

# MUNICIPAL CODE



## TABLE OF CONTENTS

### **CHAPTER 1 DEFINITIONS** **8**

### **CHAPTER 2 GENERAL REGULATION OF PUBLIC STREETS** **10**

SECTION 201: ENACTMENT AUTHORITY:	10
SECTION 202:	10
SECTION 203:	10
SECTION 204:	10
SECTION 205:	11
SECTION 206:	11
SECTION 207:	12
SECTION 208:	12
SECTION 209:	12
SECTION 210: APPEAL	13

### **CHAPTER 3 PUBLIC PARKS** **14**

301 PARKS DEFINED	14
302 ADMINISTRATION AND OPERATION	15
303 PERMIT—REQUIRED WHEN— APPLICATION AND FEES	15
304 GROUPS MAY NOT IMPOSE USE CHARGES	15
305 PERMITS	15
306 PERMIT—CANCELLATION CONDITIONS	15
307 PARK HOURS	15
308 SPEED	16
309 MOTOR VEHICLES	16
310 ANIMALS	16
311 DISORDERLY CONDUCT	16
312 BATHING	16
313 PUBLIC NUDITY	16
314 USE OF TOBACCO, MARIJUANA, AND SMOKING PROHIBITED	17
315 ALCOHOLIC BEVERAGES / CONTROLLED SUBSTANCES	17
316 FIRE	17
317 FIREWORKS	17
318 FIREARMS / HUNTING	17
319 INJURING BIRDS, NESTS, EGGS OR ANIMALS	18
320 RUBBISH AND RECYCLING	18
321 VENDING AND SOLICITING PROHIBITED	18
322 DRONES	18
323 METAL DETECTORS	18

Essex Junction	Municipal Code
324 CUTTING, PRUNING OR REMOVING TREES, SHRUBS, PLANTS	18
325 PLANTING OF TREES	19
326 DAMAGE TO PARKS	19
327 ENFORCEMENT	19
328 VIOLATIONS – PENALTIES	19
329 SEVERABILITY	20
<b>CHAPTER 4 REGULATION OF THE USE OF FIREARMS AND BOWS AND ARROWS</b>	<b>21</b>
<b>SECTION 401:</b>	<b>21</b>
<b>CHAPTER 5 REGULATION OF DOGS</b>	<b>22</b>
502 - PURPOSE	22
503 – DEFINITIONS	22
504 - LICENSE REQUIREMENTS	23
505 - FALSIFYING DOCUMENTS	23
506 - INVESTIGATION OF VICIOUS DOGS	23
507 - POTENTIALLY VICIOUS DOGS	24
508 - DOG BITES	24
509 - DISTURBANCE BY SOUND	24
510 - RUNNING AT LARGE	24
511 - DOG WASTE	25
512 - IMPOUNDING—CONTRACTING FOR SERVICES	25
513 - IMPOUNDING—AUTHORIZED WHEN—NOTICE TO OWNER	25
514 - IMPOUNDMENT—RELEASE CONDITIONS	25
515 - UNCLAIMED DOGS—OWNER RESPONSIBLE FOR COSTS	26
516 - INTERFERENCE WITH IMPOUNDMENT PROHIBITED	26
517 - CONFINEMENT OF ANIMALS	26
518 – ENFORCEMENT	26
519 - VIOLATIONS – PENALTIES	26
520 – SEVERABILITY	27
521 - APPEAL RIGHTS	27
<b>CHAPTER 6 PUBLIC NUISANCE</b>	<b>28</b>
SECTION 601 - AUTHORITY	28
SECTION 602 - PURPOSE	28
SECTION 603 - DEFINITIONS	28
SECTION 604 - DISORDERLY CONDUCT	31
SECTION 605 - EXCESSIVE SOUND	31
SECTION 606 - PUBLIC URINATION / DEFECATION	34

SECTION 607 - PUBLIC NUDITY	34
SECTION 608 - SOLICITING GENERAL PROVISIONS	34
SECTION 609 - SOLICITATING - REGULATIONS	35
SECTION 610 - SOLICITING – VIOLATIONS	35
SECTION 611 - AGGRESSIVE PANHANDLING PROHIBITED	36
SECTION 612 - DEFACING BUILDINGS, STRUCTURES AND SIGNS	36
SECTION 613 - ALCOHOL	36
SECTION 614 - OPEN FIRES	37
SECTION 615 - FIREWORKS	37
SECTION 616 - ENFORCEMENT	37
SECTION 617 - VIOLATIONS – PENALTIES	37
SECTION 618 - SEVERABILITY	38

## **CHAPTER 8 AN ORDINANCE RELATING TO MOTOR VEHICLE REGULATIONS** **39**

SECTION 801. PARKING:	39
SECTION 802:	40
SECTION 803. LIMITED TIME PARKING:	40
SECTION 804. RESIDENT ONLY PARKING:	41
SECTION 810. OTHER PARKING RESTRICTIONS:	42
SECTION 815. WINTER PARKING BAN:	42
SECTION 818. VILLAGE PARKING LOTS:	42
SECTION 820. TEMPORARY PARKING BAN:	43
SECTION 825. VIOLATION DEEMED NUISANCE - NOTICE, TOWING & CHARGES:	43
SECTION 830. ONE WAY STREETS:	44
SECTION 835: BICYCLE PATH	45
SECTION 840: PROHIBITED RIGHT-HAND TURNS	45
SECTION 841: PROHIBITED LEFT-HAND TURNS:	45
SECTION 846: SPEED LIMITS	46
SECTION 847:	47
SECTION 848: STOP SIGNS	47
SECTION 849: TRAFFIC LIGHTS	50
SECTION 850:	50
SECTION 851:	51
SECTION 852: PROHIBITION OF TRUCKS	51
SECTION 853. PROHIBITED PASSING:	51
SECTION 855:	51

## **CHAPTER 9 ENFORCMENT** **52**

SECTION 901:	52
SECTION 902:	52
SECTION 903:	52

SECTION 904:	52
SECTION 905:	53

---

<b>CHAPTER 11 REGULATIONS OF WASTE DISPOSAL</b>	<b>54</b>
---	-----------

---

SECTION 1101. AUTHORITY:	54
SECTION 1102. PURPOSE:	54
SECTION 1103. DEFINITIONS:	54
SECTION 1104. REGULATION OF DISPOSAL OF WASTE MATERIAL:	54
SECTION 1105. ENFORCEMENT:	54
SECTION 1106. PENALTIES:	55

---

<b>CHAPTER 12 REGULATION OF THE PLACEMENT OF NEWSRAKS IN THE PUBLIC RIGHT-OF-WAY</b>	<b>56</b>
--	-----------

---

SECTION 1201. AUTHORITY:	56
SECTION 1202. PURPOSE:	56
SECTION 1203. NEWSRACKS PROHIBITED:	56
SECTION 1204. PERMITS:	56
SECTION 1205. STANDARDS FOR INSTALLATION, MAINTENANCE AND OPERATION.	57
SECTION 1206. NEWSRACK IDENTIFICATION REQUIRED:	58
SECTION 1207. DAMAGE, VANDALISM, ETC.	58
SECTION 1208. PROOF OF INSURANCE	58
SECTION 1209. REMOVAL OF NEWSRACK	59

---

<b>CHAPTER 14 ORDINANCE REGULATING SKATEBOARDS, SCOOTERS AND ROLLERBLADES</b>	<b>60</b>
---	-----------

---

SECTION 1401.	60
SECTION 1402.	60
SECTION 1403.	60
SECTION 1404.	60
SECTION 1405.	60
SECTION 1406:	61
SECTION 1407:	61
SECTION 1408:	61

---

<b>CHAPTER 15 ORDINANCE REGULATING VACANT BUILDINGS, BLIGHTED PREMISES AND DANGEROUS PROPERTY</b>	<b>62</b>
---	-----------

---

SECTION 1501. DEFINITIONS:	62
----------------------------	----

SECTION 1502. VACANT BUILDINGS:	63
SECTION 1503. VACANT BUILDING MAINTENANCE STANDARDS:	64
SECTION 1504. REQUIRED BOARDING OF VACANT BUILDINGS.	65
SECTION 1505. DANGEROUS BUILDINGS.	65
SECTION 1506. ADMINISTRATIVE PENALTY	66
SECTION 1507. APPEAL	66
SECTION 1508. MONITORING FEE FOR VACANT NUISANCE PROPERTIES	67
SECTION 1509. NONCOMPLIANT BUILDINGS OR PROPERTY.	67
SECTION 1510. SEVERABILITY.	67

<b><u>CHAPTER 16 ORDINANCE PROHIBITING PLACING SUBSTANCES IN PUBLIC FOUNTAINS</u></b>	<b>68</b>
---	-----------

SECTION 1601. PLACING SUBSTANCES IN PUBLIC FOUNTAINS	68
SECTION 1602. PENALTIES:	68

<b><u>CHAPTER 17 ORDINANCE REGULATING KEEPING OF DOMESTICATED CHICKENS IN BACKYARDS</u></b>	<b>69</b>
---	-----------

SECTION 1701. PERMIT REQUIRED	69
SECTION 1702. EXCEPTIONS	69
SECTION 1703. NUMBER AND TYPE OF CHICKENS	69
SECTION 1704. NON-COMMERCIAL USE ONLY	69
SECTION 1705. ENCLOSURES	70
SECTION 1706. ODOR AND NOISE IMPACTS	70
SECTION 1707. LIGHTING	70
SECTION 1708. PREDATORS, RODENTS, INSECTS, AND PARASITES	70
SECTION 1709. FEED AND WATER	70
SECTION 1710. WASTE STORAGE AND REMOVAL	71
SECTION 1711. VIOLATION	71
SECTION 1712. PERMIT REVOCATION	71
SECTION 1713. APPEAL PROCEDURE	71
SECTION 1714. ENFORCEMENT	71
SECTION 1715. REMOVAL OF CHICKENS	71
SECTION 1716. SEVERABILITY	71

<b><u>CHAPTER 18 ORDINANCE REGULATING CONTROL OF LITTER, REFUSE, GARBAGE, JUNK, JUNK MOTOR VEHICLES, TRASH AND SOLID WASTE</u></b>	<b>73</b>
--	-----------

SECTION 1801: DEFINITIONS	73
SECTION 1802. ADMINISTRATION AND ENFORCEMENT.	74
SECTION 1803. DUTY OF OWNERS AND OCCUPANTS.	74

Essex Junction	Municipal Code
SECTION 1804. CONSTRUCTION SITES.	75
SECTION 1805. NOTICE OF VIOLATION; SUMMONS OR WARRANT.	76
SECTION 1806. REMOVAL OF LITTER , REFUSE, GARBAGE, JUNK, JUNK MOTOR VEHICLES, TRASH OR WASTE BY VILLAGE.	76
SECTION 1807. EQUITABLE REMEDIES.	76
SECTION 1808. PENALTY.	76
SECTION 1809. SEVERABILITY.	77
SECTION 1810. APPEAL OF NOTICE OF VIOLATION PENALTY	77
<b><u>CHAPTER 19 ORDINANCE REGULATING CONTROL OF LITTER, REFUSE, GARBAGE, JUNK, JUNK MOTOR VEHICLES, TRASH AND SOLID WASTE</u></b>	<b>78</b>

**VILLAGE OF ESSEX JUNCTION**  
**MUNICIPAL CODE**

The Board of Trustees hereby ordain:

**CHAPTER 1**  
**DEFINITIONS**

For purpose of this Municipal Code the following definitions shall apply unless otherwise indicated:

**Bike Path or Lane** - means any sidewalk, lane or path designated and clearly marked by the Village for use by bicycles. Nothing shall prevent a bike path from being utilized by pedestrians or other non-motorized conveyances.

**Clerk** - means the elected or appointed Village Clerk or the duly authorized representative.

**Manager** - means the appointed Village Manager of the Village of Essex Junction or his/her duly authorized representative.

**Newsrack** - any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display, sale and/or distribution of newspapers or news periodicals.

**Nudity** - shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

**Parking Space** - a striped or signed space designed to accommodate one vehicle. Spaces may be marked for handicapped vehicles, small cars, recreational vehicles, or other type of motorized vehicle.

**Parks** - means all recreational facilities and land owned by the Village of Essex Junction and used for open space and recreation. It includes, but is not limited to, playgrounds, ball fields, tennis courts, trails, pathways, picnic areas, pools, drives, and parking lots whether such public grounds are developed or undeveloped. This definition does not include recreational bike paths.

**Permit** - means the written approval of the Village of Essex Junction issued by the Village Clerk or Manager.



**Person** - means any individual, employee, owners, tenant, firm business, corporation, partnership, or unincorporated association.

**Right-of-Way** - any parcel of land deeded or for which an easement is granted for the current or future construction of a public street. An easement for a private street or driveway shall not be considered a right-of-way.

**Sidewalk** - means a walk or raised path for pedestrians along the side of the road.

**Sidewalk** - means a walk or raised path for pedestrians along the side of the road.

**Street** - Any public or private way designed for use by motorized and non-motorized vehicles and pedestrians, and providing access to adjoining lots.

**Trail** - Means a path with a natural surface for non-motorized travel.

**Village** - means the incorporated Village of Essex Junction.

**Visibility Triangle** - shall be determined as follows; starting at the intersection of the property lines along the intersecting streets, measure away from the point of intersection a distance of thirty (30) feet along both property lines. Connect these points with an imaginary line. The visibility triangle shall be the triangle defined by the two property lines and the imaginary line.

