services:** The Chamber agrees to provide visitor and tourism services to the general public from the leased space as it deems appropriate.
8. **Custodial Services:** The Chamber agrees to provide routine custodial services (cleaning, trash removal, maintenance of Chamber owned equipment, furniture and fixtures) for the leased space at the Chamber's expense. The Town agrees to provide all other maintenance services at the Town's expense.
9. **Alteration of Premises:** The Chamber agrees to obtain prior Town approval for any renovations.
10. **Signage:** The Chamber will place exterior signage and lettering on the building as is permitted by Town sign ordinance and may use the hardware above the exterior door for this purpose. The signage will indicate that the space is offices for the Chamber of Commerce and a Visitor Center.
11. **Termination:** The Town may terminate this lease with 30 days notice to the Chamber.
12. **Insurance:** The Chamber will carry appropriate liability insurance, naming the Town as an additional insured.
13. **Improvements:** The Chamber may upgrade the space with new flooring, repaired judges bench, reinstallation of the judges bar, painting and the installation of office cubicles at its own expense. The Chamber may install an

air filter system and vent-less air conditioning the expense of which shall be reimbursed by the Town in the form of a rent credit. This credit will be applied to subsequent rent payments.

The parties hereby agree to the terms of this lease by affixing their signatures on this \_\_\_\_ day of \_\_\_\_\_, 2017.



Russ Dean <rdean@exeternh.gov>

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## Board of Selectpersons - EACC

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Jonathan Ring <jring@jonesandbeach.com>

Wed, Apr 5, 2017 at 5:41 PM

To: Russ Dean <rdean@exeternh.gov>

Cc: Ann Schieber <annschieber@hotmail.com>, Todd Deluca <todd@exeterarea.org>

Dear Board of Selectpersons,

As a resident of Exeter, I wish to express my sincere support for the offer recently received from the Exeter Area Chamber of Commerce to establish an office with a Visitor and Tourist Center downtown. It is my understanding that this would be located in the lower level west of the Town Hall on Water Street.

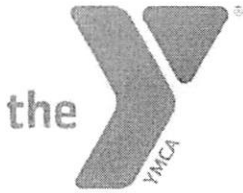
I think that this use would be excellent for the Town, and that it will provide a valuable resource for our many tourist visitors.

Furthermore, I understand that the Chamber is willing to spend its own funds to upgrade the current-empty space to make it ready for use. Should they ever vacate, then those improvements could possibly benefit the Town at no additional expense.

Thank you all so very much for your valuable service to our beloved community.

Jonathan Ring  
71 Park Street, Exeter

Sent from my Phone



FOR YOUTH DEVELOPMENT<sup>®</sup>  
FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY

March 31, 2017

Town of Exeter Select Board  
c/o Russ Dean  
10 Front Street  
Exeter, NH 03833

RE: Chamber of Commerce relocation to serve as Tourist Office

Dear Members of the Town of Exeter Select Board,

I am writing to you in support of the proposed relocation of the Exeter Area Chamber of Commerce to currently vacant space next to the town's Finance Department in the old Town Hall. This move will increase the dissemination of information that visitors are looking for in a town attracting tourists.

Exeter has so much to offer visitors and residents. A visible Chamber office that is open on weekends will encourage potential visitors to explore Exeter and those already here to discover additional businesses and activities otherwise unknown to them.

Given the competitive rental market, it would be near impossible for the Chamber to provide business-positive services to visitors in any other street-level space. The existence of an active Chamber of Commerce and a tourist information office in Exeter lessens the tax burden of all residents by removing this service from government obligation.

I encourage you to please support the Chamber's offer to occupy the space on Water Street as proposed. Thank you.