**VILLAGE OF ESSEX JUNCTION**  
**MUNICIPAL CODE**  
**CHAPTER 2**  
**GENERAL REGULATION OF PUBLIC STREETS**

**SECTION 201: ENACTMENT AUTHORITY:**

This article is adopted by the Trustees of the Village of Essex Junction pursuant to the authority granted them under Sec. 1.07 (d) and (e) of the Village Charter.

**SECTION 202:**

- (a) No person shall throw or put, or cause to be thrown or put, snow or ice in any street, road, park or public ground without first having secured permission of the Public Works Superintendent or his designee.
- (b) No person shall sprinkle any salt, or chloride in any street, road, park or public ground without first having secured permission of the Public Works Superintendent or his designee.
- (c) No person shall slide on a sled or sleigh in any street, road, walk, lane, or alley.

**SECTION 203:**

No person shall allow vegetation to grow into the public right-of-way from an abutting property that in part or whole obstructs a sidewalk, road or public trail. A minimum of seven (7) feet of clearance shall be maintained over a public sidewalk.

The Village of Essex Junction reserves the right to prune or remove trees, shrubs or any other object in order to maintain its public right-of-way.

Landscaping may be approved for planting in the public right-of-way by the Planning Commission as part of a site plan review in accordance with the Essex Junction Land Development Code or by the Essex Junction Tree Warden.

**SECTION 204:**

No person shall engage in a coin drop within a public right of way. No person shall seek donations, sell a product, or otherwise solicit money within the public right of way of a Class 1 or 2 highway, except as noted below and as allowed in the Essex Junction Land Development Code. No person shall seek donations, sell a product or otherwise solicit money within the public right of way of a Class 3 highway, without first obtaining approval of the Village Trustees, except as noted below and as allowed in the Essex Junction Land Development Code. If approval is obtained, the person shall follow all guidelines that may be established by the Trustees to help

maintain public safety and shall provide the Village of Essex Junction with a certificate of insurance demonstrating that they have a combined single limit of \$1,000,000 per occurrence and in the aggregate of general liability insurance and property damage; including products completed operations & Auto Liability coverage with a \$1,000,000 combined single limit for Bodily Injury and Property Damage; per occurrence. The Village of Essex Junction shall be named on the certificate as an Additional Insured.

On the streets closed by the Village Trustees, the Essex Business and Professional Association (EBPA) may approve street vendors during the Memorial Day Parade. The Essex Junction Block Party Committee may approve street vendors in accordance with the Village of Essex Junction Trustee=s Policy Regarding the Essex Junction Block Party Committee for streets the Trustees have agreed to close for this purpose. Due to the streets being closed to vehicular traffic, no insurance shall be required from street vendors participating in these events, unless otherwise required by EBPA or the Essex Junction Block Party Committee.

#### **SECTION 205:**

- (a) Any person or firm desiring to excavate within the public right-of-way shall be required to submit a completed Village of Essex Junction Excavation Permit accompanied by a certificate of insurance demonstrating \$1 million of commercial general liability insurance naming the Village of Essex Junction as an additional insured.
- (b) No person or firm shall excavate within a public right-of-way for construction without first having obtained an approved Village of Essex Junction Excavation Permit signed by the Public Works Superintendent or his/her designee.
- (c) No person or firm shall close or otherwise obstruct a public right-of-way for construction or the storage of equipment and/or construction related material without first having obtained approval of the Public Works Superintendent or his/her designee.
- (d) The Village Manager, Public Works Superintendent or his/her designee, or the Essex Police Department to reserve the right to rescind any permission to close, obstruct or excavate within a public right-of-way without advance notice if the public interest and/or safety so requires.

#### **SECTION 206:**

- (a) No person shall operate Village of Essex Junction water system infrastructure (i.e., main line water valves, home service curb stops, fire hydrant gate -valves, fire hydrants, etc.) without permission of the Public Works Superintendent or his/her designee.
- (b) No person shall open covers to sewer manholes, water system valves or catch basins without permission of the Public Works Superintendent or his/her designee.
- (c) The Public Works Superintendent, Water Quality Superintendent, Village Manager or the Essex Police Department reserve the right to rescind any permission authorized under this section without notice if the public interest and/or safety so requires. The Village Manager may authorize the Essex Police to issue a notice of trespass. A notice of trespass may be appealed to the Village Trustees.

**SECTION 207:**

No person shall close or obstruct a public right-of-way for a neighborhood block party without first having obtained unanimous consent signatures from the households and/or businesses that abut the section of street to be closed or obstructed and approval of the Village Manager.

In reviewing the application, the Manager shall take the following into consideration.

1. Whether adequate provisions have been made to protect the public health, safety and general welfare.
2. Whether another event has been previously scheduled that would be in conflict.
3. Whether the event will result in severe traffic congestion or interfere with the quiet of the neighborhood from 9 PM to 7 AM. If the applicant does not comply with the conditions of authorization, violates the law or endangers public safety, the Essex Police Chief or his designee may cancel the event.

**SECTION 208:**

No event, parade, procession, gathering or demonstration may take place on a public road without obtaining approval of the Village Trustees, except for a block party in accordance with Section 207. In reviewing the written request, the Trustees shall take the following into consideration.

1. Whether adequate provisions have been made to protect the public health, safety and general welfare.
2. Whether another event has been previously scheduled that would be in conflict.
3. Whether the event will result in severe traffic congestion or interfere with the quiet of the neighborhood from 9 PM to 7 AM.

If the applicant does not comply with the conditions of authorization, violates the law or endangers public safety, the Essex Police Chief or his designee may cancel the event.

**SECTION 209.**

No recreational equipment shall permanently be installed in the public right-of-way. Temporary recreational structures may not be placed in the public right-of-way on Class 1 or 2 roads. Temporary recreational structures may be placed in the public right-of-way of Class 3 roads, but not within the traveled portion of the road or sidewalk. No temporary structures shall be allowed in the right-of-way from December 1st through April 1st. The Village of Essex Junction and Essex Police Department reserves the right to remove any temporary or permanent structure that is in violation of this ordinance, is creating a safety hazard, impedes pedestrian or vehicle traffic, or interferes with the maintenance of municipal infrastructure. The Village of Essex Junction shall not be liable for damages to any temporary or permanent structure in the public right-of-way.

**SECTION 210: APPEAL**

A decision of the Public Works Superintendent, Village Manager or Essex Police Chief may be appealed in writing to the Essex Junction Village Trustees, c/o Village Manager, 2 Lincoln Street, Essex Junction, VT 05452, whose decision shall be final.

*Chapter 2 amended by Board of Trustees on 10/14/03, 06/08/04, 08/10/04, 4/25/06 and 3/13/07.*

## **CHAPTER 3 PUBLIC PARKS**

### **Sections:**

- 301 Parks Defined**
- 302 Administration and Operation**
- 303 Permit—Required When—Application and Fees**
- 304 Groups May Not Impose Use Charges**
- 305 Permits**
- 306 Permit—Cancellation Conditions**
- 307 Park Hours**
- 308 Speed**
- 309 Motor Vehicles**
- 310 Animals**
- 311 Disorderly Conduct**
- 312 Bathing**
- 313 Public Nudity**
- 314 Use of Tobacco, Marijuana, and Smoking Prohibited**
- 315 Alcoholic Beverages / Controlled Substances**
- 316 Fire**
- 317 Fireworks**
- 318 Firearms / Hunting**
- 319 Injuring Birds, Nests, Eggs or Animals**
- 320 Rubbish and Recycling**
- 321 Vending and Soliciting Prohibited**
- 322 Drones**
- 323 Metal Detectors**
- 324 Cutting, Pruning or Removing Trees, Shrubs, Plants**
- 325 Planting of Trees**
- 326 Damage to Parks**
- 327 Enforcement**
- 328 Violations - Penalties**
- 329 Severability**

### **301 Parks Defined**

- A. The following shall constitute the parks of the City of Essex Junction and be used as such by the public under the rules and regulations as set by Essex Junction Recreation & Parks (EJRP). It includes all facilities, amenities, parking lots, and grounds within park boundaries.
  - a. Cascade Park
  - b. Maple Street Park
  - c. Meadow Terrace Community Garden
  - d. Stevens Park
  - e. Tree Farm Recreational Facility

- f. West Street Community Gardens
- g. West Street Dog Park

### **302 Administration and Operation**

- A. All City parks will be operated, maintained and administered under the direct control and supervision of the Recreation & Parks Director (hereinafter “director”).

### **303 Permit—Required When— Application and Fees**

- A. Permits shall be acquired by any group totaling 6 or more persons, including organizations and teams, who desire exclusive use of rentable areas of the City parks. These areas must be reserved in advance through the director, and reasonable fees may be charged in accordance with the rules and regulations as established by the director.
- B. Application for permits must be signed by an authorized representative of the group, who will be accountable for any damage or loss of property arising from such use.

### **304 Groups May Not Impose Use Charges**

- A. No group or team may impose charges on persons or parties using the park or recreation facilities.

### **305 Permits**

- A. Depending on the size of the group and nature of the event, the permitters may be required to sign an agreement with the City that contains an indemnity provision and may need to provide event insurance that names the City as an additional insured.
- B. No person or group to whom a permit is issued shall be released from any personal liability because of the issuing of a permit, and shall hold and shall agree to hold the City of Essex Junction and its employees free and harmless from any and all liability by virtue of their use of the park.
- C. Any permit issued shall be a binding agreement or contract between the persons to whom it was issued and the parks and recreation department.
- D. Whenever such permit is revoked, no part of the fee paid therefore shall be returned.

### **306 Permit—Cancellation Conditions**

- A. Permits may be canceled by the director or City Manager if the intent of the permit is violated or if the permit holders/users violate any of the park rules and regulations.

### **307 Park Hours**

- A. All parks and recreation areas shall be closed between 9 p.m. and 7 a.m. unless there is a recreation department sponsored activity taking place or a permit for other hours is obtained in advance from the director. Trespassing signs shall be posted at each park in accordance with state statutes.
- B. Camping is allowed at Maple Street Park with a permit from the director.

**308 Speed**

- A. The maximum vehicle speed within the park boundaries, including parking lots, shall be 5 miles per hour.

**309 Motor Vehicles**

- A. All state statutes regulating motor vehicle operation or other motorized vehicles shall be applicable within the confines of any park.
- B. The director may allow vehicles in prohibited areas for special events occurring in such areas.
- C. Parking is allowed only in designated areas or as directed by the director. Violators may be towed at the owner's expense.

**310 Animals**

- A. No domestic animals, except dogs, shall be permitted in any park.
- B. Dogs shall be under control of the owners or handlers and be held on leash.
- C. All dogs must wear a collar or harness with current license attached. Any dogs visiting from another town, city or state must wear a collar or harness with current license of said jurisdiction.
- D. Service animals shall adhere to the American with Disabilities Act regulations.
- E. If a dog defecates on park property, the owner, agent, or guardian of the dog shall be required to pick up any fecal matter and properly dispose of it in a trash receptacle or take it off park property and dispose of it. This is true for unleashed exemptions as well.
- F. The director may designate areas within parks where dogs are prohibited. These dog restricted areas shall be properly marked with signage.
- G. Dogs may be unrestrained by leash, cord, or chain in the following places: a. Within the confines of the fenced-in dog park located at 111 West Street, according to the regulations for use of the park.

**311 Disorderly Conduct**

- A. No person shall engage in disorderly conduct as defined in 13 V.S.A. § 1026 in any park of the City of Essex Junction.
- B. No person shall make, cause to be made, or depict graffiti, indecent figures, letters, words or write indecent or obscene words on natural or manmade park property.

**312 Bathing**

- A. Removing bathing apparel or swimwear in public view is prohibited. "Bathing apparel or clothing" includes bathing suits, or clothing worn for bathing purposes including, but not limited to shorts, cutoffs, or swim trunks.

**313 Public Nudity**



- A. No person shall knowingly or intentionally in a public place: a. Engage in sexual intercourse;
- B. Be nude
- C. Fondle their genitals;
- D. Fondle the genitals of another person;
- E. Fondle their breasts;
- F. Fondle the breasts of another person.

### **314 Use of Tobacco, Marijuana, and Smoking Prohibited**

- A. It shall be unlawful to use or smoke any tobacco products, cigarettes, smokeless tobacco, electronic cigarettes, tobacco substitutes, nicotine products, or marijuana (including medical marijuana) in the parks. Smoking is defined as the act of inhaling a burning product of any type, including but not limited to the use of flammable products, vape, electric devices, or water devices, which by use creates a smoke or vapor which may be inhaled.
- B. Exceptions:
  - a. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

### **315 Alcoholic Beverages / Controlled Substances**

- A. No malt, vinous or spirituous liquors or other controlled substances under federal or state law, shall be permitted within park boundaries.
- B. Exceptions:
  - a. Groups may obtain a permit from the director to host a private event with alcohol being served. All Vermont State laws must be adhered to.
  - b. The parks and recreation department may host an event with alcohol being served by obtaining permission from the City Council. All Vermont State laws must be adhered to.

### **316 Fire**

- A. Fires shall be built only in fire pits, fireplaces or charcoal grills at picnic and camping areas except as otherwise provided in these rules and regulations or unless a permit for other areas is obtained in advance from the director.
- B. All fires must be attended and under control at all times and extinguished completely when unattended.

### **317 Fireworks**

- A. No fire crackers or other explosive devices shall be displayed or discharged in the park without a permit from the City Council.

### **318 Firearms / Hunting**

- A. No person shall carry or have any firearms in any parks, except any law enforcement officer or animal control warden in the course of duty.