Sincerely,

Rob Roy McGregor  
President/CEO  
SOUTHERN DISTRICT YMCA

SOUTHERN DISTRICT YMCA  
ADMINISTRATIVE OFFICE  
56 Linden Street  
Exeter, NH 03833  
sdymca.org

EXETER AREA YMCA  
56 Linden Street  
Exeter, NH 03833  
ExeterYMCA.org

YMCA CAMP LINCOLN  
67 Ball Road | P.O. Box 729  
Kingston, NH 03848  
YMCACampLincoln.org

YMCA SCHOOL AGE CHILD CARE  
56 Linden Street, Annex  
Exeter, NH 03833  
sdymca.org

CONTACT US  
P 603 642 3361  
F 603 642 4340  
E info@sdymca.org

Town  
of  
Exeter



Russ Dean <rdean@exeternh.gov>

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## Support for the Exeter Area Chamber of Commerce

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Ann G. Schieber <annschieber@hotmail.com>  
To: "rdean@exeternh.gov" <rdean@exeternh.gov>  
Cc: Todd Deluca <todd@exeterarea.org>

Wed, Apr 5, 2017 at 7:47 PM

Dear Selectmen,

On behalf of the Board of Trustees for the Exeter Historical Society please accept our support for the request by the Exeter Area Chamber of Commerce to establish the office with the Visitor and Tourist Center downtown to be located in the lower west of the Town Hall on Water Street.

I think this is a fantastic idea and would bring great benefit to all organizations in our community.

Thank you very much for your favorable decision to accept their request.

Sincerely,

Ann

*Ann Gustafson Schieber*

Chairman  
Exeter Historical Society  
<http://www.exeterhistory.org>

15 Main Street  
Exeter, NH 03833  
(603) 770-2744

# List for Selectmen's meeting April 10, 2017

## Disability Exemption

<b>Map/Lot</b>	<b>Location</b>	<b>Amount</b>
104/79/1004	1004 Camelot Dr	125,000

## Abatement

<b>Map/Lot</b>	<b>Location</b>	<b>Amount</b>
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## Elderly Exemption

<b>Map/Lot</b>	<b>Location</b>	<b>Exemption</b>
104/79/705	705 Nottingham Dr	152,251
94/22	2 Gary Lane	183,751
103/13/8	8 Joanne Ct	152,251

## Yield Tax

<b>Map/Lot</b>	<b>Location</b>	<b>Amount</b>
44/4	Brentwood Town Line	\$960.26

**AMEND CHAPTER 14 ASSIGNING STREET NAMES AND NUMBERS –  
EXETER TOWN ORDINANCES**

DELETE:

The existing Chapter 14 Assigning Street Names and Numbers in its entirety and

REPLACE with:

The new Chapter 14 Assigning Street Names and Numbers dated February 17, 2017.

Signed this 10<sup>th</sup> day of April, 2017

Exeter Board of Selectmen

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Don Clement, Chairman

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Anne L. Surman, Vice-Chairman

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Kathy Corson, Clerk

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Daniel Chartrand

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Julie D. Gilman

Effective Date: March 13<sup>th</sup> 2017

First reading: 2/20/17,

Second reading: 2/27/17,

Third/Final reading: 3/13/17





# EXETER PUBLIC WORKS DEPARTMENT

13 NEWFIELDS ROAD • EXETER, NH • 03833-4540 • (603) 773-6157 • FAX (603) 772-1355

[www.exeternh.gov](http://www.exeternh.gov)