- B. All parks fall within the area where discharge of firearms is prohibited.
- C. A person who intends to set a trap for any animal on any park property shall, prior to setting the trap, request permission from the director. The director may, at any time, refuse to grant permission to set a trap or at any time revoke the permission if previously granted.

### **319 Injuring Birds, Nests, Eggs or Animals**

- A. No unauthorized person shall disturb, destroy or injure any bird, bird's nest, eggs, or any squirrel or other animal.

### **320 Rubbish and Recycling**

The parks are to be kept in a neat, clean and sanitary condition at all times.

- A. No glass containers shall be permitted within the park boundaries.
- B. All refuse and recycling shall be placed in receptacles provided for that purpose. If receptacles are not available, all refuse and recyclables shall be carried out of the park by the user/consumer.

### **321 Vending and Soliciting Prohibited**

- A. There shall be no soliciting, vending, sale or rental of goods, products, wares or services without a special permit secured in advance from the director.

### **322 Drones**

Anyone wishing to fly a drone over park property must first obtain a permit from the director. The director may establish regulations related to the use of drones. Any person who obtains a drone permit to operate a drone in a park shall also be required to be in compliance with all applicable state and federal regulations.

### **323 Metal Detectors**

- A. Metal detecting activity is permitted in parks with advanced permission from the director.
- B. Metal detecting activity cannot interfere with park use or activities.
- C. Only "probes" such as a screwdriver no larger than 3/8" diameter are allowed. Shovels, trowels, plug cutters and knives are not permitted. Metal must be removed with minimal sod disturbance. Sod may not be lifted in any manner. There should be no noticeable impact to park property resulting from metal detecting activity.
- D. Trash and scrap metals must be removed and disposed of in an appropriate manner.

### **324 Cutting, Pruning or Removing Trees, Shrubs, Plants**

- A. No plant, tree or shrub may be uprooted or cut without a written permit from the director.
- B. No person shall take or carry away a plant, flower, vine, vase, pot or other vessel used for flowers or plants.

- C. Wild berries, fruits, seeds, nuts or mushrooms may be collected only for personal use at the risk of the collector, and must be consumed on park property. Commercial harvesting of such items for profit is allowed only with a special permit from the director.

### **325 Planting of Trees**

- A. No tree shall be planted in any public park without the approval of the director.

### **326 Damage to Parks**

- A. No person shall pick any flowers, fruit or foliage, or cut, break, dig up, or in any way mutilate or injure any tree, shrub, plant, grass, turf, railing, seat, bleachers, fence, structure, or equipment in the parks, or cut, carve, paint, mark or paste on, mar or other wise deface any trees, stone, fence, wall, building, monument or other natural or man made City property.
- B. No person shall post anywhere in the parks or on vehicles at the parks any bills, advertisements, banners or inscription whatsoever without permission of the director.
- C. Approved bills, advertisements, banners or inscriptions shall not be posted longer than approved by the director.
- D. Bills, advertisements, banners or inscriptions that do not adhere to the approval guidelines will be promptly removed.

### **327 Enforcement**

- A. This is a civil ordinance and shall be enforced as set forth in 24 V.S.A. § 1974a et seq.

### **328 Violations – Penalties**

- A. Any person in violation of any provisions of this Chapter may be fined. If any violation continues, each day shall constitute a separate violation.
  - a. Waiver Fees
    - i. An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amount for each violation:
      - First Offense \$50.00
      - Second Offense \$100.00
      - Third and subsequent Offense \$200.00Offenses shall be counted on a calendar year basis.
  - b. Civil Penalties.
    - i. An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:
      - First Offense \$100.00
      - Second Offense \$200.00
      - Third and subsequent Offense \$400.00Offenses shall be counted on a calendar year basis.
- B. In addition to the enforcement procedures available before the Judicial Bureau, the municipal manager or designee is authorized to commence a civil action, pursuant to 24V.S.A.Chapter

117, to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

- C. Essex Police, at their own discretion or at the request of the director, may issue a notice of trespass from park property for up to one year to individuals violating parks ordinances.

### **329 Severability**

- A. If any portion of this ordinance and any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and amendments made hereto shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer to such statute as amended.

*Adopted by the City Council on 06/28/2023*

**VILLAGE OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 4****REGULATION OF THE USE OF FIREARMS AND BOWS AND ARROWS****SECTION 401:****(a) No person shall:**

1. shoot with or use a bow and arrow or air gun in or over any street, road, park, or public ground, except as part of a recreational program operated under the auspices of the School Department or municipal recreational department;
2. discharge a gun, pistol, revolver, BB gun, air rifle, pellet gun or other firearm within the Village, except in the performance of a legal duty or in self-protection; or within the boundaries of a farm by the farm owner or members of his/her family to protect livestock or crops on a farm, provided any bullet or projectile does not go beyond the boundaries of the farm.
3. allow an arrow to be discharged across any property line;
4. engage in target practice with a bow and arrow in a residential neighborhood without first ensuring the existence of suitable barriers to prevent an arrow from crossing any property line;
5. use any arrows which do not identify in indelible ink the owner and operator of the associated bow.

**(b) An individual hunting with a bow and arrow on property other than his/her own shall:**

1. carry on such person at all times a valid license and a card evidencing successful completion of the State's bow and arrow training course;
2. use only arrows identifying in indelible ink the owner and operator of the associated bow; and
3. only discharge his/her bow and arrow when he/she is at a distance of more than 300 feet in all directions from any building or freestanding structure.

**CITY OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 5  
REGULATION OF DOGS**

This ordinance is enacted pursuant to 24 V.S.A. §§ 1971; 2291(10), and 20 V.S.A. § 3549. It shall constitute a civil ordinance within the meaning of 24 V.S.A., Chapter 59.

**502 - PURPOSE**

The purpose of this ordinance is to regulate the licensing, keeping, leashing, muzzling, restraint, impoundment and destruction of dogs and wolf-hybrids and their running at large in order to protect the public health and safety of the City and preserve the quiet enjoyment of its residents' homes and properties.

**503 – DEFINITIONS**

Used in this chapter, unless the context indicates otherwise:

- A. **Dog:** shall mean an animal of the canine species (*Canis familiaris*), and for the purposes of this ordinance shall include any wolf-hybrid as defined in 20 V.S.A. § 3541(8).
- B. **At large:** means off the premises of the owner except for those areas as defined in subsection B of 510, and not under the control of the owner, a member of their immediate family, or an agent of the owner, by leash, cord or chain so that at all times the dog may be prevented from causing any damage, disturbance, nuisance or annoyance.
- C. **Municipal official:** shall mean Animal Control Officer of the Essex Police Department or any police officer; deputy sheriff; or any person designated by the City of Essex Junction for the control of dogs.
- D. **Owner:** means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.
- E. **Premises:** means the home and/or real property of the dog owner.
- F. **Potentially Vicious Dog:** shall mean a dog running at large that inflicts minor injuries on a person not necessitating medical attention; chases in a menacing manner, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal property; chases a person; or causes any person to reasonably fear attack or bodily injury from such dog. A dog shall not be deemed a "potentially vicious dog" if the dog was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.
- G. **Vicious Dog:** shall mean a dog, which causes or has previously caused bodily injury which has necessitated medical attention by attacking, biting or endangering the safety of a person or other domestic animal on any public or private property, unless the person is trespassing on the property of another animal, was protecting or defending itself, its offspring, another domestic pet

or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.

#### **504 - LICENSE REQUIREMENTS**

- A. Dogs must be registered and licensed annually with the City Clerk's Office, pursuant to 20 V.S.A. § 3581.
- B. All dog owners shall obtain and be required to demonstrate proof of current rabies vaccinations, a certificate or a certified copy thereof signed by a duly licensed veterinarian as a requirement of the annual license application.
- C. All dogs must wear a collar or harness with current license attached. Any dogs visiting from another town, city or state must wear a collar or harness with current license of said jurisdiction. A dog that is found to be without a collar or harness and license shall be in violation of this ordinance.

#### **505 - FALSIFYING DOCUMENTS**

- A. No owner shall knowingly present false documentation to the City Clerk's Office with the purpose of misleading either the breed of the dog or proof of rabies vaccination certificates.

#### **506 - INVESTIGATION OF VICIOUS DOGS**

- A. When a dog has either bitten or inflicted bodily injury to a person while the dog is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the Legislative Body for the City of Essex Junction. The complaint shall contain the time, date and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the legislative body in conducting its investigation required by subsection (B) of this section.
- B. The legislative body, within seven (7) days from receipt of the complaint, may request the police department to investigate the charges and hold a hearing on the matter. If the owner of the dog that is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint.
- C. If the dog is found to have bitten or inflicted bodily injury on the victim without provocation, the legislative body for the City of Essex Junction shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the vicious dog may be disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in 20 V.S.A. § 3550.
- D. The procedures provided in this section shall apply if the dog is not a rabies suspect. If a member of the legislative body or a municipal official designated by the legislative body determines that the animal is a rabies suspect, the provisions of 20 V.S.A. Chapter 193, Subchapter 5, and the rules of the department of health shall apply, and the terms and conditions set forth in the legislative body's order shall be enforced.

*Cross reference. General Provisions,  
See 20 V.S.A. § 3546; Penalties,  
See 20 V.S.A. § 2550; Control of Rabies,  
See 20 V.S.A. § 3801-3813.*

## **507 - POTENTIALLY VICIOUS DOGS**

- A. A person claiming a dog is a “potentially vicious dog” may file a written complaint with the legislative body. The complaint shall contain the time, date and place where the alleged behavior occurred, an identification of the domestic pet or animal threatened or attacked; the name and address of any victim or victims, and any other facts that may assist the legislative body in conducting its hearing.
- B. A municipal official upon discovery of a potentially vicious dog may also file a written complaint with the legislative body.
- C. Upon receipt of a “potentially vicious dog” complaint the legislative body may proceed as in the case of a “vicious dog” complaint, as described in Section 506, with the exception that if the legislative body determines that the behavior classifies the dog as “potentially vicious” the legislative body may order any protective measures be taken absent the dog being humanely destroyed.

## **508 - DOG BITES**

- A. No person shall permit or cause any dog to cause bodily injury to a person or other domestic animal.

## **509 - DISTURBANCE BY SOUND**

- A. No person shall keep or harbor a dog that disturbs the quiet, comfort and repose of others by frequent or long continued barking, whining, calling, or howling that disturbs the comfort or repose of persons in the vicinity for a continuous period of 15 minutes or more. “This regulation shall not apply to dogs in a kennel or boarding facility which has received a zoning permit under the City of Essex Junction- Land Development Code. The zoning permit will govern the use of the kennel or boarding facility.”

## **510 - RUNNING AT LARGE**

- A. No owner shall permit or cause any dog to go at large off the premises on any public or private property within the City of Essex Junction. Dogs shall be restrained by leash, cord or chain. All dogs using a city sidewalk, recreational or bicycle path, and parking areas must be leashed on a leash that is no longer than six (6) feet. This Ordinance shall not apply to the barking or running at large of a working farm dog when it is on the property being farmed by the person who registered the working farm dog, pursuant to subsection 3581(a) of 20 V.S.A., in the following circumstances:



- a. if the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops; or
  - b. if the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.
- B. Exemptions - Dogs shall be under control of the owner, but may be unrestrained by leash, cord or chain:
  - a. In the dog park located at 111 West Street, according to the regulations for use of the park.

## **511 - DOG WASTE**

- A. A dog that defecates in any public area or on the private premises of another person and whose owner does not immediately remove the fecal material and dispose of it in a sanitary manner is in violation of this ordinance.

## **512 - IMPOUNDING—CONTRACTING FOR SERVICES**

- A. The legislative body may enter into a contract or contracts with persons or firms for impoundment services and enforcement of this chapter.

## **513 - IMPOUNDING—AUTHORIZED WHEN—NOTICE TO OWNER**

- A. Any dog may be immediately impounded if the dog:
  - a. Has been determined by a municipal official to be a “potentially vicious dog” which presents an imminent danger to people or other animals.
  - b. Has reportedly bitten a person off or on the premises of the owner.
  - c. Is in violation of state licensing law.
  - d. Has an unknown rabies vaccination history or is suspected of having been exposed to rabies.
  - e. Is running at large.
  - f. Is found without a collar or a harness.
- B. A municipal official who impounds a dog shall, within twenty-four hours, give notice to the owner thereof either personally, by telephone, email or by regular mail postage to the owner’s last known address. Such notice shall inform the owner of the violations, the dog’s location, and the necessary steps to have it returned to the owner.

## **514 - IMPOUNDMENT—RELEASE CONDITIONS**

- A. Impounded dogs shall be released to the owner only after payment of all penalties and impoundment fees (including, but not limited to, boarding, food, and veterinary expenses), the final disposition of a potentially vicious dog or vicious dog hearing if applicable, and after all necessary remedial action, as determined by the enforcement officer and or legislative body in consideration of the violation committed, is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a collar and current license; verification of certification of current vaccination against rabies; payment of all applicable fines or waiver fees; and proof of satisfactory successful completion of a program designed to improve the owner’s understanding and execution of dog ownership responsibilities.

- B. If the owner of a dog impounded under the provisions of this ordinance refuses to take the remedial action necessary to secure the dog's release within ten (10) calendar days following notice of impoundment or gives notice either personally, by telephone call, or in writing to the municipality of forfeiture of ownership before that time, the dog may be placed in an adoptive home, transferred to a humane society or rescue organization; or, if the City is unable to transfer the dog, it may be humanely destroyed. The owner of a dog transferred or humanely destroyed shall remain liable for all expenses incurred by the City for treatment, boarding and care of the dog for the duration of its impoundment, and any expenses associated with its transfer or humane disposal.
- C. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an official designated by the legislative body to enforce the provisions of this ordinance determines that the dog is a rabies suspect, the municipal official shall immediately notify the City Health Officer who shall proceed in accordance with the Vermont Department of Health's rules.

### **515 - UNCLAIMED DOGS—OWNER RESPONSIBLE FOR COSTS**

- A. Any owner, if known, who elects not to redeem their dog and does not pay the boarding fees and impoundment fees within thirty (30) days of initial impoundment, may be assessed all of such fees and charges in a civil action brought under this chapter.

### **516 - INTERFERENCE WITH IMPOUNDMENT PROHIBITED**

- A. Any person who interferes with the impounding of a dog under provision of this chapter, or releases or who attempts to release an impounded dog contrary to this chapter, shall be punished by fees not to exceed eight hundred dollars (\$800.00) in an action brought under this chapter.

### **517 - CONFINEMENT OF ANIMALS**

- A. An owner shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.
- B. Any municipal official may use reasonable force to remove any such animal from a motor vehicle. The municipal official removing an animal shall deliver the animal to a humane society, veterinarian or municipal pound. If the owner of the animal cannot be found, the municipal official shall place a written notice in the vehicle, bearing the name of the officer and the department and address where the animal may be claimed. The owner shall be liable for reasonable expenses, and a lien may be placed on the animal for these expenses. The officer may not be held liable for criminal or civil liability for any damage resulting from actions taken under this section.

*Cross reference. Humane and Proper Treatment of Animals,*

*See 13 V.S.A. § 386.*

### **518 – ENFORCEMENT**

- A. This is a civil ordinance and shall be enforced in accordance with 24 V.S.A. § 1974a et seq.

### **519 - VIOLATIONS – PENALTIES**

- A. Any person in violation of any provisions of this chapter shall be fined a civil penalty of up to \$800 dollars per violation and may be subject to enforcement pursuant to Chapter 9 Section 905 and 24 V.S.A. §1974a(d).

## **520 – SEVERABILITY**

- A. If any portion of this ordinance and any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and amendments made hereto shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance shall be amended this ordinance shall be deemed to refer to such statute as amended.

## **521 - APPEAL RIGHTS**

- A. A respondent aggrieved by a decision made following a hearing before the legislative body or hearing officer may appeal within 30 days of receipt of the decision to the Civil Division of the Superior Court, which shall consider the matter de novo.

*Approved by City Council on 3/8/2023*

**VILLAGE OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 6  
PUBLIC NUISANCE****SECTION 601 - AUTHORITY**

This ordinance is enacted pursuant to 24 V.S.A., Section 2291, et seq. It shall constitute a civil ordinance within the meaning of 24 V.S.A., Chapter 59.

**SECTION 602 - PURPOSE**

The purpose of this ordinance is to preserve the public health, safety and welfare by prohibiting general nuisance behavior, which is unreasonable or unsuitable for a particular time and place. Such behavior is detrimental to the peace and good order of the community. Typically, nuisance behavior disrupts the public peace and affects the quality of life within the Village of Essex Junction.

**SECTION 603 - DEFINITIONS**

- A. **Aggressive manner:** shall mean any of the following:
- a. Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another or damage to or loss of property or otherwise be intimidated into giving money or other thing of value.
  - b. Continuing to solicit from a person or continuing to engage that person after the person has given a negative response to such soliciting.
  - c. Intentionally or recklessly touching or causing physical contact with another person or that person's property without that person's consent in the course of soliciting.
  - d. Intentionally or recklessly blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact.
  - e. Using violent, obscene or threatening gestures toward a person solicited.
  - f. Following the person being solicited, with the intent of asking that person for money or other things of value.
  - g. Speaking in a volume unreasonably loud under the circumstances.
  - h. Soliciting from anyone who is waiting in line.
- B. **Average sound level:** A sound level during a given period of time found by the general rule of combination of sound levels. Also called equivalent sound level.

- C. **Decibel (dB):** means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
- D. **Fireworks:** shall mean any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, including blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, balloons that are propelled by explosives, firecrackers, torpedoes, sky rockets, Roman candles, cherry bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except sparklers. The term "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper or plastic caps that contain less than 0.2 grains of explosive mixture. The term "fireworks" does not include fixed ammunition for firearms, or primers for firearms. The term "sparkler" means a sparkling item that is in compliance with the United States Consumer Product Safety Commission regulations and is one of the following:
- a. A hand-held wire or wood sparkler that is less than 14 inches and has no more than 20 grams of pyrotechnic mixture; or
  - b. A snake, party popper, glow worm, smoke device, string popper, snapper, or drop pop with no more than 0.25 grains of explosive mixture. Cross References: See 20 V.S.A. § 3131
- E. **Food:** shall have its usual and ordinary meaning and shall include all items designed for human consumption, including, but not limited to, candy, coffee, gum, popcorn, hot dogs, sandwiches, peanuts, soft drinks and dairy products.
- F. **Instantaneous maximum sound:** means either a single pressure peak or a single burst (multiple pressure peaks) that has duration of less than one second.
- G. **Merchandise:** shall have its usual and ordinary meaning, including, but not limited to, such items as tools, clothing, furniture, toys, and appliances.
- H. **Mobile ice cream vendor:** means a person, firm or corporation, either as a principal or agent, which engages in the mobile vending of ice cream and/or frozen novelty items for immediate human consumption.
- I. **Mobile vending:** means offering food, merchandise or services for sale to the general public from a vehicle, conveyance, or a nonpermanent structure or place of business.
- J. **Mobile vendor:** means the person, firm or corporation, either as a principal or agent, which engages in mobile vending as defined herein.
- K. **Nudity:** shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- L. **Open beverage container:** A container, bottle, can or vessel containing malt or vinous beverages or spirituous liquors, which is opened.

- M. **Plainly audible:** shall mean any sound that can be detected by a person using his or her unaided hearing faculties. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.
- N. **Premises:** shall mean any building, structure, land, utility or portion thereof, including all appurtenances, and shall also include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.
- O. **Property line:** shall mean that real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling-unit building, condominium, or townhouse complex shall not be considered property lines separating one (1) premises from another.
- P. **Public celebration:** means Independence Day activities or any other time of public celebration designated by the municipality, such as Memorial Day or such events as sidewalk sales, parades, and street fairs which are officially authorized by the legislative body.
- Q. **Public Official:** shall mean an authorized employee of the Village of Essex Junction.
- R. **Public Place:** shall mean any bridge, culvert, roadway, street, square, fairground, sidewalk, alley, playground, park, or school property or other place open temporarily or permanently to the public or general circulation of vehicles or pedestrians within the Village of Essex Junction.
- S. **Receiving Property:** The location that is receiving the sound in question.
- T. **Sample period:** shall mean 15 minutes of continuous monitoring.
- U. **Services:** shall have its usual and ordinary meaning and shall include the performance of any act done for compensation, including, but not limited to the acts of cleaning, repairing, entertaining, delivering, advising, adjusting, moving, insuring, protecting, and/or maintaining.
- V. **Solicitation or Soliciting:** shall mean asking for money or objects of value, selling, offering or exposing for sale, or trading, dealing, or trafficking in any personal property, food, merchandise, or service, either at wholesale or retail, in the village by going from house to house, business to business, or from place to place or by indiscriminately approaching individuals, businesses, or organizations, including sales by sample or for future delivery.
- W. **Solicitor or Peddler:** means the person, firm or corporation, either as a principal or agent, which engages in solicitation as defined herein.
- X. **Sound measurement standards:** Sound shall be measured in accordance with standards specified by the American National Standards Institute (ANSI).
- Y. **Source premises:** shall mean the premises (residential, commercial, industrial, or public) as listed in Table A that is emitting Sound that is crossing one (1) or more property lines and impacting the receiving property.
- Z. **Sponsor:** Any individual, business or organization with which a solicitor or peddler is economically affiliated, in relation to soliciting, in an employer-employee, master-servant, independent contractor, agency, joint venture of similar arrangement.
- AA. **Standard working day:** means Monday through Friday, 8:00 a.m. to 5:00 p.m., except weekends and holidays.
- BB. **Unreasonable Sound:** shall mean any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.

**SECTION 604 - DISORDERLY CONDUCT**

- A. No person in a public place shall behave in a rude or disorderly manner or use indecent, profane, or insulting language with the intent to annoy or disturb another person.
- B. No person shall make graffiti, indecent figures, letters, words or write indecent or obscene words upon a fence, building, sidewalk, or public place.
- C. No person shall by sound, gesture, or other means, wantonly and designedly frighten a horse in a street or other public place.
- D. No person shall throw stones or other missiles in or upon a public street, common, or other ground belonging to the municipality.

*Cross References. Breach of the Peace, See, Disorderly Conduct 13 V.S.A. § 1026.*

**SECTION 605 - EXCESSIVE SOUND**

- A. General Prohibition:
  - a. It shall be unlawful for any person to make or cause to be made, assist in making or continue any excessive or unreasonable loud sound. Sound shall be deemed unreasonable when it disturbs, injures, or endangers the comfort, peace or health of a person in the immediate vicinity of the sound disturbance.
  - b. It shall be considered a sound disturbance and public nuisance provided the sound source is plainly audible from the receiving property line.
- B. Express Prohibitions:
  - a. The following acts, which enumerations shall not be deemed to be exclusive, are declared to be sound disturbances:
    - i. Operating or permitting the use or operation of radios, television sets, musical instruments, phonographs and similar devices. The operation or permitting the use or operation of any musical instrument, radio, television, phonograph, or other device for the production or reproduction of sound in such a manner as to be plainly audible through walls between units within the same building, from another property or from the street between the hours of 10:00 p.m. and 7:00 a.m. or in such a manner as to unreasonably disturb the peace, quiet or comfort of the public.
    - ii. The operation or permitting the operation of any radio, stereo or other sound amplification equipment from a motor vehicle that is audible at twenty-five (25) feet from such vehicle. The term "motor vehicle" shall mean any car, truck, or motorcycle.
    - iii. Parties and other social events. Notwithstanding section (a)(i), it shall be unlawful for any person who is participating in a party or other social event to actively make unreasonably loud sound. A party or other social event is defined as a gathering upon the premises of one or more persons not residing at the premises. Unreasonably loud sound is sound that unreasonably interferes with the

peace or health of members of the public or is plainly audible between the hours of 10:00 p.m. and 7:00 a.m. through the walls between units within the same building, from another property or from the street. It shall also be unlawful for any resident of a premise to allow a party or other social event occurring in or about the premises to produce unreasonably loud sound. There is a rebuttable presumption that all residents of the premises have allowed such party or other social event to occur in or about the premises. All residents of the premises are responsible for such unreasonable sound made, each having joint and several liability.

- iv. Machinery. The operation or permitting or directing the operation of any power equipment or machinery outdoors between the hours of 9:00 p.m. and 7:00 a.m. except in emergency situations, ex: Construction sound. The excavation, demolition, erection, construction, alteration or repair of any premises or structure between the hours of 9:00 p.m. and 7:00 a.m. except in emergency situations.
- v. Loudspeakers, amplifiers. The use of loudspeakers or other sound amplification equipment upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or site.
- vi. The removal of household and commercial trash by authorized commercial trash haulers utilizing mechanized conveyances between the hours of 9:00 P.M. and 7:00 A.M. is prohibited.
- b. Defect in vehicle or operation of a vehicle. The operation of an automobile or motorcycle which creates squealing, squealing of tires, loud and unnecessary grating, grinding, exploding type, rattling or other sounds.
- c. Dogs, cats and other animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming.

C. Prohibitions for Non-Residential Uses

- a. It shall be a violation of this section for anyone to create or allow the creation of sound not otherwise specified under General Provisions, in excess of the following stated limits during the stated time periods for the sound generated on the properties being used for other than residential purposes.
- b. Sound measurements shall be made at the property line.
- c. This standard shall not apply to the unoccupied receiving properties.
- d. Sound level measurements shall be taken with a sound level meter meeting the minimum American Standards Insitutite (ANSI) requirements for Type I or Type II accuracy, and shall have a fast response setting.
- e. Nothing in this section shall prevent the Village of Essex Junction from imposing additional sound control measures beyond that needed to reach the limits below.

*Table A: Allowable Sound Levels (in dB) with Time of Day Allowance*



<b>Receiving Premises</b>				
<b>Residential</b>	<b>Sample Period (15 mins)</b>		<b>Instantaneous Maximum (db)</b>	
<b>Source Premises</b>	7 am-10 pm	10 pm-7 am	7 am-10 pm	10 pm-7 am
<b>Residential</b>	60	55	80	60
<b>Commercial</b>	65	60	80	60
<b>Industrial</b>	80	75	90	70

D. Exemptions:

- a. Sound from the following sources shall be exempt from the prohibitions specified herein:
  - i. Any person or organization that has obtained a sound waiver from the Village of Essex Junction. (Champlain Valley Fair, parade, block parties, fireworks, etc.)
  - ii. All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work, including, but not limited to, police, fire and rescue vehicle sirens.
  - iii. The repair and maintenance of facilities within the Village of Essex Junction, services, or public utilities when such work must be accomplished outside of daytime hours.
  - iv. Any construction activity that has obtained approval from the Village of Essex Junction to occur between the hours of 9:00 p.m. and 7:00 a.m. and that is deemed to be in the best interest of public health, safety, and welfare.
  - v. Equipment for maintenance of lawn and grounds during the hours of 7:00 a.m. to 9:00p.m. (including but not limited to lawn mowers, hedge trimmers, weed trimmers, chain saws, snow blowers and leaf blowers) assuming they are properly muffled.
  - vi. Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.
  - vii. Musical, recreational, and athletic events conducted by and on the site of a school or educational institution or is sponsored by the Village of Essex Junction, state or federal government.
  - viii. Events and activities conducted by or permitted by the Village of Essex Junction. Persons operating an event or activity under authority of an entertainment permit, parade/street event permit, solid waste license, or parks special use permit shall comply with all conditions of such permits or licenses with respect to sound control issues.
  - ix. Construction or repair work which must be done to address an emergency health or safety concern and that cannot be accomplished during daytime hours and is not work which includes normal maintenance and repair.
  - x. Sound associated with standard agricultural operations.
  - xi. Sounds created by bell, carillons, or chimes associated with specific religious observances.