## MEMO

DATE: April 7, 2017

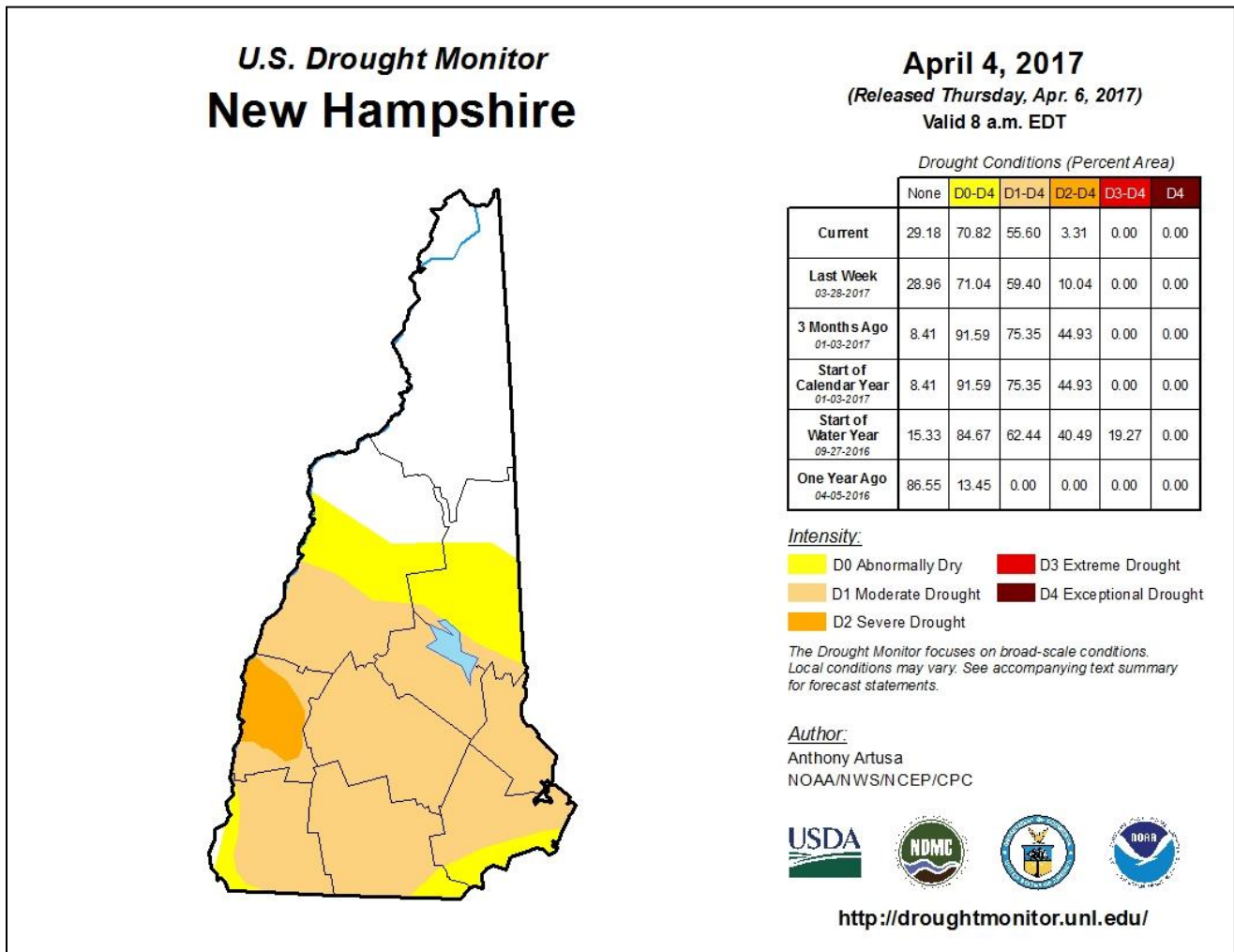
TO: Exeter Board of Selectmen

FROM: Jennifer R. Perry, P.E., Public Works Director

RE: Water Resources Status & Drought Update

### New Hampshire Drought Monitor

The following graphic summarizes the current drought conditions in New Hampshire.



The National Drought Summary for April 4, 2017 indicates Exeter and the NH seacoast area are in Moderate Drought (D1) conditions, except for a narrow band just north of the Massachusetts border that is Abnormally Dry (D0). Although this is an improvement from the Extreme Drought conditions that persisted through the end of 2016, it is drier than the same time last year.