- xii. The use of firearms when used for hunting in accordance with state Fish and Wildlife laws.
- E. It shall be a violation of this section for anyone to create or allow the creation of sound not otherwise specified under General Prohibitions or Expressed Prohibitions, in excess of the sample period (15 continuous minutes) for sound generated on properties being used for other than residential purposes. Refer to Table A.
  - a. Sound measurements shall be made at the property line of the receiving premises.
  - b. Sampling will be conducted with a sound level instrument using sound measurement standards. (American National Standards Institute (ANSI))
- F. Notification by property owners of rental housing. Owners of rental housing shall be required to provide a copy of this section to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the ordinance shall not be a defense to a violation of this section.

*Cross References. Breach of the Peace; Disturbances. See Noise in the nighttime 13 V.S.A.*

*§ 1022; See Disorderly conduct 13 V.S.A. §1026.*

## **SECTION 606 - PUBLIC URINATION / DEFECATION**

- A. No person shall urinate or defecate on any street, sidewalk, parking lot, recreational path, in a park or other public place.

## **SECTION 607 - PUBLIC NUDITY**

- A. No person shall knowingly or intentionally in a public place:
  - a. Engage in sexual intercourse.
  - b. Appear in a state of nudity.
  - c. Fondle his/her genitals.
  - d. Fondle the genitals of another person.
  - e. Fondle his/her breasts.
  - f. Fondle the breasts of another person.
- B. No person who owns, leases or controls property shall knowingly allow any person to engage in the conduct described in subsection (A) of this section at any time such property is open to the public.

*Cross References. Obscenity. See Obscenity 13 V.S.A. §2801 et seq.*

## **SECTION 608 - SOLICITING GENERAL PROVISIONS**

- A. **Purposes:** To regulate the activities of solicitors and peddlers within the Village of Essex Junction for the protection of the public health, safety, welfare, and convenience, and to protect the residents of Essex Junction from unscrupulous, fraudulent, and immoral business practices.
- B. **Authority:** This ordinance is adopted pursuant to the authority conferred by Article I, Section 1.07 of the Village Charter.

- C. **Exclusions:** This ordinance shall not be construed as impairing the rights conferred by 24 V.S.A. Section 2181. (Sale of Produce. Owners and renters of land shall have the right to vend or sell all products of such land without obtaining licenses from such towns).

## **SECTION 609 - SOLICITATING - REGULATIONS**

- A. No solicitor shall conduct business without first obtaining a permit from an authorized public official from Village of Essex Junction.
- a. The following information shall be gathered:
- i. The full name, address, and telephone of the group, business or organization.
  - ii. The full name, address, and telephone of a contact person for the group, business or organization.
  - iii. The purpose of the solicitations to be conducted in the Village of Essex Junction.
  - iv. The description of services, food or merchandise being offered for sale.
  - v. A list of the full names, contact information and identification of the persons acting on behalf of the group, business or organization and the dates and times during which they will be soliciting in the Village of Essex Junction.
  - vi. The license plate and description of the vehicle used in transporting persons who will be soliciting.
- B. Persons acting on behalf of the group, business or organization qualifying under this subsection shall always during the solicitations wear identification clearly showing their affiliation with said group or organization.
- C. Sound. No solicitor or peddler shall shout, cry out, or use any sound-making device (including horns, bells, loudspeakers, sound amplifying systems) from the Village's streets, sidewalks, or other public property in a manner which unreasonably disturbs the peace or constitutes a public nuisance.
- D. Offensive Practices. No solicitor or peddler shall physically accost, restrain or otherwise interfere with the free movement of any individual during the course of the solicitor's or peddler's activities.
- E. Conduct on Private Property. No solicitor or peddler shall enter upon private property which contains a sign or other notice that soliciting is prohibited. Solicitors and peddlers shall promptly depart from private property upon the request of the owner or resident thereof.
- F. Hours: No solicitor or peddler shall solicit between the hours of 9 P.M. and 7 A.M.

## **SECTION 610 - SOLICITING – VIOLATIONS**

- A. Failure to comply with any of the above requirements, or the following, shall be a violation of this chapter:
- a. Failure to obtain a permit.
  - b. Parking regulations as contained in Chapter 8.
  - c. Shall not, by causing a congregation of people, obstruct the passage along any sidewalk, street, alley or parking lot, annoy, injure or endanger the public safety, health, or comfort; nor unreasonably disturb the peace.
  - d. Shall not sell on the street side of the vehicle or conveyance.

- e. Shall comply with all clauses and regulations of State of Vermont Department of Health regarding food handling.
  - f. Shall not misrepresent facts to the authorized public official / Police Department or to the public.
  - g. Shall not sell, operate or supply any good or service unless properly licensed by the state and/or county.
  - h. Shall not shout, cry out, or use sound making devices (including horns, whistles, bells, loudspeakers sound amplification systems).
  - i. Shall not physically accost, restrain or otherwise interfere with the free movement of any individual.
  - j. Shall not enter upon private property that contains a sign or notice that soliciting is prohibited. Solicitors shall also promptly leave when requested by the owner or resident.
  - k. Shall comply with all requirements enumerated in this chapter.
- B. Violations will be issued in a manner described in 617 of this chapter.
- C. Violations may be cause for the authorized public official to revoke the permit and privileges to solicit.

## **SECTION 611 - AGGRESSIVE PANHANDLING PROHIBITED**

- A. The Village of Essex Junction finds that aggressive begging, panhandling, or solicitation negatively affects the following significant governmental interests set forth herein. This law is intended to promote these governmental interests and combat the negative effects of aggressive begging, panhandling or solicitation. It is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity.
- a. Protection of citizens from physical threats or injury and from damage to property.
  - b. Prevention of harassment and intimidation of members of the public.
  - c. Prevention of violent crime.
  - d. Traffic control and public safety.
  - e. Orderly movement of traffic and pedestrians.
  - f. Provision and maintenance of a safe, aesthetically attractive environment in areas designed to attract tourist revenue.

## **SECTION 612 - DEFACING BUILDINGS, STRUCTURES AND SIGNS**

- A. No person shall apply or cause to be applied any paint, varnish, lead, crayon, wax, ink, dye or other indelible substance, nor shall any person carve, chisel or write any figure or letter on the exterior or interior walls or on the windows of any building or structure or deface any sign or signal without having authority from the owner or authorized agent.

*Cross References. Trespass and Malicious Injuries to Property. See, Unlawful Mischief 13 V.S.A. § 3701; See, Interference with devices or signals 23 V.S.A. § 1028.*

## **SECTION 613 - ALCOHOL**

- A. No person shall have constructive or actual possession of an open beverage container in any public place or in any motor vehicle located in a public place.
- B. No person shall consume the contents of an open beverage container in any public place or in any motor vehicle in a public place.
- C. Notwithstanding subsections (1) to (2) hereof, it shall not be unlawful to possess an open beverage container or to consume the contents where permits have been issued by the Village of Essex Junction.
- D. Violations of this section are punishable by the penalties listed below. However, the penalty shall be waived upon the successful completion of a restorative or reparative justice program through the Community Justice Center.

*Cross References. Operation of Vehicles, See, Open Container 23 V.S.A. § 1134(a)*

## **SECTION 614 - OPEN FIRES**

- A. Burning materials of brush, grass, natural unpainted, unstained, untreated dimension lumber and wood products is not allowed in the Village of Essex Junction.
- B. Materials such as tires, solid waste, composite materials, treated, painted or stained, pressure treated materials, other like materials and/or trash are specifically prohibited.
- C. Cooking or outdoor fireplaces are allowed with proper fuels to include charcoal, firewood, liquid propane (LP) or natural gas.
- D. This prohibition shall not include training exercises by the Essex Junction Fire and Essex Town Fire Departments. The Village Trustees, with the concurrence of the Essex Junction Fire Chief, may approve a burn permit for a community event provided that the Essex Junction Fire Department is present.

## **SECTION 615 - FIREWORKS**

- A. Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership or corporation to offer for sale, expose for sale, sell at retail or wholesale, possess, use or explode any fireworks; and it shall also be unlawful for any person, firm, co-partnership or corporation to transport fireworks except in interstate commerce.

*Cross References. Internal Security and Public Safety, See, Fireworks, 20 V.S.A. § 3132 et seq.*

## **SECTION 616 - ENFORCEMENT**

- A) This is a civil ordinance and shall be enforced in accordance with 24 V.S.A. § 1974a et seq. and 1977.

## **SECTION 617 - VIOLATIONS – PENALTIES**

- A. Any person in violation of any provisions of this chapter shall be considered a civil violation. If any violation continues, each day shall constitute a new violation. Offenses shall be counted on a calendar year basis.

a. Waiver Fees

- i. An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amount for each violation:

- 1) First Offense \$50.00
- 2) Second Offense \$100.00
- 3) Third Offense \$200.00
- 4) Fourth and subsequent Offense \$400.00

- a. Fire calls only - fine plus fire department expense up to \$800.00

b. Civil Penalties

- i. An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:

First Offense \$100.00

Second Offense \$200.00

Third Offense \$400.00

Fourth and subsequent Offense \$800.00

- a. Fire calls only - fine plus fire department expense up to \$800.00.

c. Fire Department expenses

- i. Pumper \$100.00 per hour;
- ii. Tanker \$75.00 per hour;
- iii. Minimum one (1) hour pay for each firefighter responding to call.

- B. In addition to the enforcement procedures available before the Judicial Bureau, the Manager or their designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

## SECTION 618 - SEVERABILITY

- A. If any portion of this ordinance and any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and amendments made hereto shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance shall be amended this ordinance shall be deemed to refer to such statute as amended.

*Approved by Village Trustees on 9/14/2021*

**VILLAGE OF ESSEX JUNCTION, VT****MUNICIPAL CODE****CHAPTER 8****AN ORDINANCE RELATING TO MOTOR VEHICLE REGULATIONS**

**ALL ORDINANCES CONTROLLING ITEMS OF STREET PARKING, STOP SIGNS, TRAFFIC LIGHTS, SPEED LIMITS, AND ETC. HAVE BEEN COMBINED UNDER THIS CHAPTER.**

**SECTION 801. PARKING:**

There shall be no parking of motor vehicles, of any kind, within the public right-of-way on either side of the following named public streets and described areas:

**Brickyard Road** from Main Street in an easterly direction for a distance of 225 feet to Sugartree Lane and from the east entrance of East Creek Condominiums to the east entrance of #60 Brickyard Road.

**Crestview Road** from Main Street in a westerly direction for a distance of 100 feet.

**IBM** entry road off of Park Street.

**Hillcrest Road** - from its intersection with Prospect Street for a distance of 90 feet in a southerly direction (1/28/03).

**Iroquois Avenue** - westward 60 feet from Park Street.

**Lincoln Street** - from the 5 comers northeasterly for 150 feet.

**Lincoln Terrace** - its entire length.

**Main Street** - From Five Comers northeasterly for 100 feet; Southwesterly of the railroad tracks for a distance of 100 feet; northeasterly of the railroad tracks for a distance of 290 feet; 25 feet west of Pleasant Street to the Village limits. In the pass-through between Main Street and Lincoln Street, (between the "Banknorth property and Memorial Park).

**Maple Street** - its entire length.

**Park Street**- on the west side from the Five Comers to the most southerly railroad tracks, on the east side of Park Street from the Five Comers to the northerly railroad tracks, on the east side between the north and south railroad tracks. (adopted 4/10/90) (Amended 1/12/93)

**Park Terrace** - its entire length.

**Pearl Street** - its entire length.

**Prospect Street** - westward 200 feet from Lincoln Street.

**River Street** - its entire length.

**Rivendell Drive** - within 200' of Maple Street.

**South Summit Street** - from Pearl to the railroad tracks.

**Summit Street** - north of Pearl on the west side and on the easterly side from the main entrance of Summit Street School to the driveway off #19 Summit Street (amended 4/27/99).

**SECTION 802:**

There shall be no parking of motor vehicles, of any kind, within the public right-of-way on the side of the street so designated on the following streets:

**Beech Street**- on the west side of the street extending 20' on either side of the private drive leading to the property owned by William and Maryjean Kalanges per Land Use Permit Amendment #4C0593-6-EB, dated 3/4/05.

**Church Street** - on the east side, beginning at the church driveway and extending northerly to Main Street.

**Church Street** - on the west side from Main Stn.:l in a southerly direction for a distance of 100 feet.

**Grove Street** - on the westerly side between Central and Main Street.

**Hiawatha Avenue** - on the west side from Owaissa to Nahma, and on the east side from the north property line of 26 Hiawatha to the fire hydrant in front of Hiawatha School, between the hours of 7:30 - 8:30 a.m. and 2:30-3:30 p.m. when school is in session. The School Department has the authority to post this area as a no parking zone during evening assemblies. Residents of the west side of Hiawatha are exempt from this ordinance.

(adopted Jan. 12, 1993, amended 8/28/07)

**Lincoln Street** - on the west side from the 5 comers to Lincoln Terrace.

**Lincoln Street** - on the west side from Prospect Street to a point northerly for a distant of 75 feet.

**Lincoln Street** - on the west side for a distance of twenty-five feet north of the driveway at 44 Lincoln Street.

**Maplewood Lane** - on the westerly side of within 500 feet of its intersection with Maple Street.

**Park Street** - on the west side for a distance of 87 feet at the comer of Iroquois A venue in front of 47 Park Street.(adopted 10/27/92)

**Prospect Street** - on the north side from Hillcrest to Lincoln Street. On the south side from the intersection of Summit Street to the westerly end of the property line for 36 Prospect Street, between the hours of 2PM and 3 :30 PM Monday through Friday from August 15<sup>th</sup> through June 30<sup>th</sup> of the following year (*Amended 1/28/03*).

**Railroad Street** - on the east side.

**School Street** - north of Pearl Street on the east side. From Pearl Street in a northerly direction on the west side for a distance of 200 feet between the hours of 7-9 a.m. and 2:30 - 6 P.M., on the south side of Pearl Street on the east side from Pearl Street to Park Terrace and south of Pearl Street on the west side for a distance of 70 feet.

**South Street** - on the north side from West Street to Nahma Avenue.

**SECTION 803. LIMITED TIME PARKING:**

**Central Street:** There shall be a fifteen (15) minute parking limit between Lincoln Street and the railroad tracks (*Amended 10/28/03*).

**Lincoln Place:** There shall be a parking limit of 1 hour on both sides of Lincoln Place from 8:00 a.m. to 5:00 p.m. and a parking limit of 2 hours on both sides of Lincoln Place from 5:01 p.m. to 7:59 a.m. with the exception of 1 parking space at the curb cut on the north side behind 22 Railroad Avenue, and the 9 parking spaces on the North side east of Lincoln Street and the driveway between the Federal Building and 22 Railroad Avenue.



**Main Street:** There shall be a parking limit of one hour on both sides of Main Street from Pearl Street, northeast to the railroad tracks. In addition to the above 1 hour limit, the two parallel parking spaces located south of the "Banknorth" entrance on Main Street shall be designated "No Parking Midnight to 9 A.M.". *(amended 11/09/93 & 5/14/02)*

**Park Street:** There shall be a one hour parking limit on the westerly side between Iroquois Avenue and the driveway opening for 37 & 39 Park Street. *(added 9/26/06)*  
There shall be a two hour parking limit on the easterly side for all parking spaces in front of 34 Park Street, Suite #10, excluding handicap spaces. *(added 11/14/17)*

**Railroad Avenue:** There shall be a parking limit of 1 hour on both sides of Railroad Avenue from 8:00 a.m. to 5:00 p.m. and a parking limit of 2 hours on both sides of Railroad Avenue from 5:01 p.m. to 7:59 a.m. This ordinance shall apply to all sections of Railroad Avenue between Central Street and Main Street, with the following exceptions:

- 1) There will be No Parking on the eastern side of Railroad Avenue from Central Street south for a distance of 140'; this area shall be for "Bus Parking Only", and;
- 2) For that portion of Railroad Avenue located on the eastern side of Railroad Avenue which lies between the Railroad Station and a point which is 185' north of Main Street there shall be no parking restrictions.
- 3) Commercial Exemption: Those businesses on Railroad Avenue which can demonstrate that the nature of their business requires that heavy items be moved from a business vehicle to the store throughout the day can apply to the Trustees for a maximum of one permit which would exempt them from the one hour day time parking limit on Railroad Avenue. This permit would be good for one year and would be subject to revocation by the Village Manager for cause.

**Summit Street:** There shall be a 15 minute parking limit on the easterly side from the Summit Street School's southerly driveway to the main entrance of Summit Street School during the hours of 7:30 a.m. to 4:30 p.m., Monday through Friday, from September 1 through June 15. *(amended April 27, 1999)*

#### **SECTION 804. RESIDENT ONLY PARKING:**

No person shall park any vehicle except vehicles with a valid residential parking permit and clearly identifiable service or delivery vehicles on any street designated as "residential parking."

- a) Streets designated as residential parking at all times include~
  1. Old Colchester Road (from North Street to the Town of Essex line)
- b) Streets designated as residential parking Monday through Friday, 7:00 AM to 3:00 PM,

September 1<sup>st</sup> through July 1<sup>st</sup> include:

1. Drury Drive
2. Drury Drive Extension;
3. Upland Road;
4. Meadow Terrace;
5. Brookside Avenue;
6. Crestview Road;
7. Grove Street (between North Street and Central Street);

## 8. North Street.

- c) The Village Clerk shall annually issue two residential parking permits for each dwelling unit on a designated street. "Dwelling Unit" shall mean a dwelling structure, or portion thereof, designed, constructed or used as living quarters for one family, and which includes facilities for food preparation, sleeping and sanitation.
- d) Residential parking permits shall be displayed on the left hand side of the dashboard of any vehicle parked in the street during the time period listed in subsection (a).
- e) Vehicles parked as permitted under this section shall be subject to all other parking requirements of the Village of Essex Junction Municipal Code.

*Section 804 adopted by Trustees October 13, 1998, amended 10/25/00, and 7111/06.*

**SECTION 810. OTHER PARKING RESTRICTIONS:**

- a.) There shall be no parking at any time on any street within the 20 feet of an intersection with another street or designated crosswalk unless otherwise provided.
- b.) There shall be no parking at any time within 6 feet of any Village fire hydrant.
- c.) There shall be no parking at any time so as to block any portion of a public sidewalk.
- d.) There shall be no parking, on any Village street, in any manner, so that the parked vehicle would prevent the passage of Village fire trucks, rescue or other emergency vehicles.
- e.) There shall be no parking at any time within any public street wherein the driver's side of the vehicle is next to the property, sidewalk, curb, or road edge, except on one-way streets.
- f.) There shall be no parking, at any time, on any Village street blocking any designated driveway or part thereof.
- g.) No person shall park or leave unattended a vehicle of any type in any designated fire lane or bike lane.

**SECTION 815. WINTER PARKING BAN:**

No person shall park or leave unattended a vehicle of any type on any street, road, or right-of-way in the Village of Essex Junction during the period December 1 through April 1 of the next year between the hours of 12 midnight and 7:00 a.m.

**SECTION 818. VILLAGE PARKING LOTS:**

The following regulations shall apply to parking lots operated by the Village:

- a) The Village Trustees may, by resolutions, designate not more than 50% of the parking spaces in any lot as "Reserved" and establish fees for the use of RESERVED parking spaces.
- b) Any parking space designated as "Reserved" will be clearly marked and will be unavailable for public parking at all times. "Reserved" spaces shall not be sublet.
- c) The Village Trustees, or their designate, may authorize the use of RESERVED parking spaces by specific individuals upon payment to the Village of the established fee. Such

individuals must display a parking permit issued by the Village when using a RESERVED parking space.

- d) No parking shall be permitted in Village parking lots between the hours of Midnight and 6 a.m. The Trustees may exempt designated spaces from this limitation. (Adopted 10/12/93)

#### **SECTION 820. TEMPORARY PARKING BAN:**

No person shall park or leave unattended a vehicle of any type on any street, road, or right-of-way in the Village of Essex Junction that has been closed for the purpose of cleaning, clearing, oiling, repairing, surfacing a street, special events, parades, or pruning or removing trees. The Village Public Works or Essex Police departments may close such street to the parking of vehicles by causing signs to be posted thereon in conspicuous locations indicating the prohibition of parking thereon and the hours the parking ban is in effect.

For the purposes of this Section, "special events" shall include, but not be limited to, the Annual Village Block party and the Five Corners Farmers Market.

#### **SECTION 825. VIOLATION DEEMED NUISANCE - NOTICE, TOWING & CHARGES:**

- a.) The parking or leaving any vehicle in violation of this chapter is hereby declared to be a public nuisance.
- b.) The fact that a vehicle which is illegally parked is registered in the name of the person, rental agency or company shall be prima facie proof that such person, rental agency or company was in control of the automobile at the time of such notice.
- c.) It shall be sufficient notice of violation for a law enforcement officer to leave written notice on an official form securely on the vehicle indicating the violation, the time and date of the violation, the location of the violation, and the registration number of the vehicle, and such other information as seems appropriate.
- d.) "Parking," for these purposes, shall mean leaving a vehicle at rest with or without an operator in attendance unless otherwise provided.
- e.) The Public Works Department, the Fire Department of the Village of Essex Junction, or any lawful police official of the State of Vermont, are hereby authorized to remove and tow away, or have removed and towed away, by commercial towing service, any vehicle illegally parked in any place where such parked vehicle violates this chapter, creates or constitutes a public nuisance, creates or constitutes a traffic hazard, blocks the use of fire hydrants, obstructs or may obstruct the movement of emergency vehicles, or interferes with the free flow of traffic, or has three or more unpaid violations. In addition to towing, a police officer may issue a ticket in accordance with Section g.
- f.) A vehicle so towed away to storage under the provisions of this chapter may be redeemed by the owner of the vehicle upon the payment of all towing charges, storage charges, or other expenses incurred in the moving of the vehicle, except that the charge of towing each vehicle shall not exceed an amount as established by the Village Manager. The operator of the commercial towing service may hold such vehicle until such charges have been paid. In addition, any vehicle towed due to three or more outstanding violations shall be required to pay all fines prior to their vehicles being released to them by the commercial towing service.

- g.) Any person who violates the provisions of this chapter may be ticketed for such offense by any lawful police official of the state of Vermont as listed below:  
Twenty-five dollars per violation
- h.) The Village may choose to have a vehicle towed to a location other than a commercial storage facility and may choose to bear the cost of such towing (i.e. to clear streets for special events).
- i.) The provisions of this chapter are declared to be separable in that any provision declared to be invalid shall not affect the validity of the remaining provisions.

### SECTION 830. ONE WAY STREETS:

- a) Operation of any type of vehicle, motorcycle, or other form of common conveyance in an easterly direction on the road between **Lincoln Street** and **Main Street** in front of Banknorth shall be prohibited.
- b) Operation of any type of vehicle, motorcycle, or other form of common conveyance in an easterly direction on **River Street** shall be prohibited between the hours of 3:00 P.M. and 5:30 P.M. and 7:00 P.M. to 7:30 P.M. At all other times, two-way traffic is authorized.  
(Amended 1/9/01)
- c) Operation of any type of vehicle, motorcycle, or other form of common conveyance in a southerly direction on **Summit Street** is hereby prohibited.
- d) Operation of any type of vehicle, motorcycle, or other form of common conveyance in a westerly direction on **Prospect Street** between Lincoln and Summit Streets is hereby prohibited.
- e) Operation of any type of vehicle, motorcycle, or other form of common conveyance in a northerly direction on **School Street**, north of Pearl Street between Pearl Street and Lincoln Terrace, is hereby prohibited.
- f) Operation of any type of vehicle, motorcycle, or other form of common conveyance in an easterly direction on **Lincoln Place** between Railroad Street and Lincoln Street is hereby prohibited. (amended 3/14/06)
- g) Operation of any type of vehicle, motorcycle, or other form of common conveyance in an easterly direction on **Park Terrace** from School Street to the westerly driveway of the Chittenden Bank is prohibited. (adopted 4/10/90)
- h) Operation of any type of vehicle, motorcycle, or other form of common conveyance in a westerly direction on **Mill Street** is hereby prohibited. (adopted Nov. 24, 1993)
- i) Operation of any type of vehicle, motorcycle or other form of common conveyance in a southerly direction on **Ivy Lane between Main Street and Central Street** is hereby prohibited. (Adopted on Nov. 9, 1993, amended 6/24/03)

On the streets of Essex Junction designated as one way streets and on those streets where, by appropriate pavement or street markings, more than one lane of traffic is designated in the same direction, it shall become lawful to overtake and pass said vehicle proceeding in the same direction on either side thereof. The operator of any such vehicle, upon any such street shall, before turning his vehicle from one traffic lane into another traffic lane, indicate by hand signal or directional light, his intentions so to do, and shall turn into the other lane only after using due care and caution to avoid accidents. When traffic lanes are so marked to indicate their use for a right turn only, left turn only, through traffic only, or a combination of the above of same, no person shall operate a vehicle except in the direction so indicated by such markings. Proper notice on the streets as indicated above shall

be accomplished so that the operator of any vehicle, motorcycle, or other form of common conveyance, may be aware of the provisions of this Ordinance.