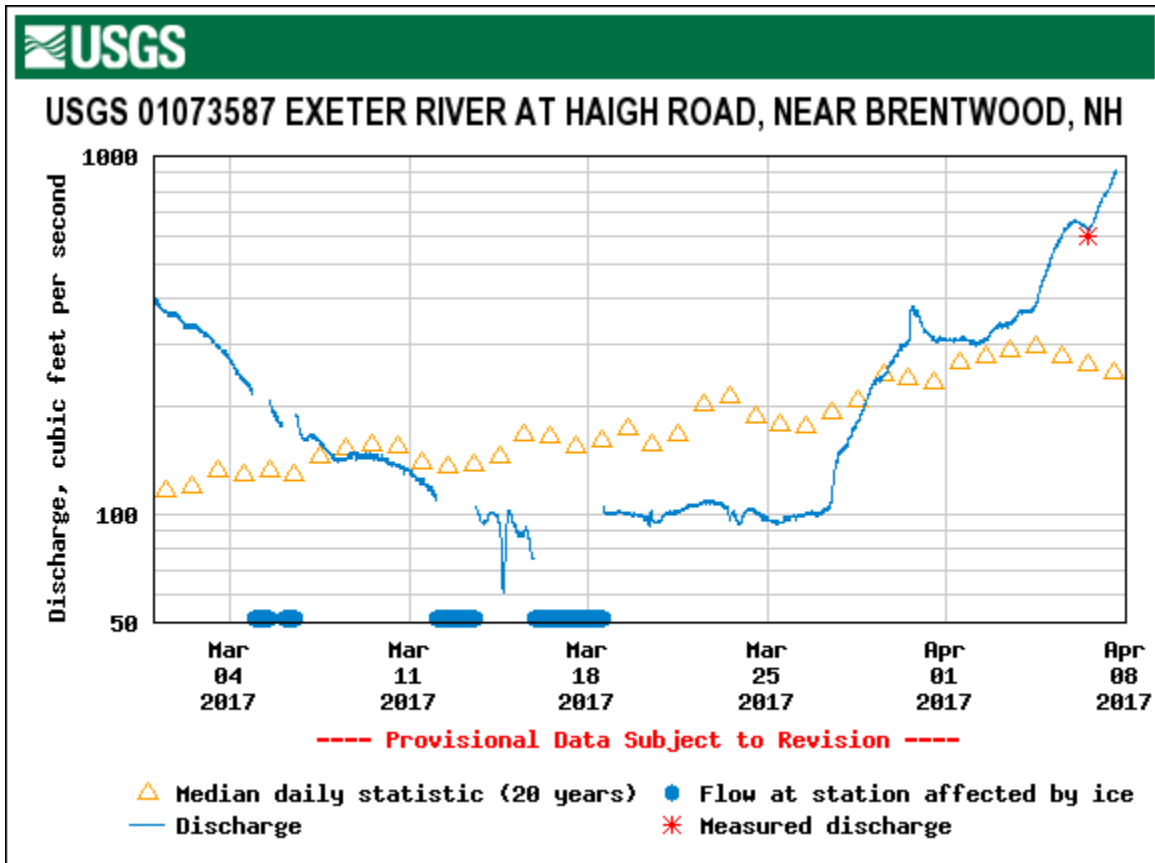
### **Groundwater Levels**

Currently the groundwater levels for long-term monitoring wells in the region are considered below average. USGS wells in Epping and Deerfield are recovering from the drought, but are still below the median levels for the month (25 percentile).

Gilman and Stadium wells have only been in production in their revitalized conditions for a little over a year. Their historical use is limited. Additional information will be provided as it becomes available. Current static levels are below static levels measured in 2009 during the early permitting and redevelopment phases of the wells.

### **River Flow**

Moderate precipitation and snowpack melt over the last two weeks has resulted in significant increases in surface water flow rates. The USGS stream flow gauge on the Exeter River at Haigh Road in Brentwood indicates current discharge is 911 cubic feet per second (cfs), which is a new maximum flow for this date for the 20 years of record for this gauge.



**Water Supply**

The Reservoir on Dearborn Brook (Waterworks Pond) is the current source of water for the surface water treatment plant (SWTP). For the month of March 2017, the SWTP produced 18,196,564 gallons of water, or 59% of demand. The groundwater treatment plant (GWTP) produced 12,494,214 gallons, or 41% of demand. The combined volume surface and groundwater for the month was 30,690,778 gallons, which averages out to 1.0 million gallons per day (MGD).

The surface water supply will be switched over from the Reservoir to the Exeter River in the next few weeks. Staff are also reviewing increasing surface water production during this high surface water flow period in order to reduce groundwater use and conserve it for use during low precipitation periods.

The Epping Road elevated water storage tank is scheduled for maintenance (recoating and installation of ventilation) and will be taken off line for 6 weeks starting in May. This maintenance was deferred from last fall during the peak of the drought, but cannot be deferred any longer.