### **SECTION 835: BICYCLE PATH**

No motorized vehicle of any type shall operate on any bicycle lane or path, trail or sidewalk or municipal open space, except for a vehicle entering or exiting a driveway on Main Street between its intersection with Brickyard Road and Fairview Drive (with the understanding that motorists shall yield to pedestrians or bicyclists using the bike path). (Amended 11/14/00, 10/23/01 & 6/10/03)

### **SECTION 840: PROHIBITED RIGHT-HAND TURNS**

- a.) No Vehicle of any type, motorcycle or other form of common conveyance shall make a right-hand turn at any time at the following locations:
  - 1. the stop bar at the **Five Corners** from **Main Street** onto **Lincoln Street**. (adopted June 22, 1993).
  - 2. From **River Street** onto **Stanton Drive**.
- b.) No Vehicle of any type, motorcycle or other form of common conveyance shall make a right hand turn at times when an illuminated sign indicating **NO TURN ON RED** is displayed to drivers at the following locations:
  - 1. from **Pearl Street** onto **Park Street** (at the Five Corners Intersection)
  - 2. from **Park Street** onto **Maple Street** (at the Five Corners Intersection)
  - 3. from **Maple Street** onto **Main Street** (at the Five Corners Intersection)
  - 4. from **Lincoln Street** onto **Pearl Street** (at the Five Corners Intersection)
  - 5. from **South Summit Street** onto **Pearl Street**
  - 6. from **Pearl Street** onto **South Summit Street** (Subsection b, 1-6 adopted 3/14/00)
- c.) No Vehicle of any type, motorcycle or other form of common conveyance shall make a right-hand turn during the times indicated at the following intersections:
  - 1. from the **driveway at the Riverview Apartments** onto **River Street** between the hours of 2:45 p.m. and 5:45 p.m. (Adopted 5/22/90).

### **SECTION 841: PROHIBITED LEFT-HAND TURNS:**

- a.) No Vehicle of any type, motorcycle or other form of common conveyance shall make a left-hand turn at any time at the following locations:
  - 1. from the westbound lane of **Pearl Street** between the "5 Corners" (intersection of Routes 15, 2A & 117) and a point 155 feet westerly of the intersection of **Pearl and Park Streets**.
  - 2. from **Main Street** into the **Howard Bank driveway** on Main St. (adopted 4/10/90)
  - 3. at the **Five Corners** from **Main Street** onto **Maple Street**. (Adopted 4/10/90)
  - 4. from **1 Maple Street** onto **Park Street**. (Adopted 12/9/97)
- b.) No Vehicle of any type, motorcycle or other form of common conveyance shall make a left-hand turn during the times indicated at the following intersections:
  - 1. from **Stanton Drive** onto **River Street** between the hours of 2:45 p.m. and 5:45 p.m. (Adopted 5/22/90)

**SECTION 846: SPEED LIMITS**

No vehicle of any type, motorcycle or other form of common conveyance shall be operated at a speed in excess of that listed below and posted on the streets named. The speed limit on the following streets shall be **25 mph** with exceptions noted with an asterisk\*:

<b>ABNAKI AVENUE</b>	<b>HAYDEN STREET</b>	<b>PEARL STREET ***</b>
<b>ACORN CIRCLE</b>	<b>HIAWATHA AVENUE</b>	<b>PINE COURT</b>
<b>ALGONQUIN AVENUE</b>	<b>HILLCREST ROAD</b>	<b>PLEASANT STREET</b>
<b>ARLINGTON STREET</b>	<b>HUBBELLS FALLS DR</b>	<b>PROSPECT STREET</b>
<b>ASPEN DRIVE</b>	<b>HURON AVENUE</b>	<b>RAILROAD AVENUE</b>
<b>ATHENS DRIVE</b>	<b>IROQUOIS AVENUE</b>	<b>RAILROAD STREET</b>
<b>BEECH STREET</b>	<b>JACKSON STREET</b>	<b>REDWOOD TERRACE</b>
<b>BRIAR LANE</b>	<b>JONES AVENUE</b>	<b>RIVENDELL DRIVE</b>
<b>BRICKYARD ROAD</b>	<b>JUNIPER RIDGE RD</b>	<b>RIVER STREET ****</b>
<b>BROOKS AVENUE</b>	<b>KILLORAN DRIVE</b>	<b>ROSEWOOD LANE</b>
<b>BROOKSIDE AVENUE</b>	<b>KILN ROAD</b>	<b>ROTUNDA AVENUE</b>
<b>BROWNELL DRIVE</b>	<b>LAMOILLE STREET</b>	<b>S. SUMMIT STREET</b>
<b>CAMP STREET</b>	<b>LINCOLN PLACE</b>	<b>SCHOOL STREET</b>
<b>CASCADE COURT</b>	<b>LINCOLN STREET *</b>	<b>SENECA AVENUE</b>
<b>CASCADE STREET</b>	<b>LINCOLN TERRACE</b>	<b>SILVERBOW TERR</b>
<b>CASCADNAC AVENUE</b>	<b>LOUBIER DRIVE</b>	<b>SOUTH HILL DRIVE</b>
<b>CENTRAL STREET</b>	<b>MAIN STREET **</b>	<b>SOUTH STREET</b>
<b>CHEROKEE AVENUE</b>	<b>MANSFIELD AVENUE</b>	<b>SOUTHVIEW ROAD</b>
<b>CHERRY STREET</b>	<b>MAPLE STREET</b>	<b>STANTON DRIVE</b>
<b>CHURCH STREET</b>	<b>MAPLEWOOD LANE</b>	<b>SUGARTREE LANE</b>
<b>CLEMS DRIVE</b>	<b>MASON ROAD</b>	<b>SUMMIT STREET</b>
<b>CORDUROY ROAD</b>	<b>MCGREGOR STREET</b>	<b>SYCAMORE LANE</b>
<b>COUNTRYSIDE DRIVE</b>	<b>MEADOW TERRACE</b>	<b>TAFT STREET</b>
<b>CREE AVENUE</b>	<b>MILL STREET</b>	<b>TAMARACK DRIVE</b>
<b>CRESTVIEW ROAD</b>	<b>MOHAWK AVENUE</b>	<b>TYLER DRIVE</b>
<b>CURTIS AVENUE</b>	<b>MURRAYROAD</b>	<b>UPLAND ROAD</b>
<b>DENSMORE DRIVE</b>	<b>N. HILLCREST ROAD</b>	<b>VALE DRIVE</b>
<b>DRURY DRIVE</b>	<b>NAHMA AVENUE</b>	<b>VILLA DRIVE</b>
<b>EAST STREET</b>	<b>NORTH STREET</b>	<b>W. HILLCREST ROAD</b>
<b>EAST WILLIAMS ST</b>	<b>OAK STREET</b>	<b>WARNER A VENUE</b>
<b>EDGEWOOD DRIVE</b>	<b>OLD COLCHESTER</b>	<b>WAVERLY STREET</b>
<b>EDUCATIONAL DRIVE</b>	<b>ONEIDA AVENUE</b>	<b>WENONAH AVENUE</b>
<b>ELM STREET</b>	<b>ONONDAGA AVENUE</b>	<b>WEST STREET</b>
<b>FAIRVIEW DRIVE</b>	<b>ORCHARD TERRACE</b>	<b>WEST STREET EXT.</b>
<b>GRANDVIEW AVENUE</b>	<b>OWAISSA AVENUE</b>	<b>WILKINSON DRIVE</b>
<b>GRANT STREET</b>	<b>PARK AVENUE</b>	<b>WILLEY'S COURT</b>
<b>GREENWOOD AVE</b>	<b>PARK STREET</b>	<b>WILLIAMS STREET</b>
<b>GROVE STREET</b>	<b>PARK TERRACE</b>	<b>WOODS END DRIVE</b>
<b>HAWTHORN CIRCLE</b>		<b>WRISLEY STREET</b>

\* **Lincoln Street.**, from the five comers the limit shall be 25 mph, from North Street to the Village limit, the limit shall be posted by the Vermont Agency of Transportation.

\*\* **Main Street**, from the Five Comers to the Indian Brook, the limit shall be 25 mph, from Indian Brook to the Village limits the limit shall be 30 mph. (amended April 14, 1998)

\*\*\* **Pearl Street**, from the Five Comers to 110 Pearl Street (Wendy's restaurant), the limit shall be 25 mph in both directions. In the westbound direction, from 110 Pearl St (Wendy's restaurant) to West Street Extension, the limit shall be 30 mph. From West Street Extension to Susie Wilson Road in the westbound direction, the limit shall be 45 mph. In the eastbound direction from Susie Wilson Road to approximately 300 feet west of West Street Extension, the limit shall be 45 mph. From approximately 300 feet west of West Street Extension to Warner Avenue in the eastbound direction, the limit shall be 35 mph. From Warner Avenue to 110 Pearl St (Wendy's restaurant) in the eastbound direction, the limit shall be 30 mph.

\*\*\*\* **River Street**, the limit shall be 35 mph.

#### SECTION 847:

Emergency vehicles while in the performance of an emergency are exempt from the provisions of this Ordinance.

#### SECTION 848: STOP SIGNS

The operator of any vehicle, motorcycle, or other form of common conveyance shall come to a full stop before entering any intersection from any street, avenue or road upon which there is a stop sign facing in his/her direction. The operator shall not proceed until the intersection is clear.

Stop signs shall be erected on the street, avenues and roads at intersections listed below:

On <b>Abnaki Avenue</b> (on both sides)	(@, South Summit St.
On <b>Alzonquin Avenue</b> (on both sides)	(a), Iroquois Ave.
On <b>Aspen Drive</b>	(a), Beech Street (both intersections)
On <b>Athens Drive</b>	(a), Main St.
On <b>Beech Street</b> (on both sides)	@, Countryside Drive
On <b>Briar Lane</b> (westerly intersection)	(a), Rosewood Lane
On <b>Brickvard Road</b>	(a), Main St. and (a), Corduroy Rd.
On <b>Brooks Avenue</b>	@, Villa Drive and (a), Warner Ave.
On <b>Brownell Drive</b>	(a), West St.
On <b>Camp Street</b>	(a), Maple St.
On <b>Cascade Court</b>	(a), Cascade St.
On <b>Cascade Street</b>	(a), Park Street and
At <b>Cascade Street</b>	On road from Wastewater Treatment Plant.
On <b>Central Street</b>	(a), Lincoln Street and (a), Educational Ctr Dr.

On <b>Central Street</b> (on both sides)	@ Grove Street
On <b>Cherokee Avenue</b> (on both sides)	(a), South Summit St.
On <b>Cherry Street</b> (on both sides)	(a), South Summit St.
On <b>Cherry Street</b>	@, the Merchants Bank Driveway
On <b>Church Street</b>	(a), Main St. and (a), East St.
On <b>Clems Drive</b>	(a), West St.
On <b>Corduroy Road</b>	@, Beech St. and (a), Briar Lane.
On <b>Countryside Drive</b>	@ Brickyard Rd and at the north intersection with Beech Street.
On <b>Crestview Road</b>	(a), Drury Drive and (a), Main St.
On <b>Curtis Avenue</b>	(a), Pearl St.
On <b>Densmore Drive</b>	@, Main St. and (@, Brickyard Rd.
On <b>Doon Way</b>	(a), South St.
On <b>Drury Drive</b>	(a), Educational Center Drive
On <b>East Street</b>	@, Maple St. and @, Pleasant St.
On <b>Educational Center</b> access road	@Old Colchester Rd.; Main St.; Drury Dr; and Central St.
On <b>Elm Street</b>	(a), Maple Street
On <b>Fairview Drive</b>	(a), Main Street
On <b>Grant Street</b>	(a), Maple St. and (a), Jackson St.
On <b>Greenwood Avenue</b>	(a), Cascade Ct.
On <b>Grove Street</b> (on both sides)	(a), Central St.
On <b>Grove Street</b>	(a), North St. and (@, Main St.
On <b>Hawthorn Circle</b> (both intersections)	(a), Fairview Drive
On <b>Hayden Street</b>	(a), West Street
On <b>Hayden Street</b>	(a), the southerly intersection of Wilkinson Dr
On <b>Hiawatha Avenue</b>	(a), West Street
On <b>Hillcrest Road</b>	(ii), Pearl St. and (ii), Prospect St.
On <b>Hubbell's Falls Road</b>	@ Beech Street and (ii), Juniper Ridge Road
On <b>Huron Avenue</b>	(ii), West Street and @ Mohawk Avenue
On <b>Iroquois Avenue</b>	(ii), South Summit St.
On <b>Jackson Street</b>	(a) exit from public Works Complex
On <b>Juniper Ridge Road</b>	(ii), Fairview Drive
On <b>Killoran Drive</b>	@ West St.
On <b>Kings Court</b>	(ii), Maple St.
On <b>Lamoille Street</b>	@ East St.
On <b>Lincoln Place</b>	@2 Railroad Ave.
On <b>Lincoln Terrace</b>	(ii), Lincoln St. and (ii), School St.
On <b>Locust Lane</b>	(a), Hubbell's Falls Drive
On <b>Main Street</b>	(ii), Ivy Lane Parking Lot.