EXETER TOWN ORDINANCES

1610 Water Use Restrictions

- 1610.1 The purpose of this ordinance is to ensure the use of water is regulated in a manner the Town of Exeter Board of Selectmen (Board) deems to be in the best interests of the Town of Exeter. The Board may use reasonable means to protect, preserve and maintain the public health, safety and welfare when a water supply shortage exists.
- 1610.2 The Town of Exeter adopts this - ordinance under its authority to regulate public water systems under RSA 38:26 and to restrict the use of private wells to water lawns under RSA 41:11-d.
- 1610.3 The requirements of this section shall apply to all water users with connections receiving water from the Exeter Water Department and, under state or federally declared drought conditions, all residential well users within the Town.
- 1610.4 By definition, a water supply shortage is a situation when insufficient water is available to meet the present or anticipated needs of the water system. A water supply shortage usually occurs due to drought or a major infrastructure failure.
- 1610.5 Upon declaration of a State of Water Supply Shortage or other water emergency the Board shall be authorized to determine and implement restrictions necessary to conserve and maintain adequate reserves of the public water supply. Provided there is a declaration as noted above, the following levels of progressive restriction will apply immediately after the public notification period specified in 1610.6.
- a. If the Board issues a Level 1 restriction, then
    - i. The public is requested to refrain voluntarily from landscape watering and to limit the amount of water used outdoors for other purposes.
    - ii. Landscape watering shall not occur between the hours of 8 am and 7 pm.
  - b. If the Board issues a Level 2 restriction, then
    - i. Landscape watering by odd numbered addresses is allowed on odd numbered days.
    - ii. Landscape watering by even numbered addresses is allowed on even numbered days.
    - iii. Landscape watering shall not occur between the hours of 8 am and 7 pm.

- c. If the Board issues a Level 3 restriction, then
  - i. Landscape watering by odd numbered addresses is allowed on Mondays and Thursdays.
  - ii. Landscape watering by even numbered addresses is allowed on Tuesdays and Fridays.
  - iii. Landscape watering shall not occur between the hours of 8 am and 7 pm.

If the Board issues a Level 4 restriction, then

- i. Landscape watering is prohibited.
- ii. The filling of swimming pools greater than 100 gallons capacity is prohibited.
- iii. Washing of streets, driveways, sidewalks or other impervious areas is prohibited.
- iv. Washing of vehicles or boats at a non-commercial facility shall be prohibited.

1610.6 Notification of intent to implement water use restrictions by the Board due to a water supply shortage shall be posted three days prior to effective date in two public locations and published in a newspaper of general circulation within the town of Exeter or by such other means reasonably determined to notify all affected water users.

1610.7 The Board upon a determination that the water supply shortage no longer exists may terminate a State of Water Supply Shortage. Public notification of the termination of a State of Water Supply Shortage shall be given in accordance with 1610.6.

1610.8 Exceptions to restrictions include the following

- a. Hand irrigation of crops used for food by residents at a residential property shall not be restricted.
- b. Water to sustain animal life shall not be restricted.
- c. Commercial car washes, cash crops, farms, flower shops or garden centers shall not be restricted.
- d. Despite the authority granted by 1610.2, orders imposing water use restrictions shall not apply to uses that obtain water from sources other than the public water supply, unless it can be clearly demonstrated that the use of such water directly affects the public water supply. Note: Municipalities have the authority to implement lawn watering restrictions in accordance with RSA 41:11-d applicable to all water users (including those using private wells) under state declared drought conditions.

1610.9 Any person failing to comply with the restrictions imposed pursuant to this ordinance shall be subject to a fine and/or be subject to imposition of civil penalties pursuant to RSA 38:26, II not to exceed \$10,000 per day of such

violation. Recovered penalties shall be used as the Town of Exeter may direct. In addition to the foregoing penalties, the Town of Exeter is authorized to discontinue the furnishing of water where orders and restrictions have been violated. Such discontinuance shall be made pursuant to RSA 38:31 and may be continued so long as there is evidence that the violations will continue.

First violation:       Written warning delivered to site of violation  
Second violation:     \$100 fine  
Third violation:       \$500 fine and discontinuance of water service.

All current fees will be applicable in addition to fines including but not limited to fees for water shut-off and turn-on.

HB 329 - AS AMENDED BY THE SENATE

04/06/2017 1322s

04/06/2017 1332s

2017 SESSION

17-0578

01/06

HOUSE BILL **329**

AN ACT establishing a committee to study balance billing and authorizing municipal ratification of certain meetings and elections.

SPONSORS: Rep. Luneau, Merr. 10; Rep. Myler, Merr. 10; Rep. Wallner, Merr. 10; Rep. Butler, Carr. 7; Rep. Williams, Hills. 4; Rep. Cahill, Rock. 17; Rep. Knirk, Carr. 3; Sen. Feltes, Dist 15

COMMITTEE: Commerce and Consumer Affairs

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AMENDED ANALYSIS

This bill establishes a committee to study balance billing by health care providers.

This bill also provides for municipal ratification of postponed meetings and elections scheduled to occur March 14, 2017.

.....

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 329 - AS AMENDED BY THE SENATE

04/06/2017 1322s  
04/06/2017 1332s

17-0578  
01/06

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT establishing a committee to study balance billing and authorizing municipal ratification of certain meetings and elections.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Committee Established. There is established a committee to study balance billing by health  
2 care providers.

3 2 Membership and Compensation.

4 I. The members of the committee shall be as follows:

5 (a) Four members of the house of representatives, appointed by the speaker of the house  
6 of representatives.

7 (b) One member of the senate, appointed by the president of the senate.

8 II. Members of the committee shall receive mileage at the legislative rate when attending to  
9 the duties of the committee.

10 3 Duties. The committee shall study the practice of balance billing by health care providers for  
11 services received by an insured person at an in-network health care facility.

12 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from  
13 among the members. The first meeting of the committee shall be called by the first-named house  
14 member. The first meeting of the committee shall be held within 45 days of the effective date of this  
15 section. Three members of the committee shall constitute a quorum.

16 5 Report. The committee shall report its findings and any recommendations for proposed  
17 legislation to the speaker of the house of representatives, the president of the senate, the house  
18 clerk, the senate clerk, the governor, and the state library on or before November 1, 2017.

19 6 Authorization for Municipal Ratification of Meetings and Elections.

20 I. Due to the concern about an impending snowstorm, some New Hampshire towns and  
21 school districts rescheduled their 2017 elections from Tuesday, March 14, 2017 to various later  
22 dates. The towns and school districts assert that this unprecedented action was based on advice of  
23 lawyers for the New Hampshire Municipal Association and other counsel. This advice was given  
24 despite the absence of any mechanism to accommodate such a rescheduling with regard to other  
25 provisions of New Hampshire election law. This advice was also directly contrary to both the  
26 political calendar and the election procedure manual, which are required to be prepared  
27 cooperatively by the secretary of state and the attorney general and distributed to local election  
28 officials. Those who advised local officials that they had the authority to reschedule elections have  
29 placed some municipalities in an untenable position. Of particular concern to the general court was  
30 the lack of notification for rescheduled elections and the irregular process of absentee voting and



**HB 329 - AS AMENDED BY THE SENATE**

**- Page 2 -**

1 recounts. These municipalities must now choose to accept the ramifications of the decision to  
2 reschedule their elections or to seek ratification of that decision. Either option will likely result in  
3 the disenfranchisement of voters. Since local voters were the ones most directly affected by the  
4 unprecedented act of moving election day this act gives those voters a voice in the solution. This act  
5 seeks to implement ratification as the least detrimental of 2 unfortunate options, but not to  
6 establish precedent or to authorize these actions in future elections. This act is not intended to  
7 absolve any legal counsel of liability for the advice given.

8 II. This act applies to all towns, village districts, and school districts that postponed their  
9 meetings or elections that were scheduled to occur March 14, 2017, regardless of whether they have  
10 adopted RSA 40:13.

11 III. All elections of individuals to serve as members of a governing body of a political  
12 subdivision, school board, or any other elected position are hereby legalized, ratified, and confirmed.

13 IV. All actions, votes, and proceedings, held at any town election, town meeting, school  
14 district election, school district meeting, village district election, or village district meeting, that was  
15 scheduled to take place March 14, 2017, but was postponed due to weather and was held at a later  
16 date, may be legalized, ratified, and confirmed by the governing body of the political subdivision  
17 following a properly noticed public meeting.

18 V. The decision of the governing body to legalize, ratify, and confirm the prior actions shall  
19 be in writing and shall be posted in the same manner as the results of the election, town meeting,  
20 school district election, school district meeting, village district election, or village district meeting,  
21 as the case may be.

22 7 Effective Date. This act shall take effect upon its passage.