On <b>Mansfield Avenue</b>	@ Maple St. and @ Brickyard Rd.
On <b>Maplewood Lane</b>	(a) Maple St.
On <b>MacGregor Street</b>	(ii), Jackson St.
On <b>Meadow Terrace</b>	(ii), Drury Drive
On <b>Mohawk Avenue</b>	(ii), South Summit St.
On <b>Nahma Avenue</b>	(a), South St.
On <b>North Street</b>	(ii), Central St., Lincoln St., and Grove St.
On <b>North Hillcrest Road</b>	(a), Hillcrest Rd.
On <b>Oak Street</b>	(ii), Maple St.
On <b>Old Colchester Road</b>	(ii), North Street.
On <b>Orchard Terrace</b>	(ii), South St.; (ii), Iroquois from either direction.
On <b>Owaissa Avenue</b>	(ii), Hiawatha Avenue
On <b>Park Avenue</b>	(ii), Pleasant Street.
On <b>Park Terrace</b>	(ii), Park St. and (ii), School St.
On <b>Pleasant Street</b>	(a), Main St. and (ii), Mansfield Ave.
On <b>Prospect Street</b>	(ii), Lincoln St.
On <b>Railroad Avenue</b>	(ii), Central St. and @ Main Street
At <b>Railroad Avenue</b>	On the fire lane at the rear of the Brownell Block between 4 & 8 Railroad Ave.
On <b>Railroad Street</b>	(a), Maple St. and @ Main Street
On <b>Redwood Terrace</b>	(ii), at Cascade Court
On <b>Rivendell Drive</b>	(a), Maple St. and @ Briar Lane
On <b>Rosewood Lane</b> (at the easterly end)	(ii), Briar Lane and @ Mansfield Ave.
On <b>School Street</b>	(ii), Pearl St. from either direction
On <b>School Street</b>	@ Lincoln Terrace (to stop vehicles traveling from the Holy Family church parking lot).
On <b>Seneca Avenue</b> (both sides)	(ii), South Summit St.
On <b>Silver Bow Terrace</b>	(ii), Park St.
On <b>South Street</b> (east and west bound)	@ 2 West St. and (ii), South St.
On <b>Southhill Drive</b>	@ Southview Rd. & @ Redwood Terrace (both sides)
On <b>South Summit Street</b>	(ii), West Street.
On <b>Southview Road</b>	(ii), South St. and (ii), Redwood Terrace
On <b>Stanton Drive</b>	(ii), River St.
On <b>Summit Street</b>	(ii), Prospect St.
On <b>Sugartree Lane</b> (both intersections)	(ii), Brickyard Rd.
On <b>Sycamore Lane</b> (both intersections)	(ii), Juniper Ridge Road
On <b>Taft Street</b>	(ii), Main Street
On <b>Tamarack Drive</b>	(ii), Beech Street (both intersections)
On <b>Tyler Drive</b>	(ii), Wilkinson Drive (both intersections)

<b>On Upland Road</b>	(ii), Drury Drive
<b>On Vale Drive</b>	(a) Brickyard Rd and (ii), Countryside Drive
<b>On Warner Avenue</b>	(ii), Pearl St.
<b>On Wenonah Avenue</b>	@, West Street
<b>On West Street</b>	@ South Street and at the northerly intersection with West Street Ext. (to stop cars approaching from the dead-end section of West Street).
<b>On West Street Extension</b>	(ii), West Street.
<b>On West Hillcrest Road</b>	(ii), Pearl Street
<b>On Wilkinson Drive</b>	@ South Street and @ the northerly intersection of Hayden Street
<b>On Willeys Court</b>	(ii), Pearl Street.
<b>On Williams Street</b>	(ii), Willeys Court
<b>On Woods End Drive</b>	(ii), Rivendell Drive and (ii), Briar Lane
<b>On Wrisley Court</b>	(ii), Wrisley Street
<b>On Wrisley Street</b>	(ii), Jackson St.

## SECTION 849: TRAFFIC LIGHTS

Any person operating any type of vehicle, motorcycle, or other form of common conveyance shall, when coming upon an intersection wherein there is installed traffic control lights, facing in their direction, adhere to said device as follows:

- (a) If the traffic light is a single light unit showing only amber or yellow or is a unit that is blinking only amber or yellow, proceed with caution through the intersection.
- (b) If the traffic light is a single light unit with the red light blinking, stop, then proceed with caution through the intersection.
- (c) If the traffic light is showing green, proceed through the intersection.
- (d) If the traffic light is a multi-light device and is showing amber prior to entering the intersection, said individual shall cause such vehicle to stop. If the vehicle has already entered the intersection under an amber condition, said person and vehicle shall proceed with caution. If this traffic light is showing red, then said person shall cause said vehicle to come to a full stop until said device changes to green.

## SECTION 850:

Permanent traffic control lights are authorized at the following intersections:

- (a) The intersection of Park and South Streets.
- (b) The intersection of Maple, Pearl, Park, Lincoln and Main Streets, commonly referred to as the Five Corners.
- (c) The intersection of Pearl and South Summit Streets.
- (d) On Pearl Street at the entrance to the shopping centers on either side.
- (e) The intersection of West and Pearl Street.
- (f) The intersection of Pearl Street and Susie Wilson Road.

- (g) The intersection of Maple Street and I.B.M. entry road.
- (h) The intersection of Main Street (Route 15), Crestview and Brickyard Road.
- (i) On Maple Street at the intersection of Maple Street Extension and the entrance to the IBM plant.

Other traffic control devices of a mobile or portable nature may temporarily be utilized by the Police Department for emergency situations as they deem necessary.

#### **SECTION 851:**

Any person who violates the provisions of this Ordinance may be ticketed (cited) for said offense by any lawful police official to the Vermont Traffic and Municipal Ordinance Bureau.

#### **SECTION 852: PROHIBITION OF TRUCKS**

Motor trucks with a registered vehicle weight in excess of sixteen thousand pounds (16,000 lbs.) shall be prohibited from the following streets in the Village:

<b>Cherry Street</b>	<b>North Street</b>
<b>Crestview Road</b>	<b>Park Street</b>
<b>Curtis Avenue</b>	<b>Park Terrace</b>
<b>Drury Drive</b>	<b>School Street</b>
<b>Grove Street</b>	<b>South Street, from Park Street to West</b>
<b>Iroquois Avenue, from to South Summit Street</b>	<b>South Summit Street</b>
<b>Lincoln Terrace</b>	<b>Summit Street</b>
	<b>West Street and West Street Extension</b>

This article shall not apply to motor trucks making deliveries to or from properties located on such streets or emergency vehicles. This exemption shall also apply to motor vehicles originating from properties located on such street.

Note: Pursuant to the provisions of 23 V.S.A. Sec. 1042, this ordinance received approval from the Secretary of Transportation on June 13, 1990. (effective July 21, 1990)

#### **SECTION 853. PROHIBITED PASSING:**

**On Main Street** in an easterly direction beginning at Brickyard Road to 161 Main Street.

#### **SECTION 855:**

Each of the provisions of this Ordinance are severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

**VILLAGE OF ESSEX JUNCTION, VT****MUNICIPAL CODE****CHAPTER 9  
ENFORCMENT****SECTION 901:**

The following Chapters of this Municipal Code shall constitute civil ordinances within the meaning of 24 V.S.A. Chapter 59:

Chapter 2 - General Regulation of Public Streets

Chapter 3 - General Regulation of Public Parks

Chapter 4 - Regulation of the Use of Firearms and Bows and Arrows

Chapter 5 - Regulation of Dogs

Chapter 11 - Regulations of Waste Disposal

Chapter 12 - Regulations of Placement of Newsracks in the Public Right-of-Way

**SECTION 902:**

Any person who violates a provision of any Chapter of this Municipal Code that is designated a civil ordinance pursuant to Section 901 above shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues. Police Officers of the Town of Essex shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Judicial Bureau a municipal complaint.

**SECTION 903:**

An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First offense - \$ 25      Third offense - \$ 100

Second offense - \$ 50      Fourth - and subsequent offenses \$ 200

Offenses shall be counted on a calendar year basis.

**SECTION 904:**

Unless an ordinance has more specific violation offense levels, an Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense - \$50      Third offense - \$200

Second offense - \$100      Fourth offense - and subsequent offenses \$400

Offenses shall be counted on a calendar year basis.

**SECTION 905:**

In addition to the enforcement procedures available before the Judicial Bureau, the Municipal Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

**Fee changes effective 10/10/97, amended 5/14/18; 12/14/22.**

**VILLAGE OF ESSEX JUNCTION, VT****MUNICIPAL CODE****CHAPTER 11****REGULATIONS OF WASTE DISPOSAL****Section 1101. Authority:**

This ordinance is enacted pursuant to 24 V.S.A., Section 2291 (12). It shall constitute a civil ordinance within the meaning of 24 V.S.A., Chapter 59.

**Section 1102. Purpose:**

It is the purpose of this ordinance to regulate the disposal of solid waste in the Village of Essex Junction in order to protect the public health, safety and welfare and to promote the responsible use of resources and protection of the environment.

**Section 1103. Definitions:**

The definitions set forth in 10 V.S.A., Section 6602 are hereby incorporated into this Ordinance.

**Section 1104. Regulation of Disposal of Waste Material:**

- (a) A person shall not shoot, throw, dump, deposit, or cause to be thrown, dumped or deposited, paint balls, food products, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, unregistered and/or uninspected automobiles or parts hereof, refuse of whatever nature, or any noxious thing on public lands or the lands of others without the property owners consent. If the throwing, placing, or depositing was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing or depositing was done by the driver of the motor vehicle.
- (b) A person shall not use public trash containers for dumping household garbage, household trash or commercial waste materials.
- (c) The disposal of waste material, including solid waste and hazardous waste, is prohibited in the Village of Essex Junction except at a facility approved for such disposal under the provision of 10 V.S.A. Chapter 159 or 24 V.S.A. Chapter 61, Subchapter 10. This provision shall not prohibit the temporary storage of waste material in a container designed to prevent release of such material pending collection of such waste for disposal at an approved facility.

**Section 1105. Enforcement:**

- (a) The Traffic and Municipal Ordinance Bureau.  
Any person who violates any provision in Section 1104 of this ordinance shall be subject to civil penalty of up to \$500.00 per day for each day that such violation continues. Police Officers of the Town of Essex shall be authorized to act as Issuing Municipal Officials to

issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.

**(b) Right to Civil Enforcement.**

In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Village is authorized to utilize the procedures set forth in 24 V.S.A. Chapter 61, Subchapter 12, commence a civil action to obtain injunctive and other appropriate relief, or pursue any other remedy authorized by law.

**Section 1106. Penalties:**

**(a) Waiver fees for Municipal Complaint.**

An issuing Municipal Officer is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First Offense \$ 25.00	Third Offense \$100.00
Second Offense \$ 50.00	Fourth & Subsequent Offenses \$200.00

Offenses shall be counted on a calendar year basis

**(b) Civil Penalty of Ordinance Violation.**

An issuing Municipal Officer is authorized to recover civil penalties in the following amounts for each violation of this ordinance:

First Offense \$ 50.00	Third Offense \$200.00
Second Offense \$ 100.00	Fourth & Subsequent Offenses \$400.00

Offenses shall be counted on a calendar year basis.

**VILLAGE OF ESSEX JUNCTION, VT****MUNICIPAL CODE****CHAPTER 12****REGULATION OF THE PLACEMENT OF NEWSRAKS IN THE PUBLIC RIGHT-OF-WAY****SECTION 1201. AUTHORITY:**

This ordinance is enacted pursuant to 24 V.S.A., Section 2291 and the Village Charter. It shall constitute a civil ordinance within the meaning of 24 V.S.A., Chapter 59.

**SECTION 1202. PURPOSE:**

The purpose of this Ordinance is to permit the placement of newsracks within the public right-of-way, while controlling the interference with pedestrian or vehicular traffic and the danger to the public that could be caused by the unregulated placement of newsracks.

**SECTION 1203. NEWSRACKS PROHIBITED:**

- (a) No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public right-of-way or parking space, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs, signals, hydrants, mailboxes or other objects permitted at or near said location.

**SECTION 1204. PERMITS:**

- (a) No person shall install or maintain any newsrack which in whole or in part rests upon, in or over any public right-of-way or parking space without obtaining a permit from the Village of Essex Junction.
- (b) Applications shall be obtained from the Village of Essex Junction. The applicant shall be required to complete the application containing the following information:
  - (1) The proposed location of each newsrack to be installed, and
  - (2) The name, address and telephone number of the applicant.



- (c) No more than one permit shall be required per applicant, regardless of the number of newsracks the applicant maintains in the Village. However, the application shall be promptly amended by the applicant prior to the installation of additional newsracks or the change in location of any existing newsracks.
- (d) From the above information, the Village Manager or his/her designee shall review the application based upon the criteria set forth in Section 1205 below. Such application may be granted either in whole or in part when more than one location is proposed by the applicant, and in any event when denial is solely as to location, it shall be without prejudice to amend such application to state a different location or locations.
- (e) Appeal of a denial of a proposed newsrack location may be made to the Village Trustees. All appeals must be submitted in writing within twenty calendar days from the date of the denial stating the basis of the appeal.

#### **SECTION 1205. STANDARDS FOR INSTALLATION, MAINTENANCE AND OPERATION.**

Any newsrack which in whole or in part rests upon, in or over any public right-of-way or parking space shall comply with the following standards:

- (a) No newsrack that exceeds (30) inches in height shall be placed within the visibility triangle. The visibility triangle shall be determined as follows: Starting at the intersection of the property lines along the intersecting streets, measure away from the point of the intersection a distance of thirty (30) feet along both property lines. Connect these two points with an imaginary line. The visibility triangle shall be the triangle defined by the two property lines and the imaginary line. (*Amended 10/26/99*)

No newsrack that exceeds sixty (60) inches in height shall be placed outside the visibility triangle

- (b) Newsracks shall be placed only near a curb or adjacent to the wall of a building. Newsracks placed near the curb shall be placed no less than eight inches nor more than eighteen inches from the edge of the curb. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six inches from the wall.
- (c) No newsrack shall be chained, bolted or otherwise attached to any property without the permission of the owner or person in possession of the property.
- (d) No newsrack shall be chained or otherwise attached to any trees, shrubs, signs, poles, posts or other public amenity.
- (e) Newsracks may be chained or otherwise attached to one another.

- (f) No newsracks shall be placed, installed, used or maintained:
- (1) within five feet of any marked crosswalk or pedestrian push buttons;
  - (2) within five feet of any facility designed for people with disabilities;
  - (3) within five feet of any fire hydrant, fire call box, police call box or other emergency facility;
  - (4) within ten feet of any driveway;
  - (5) within five feet of any bus stop, bench or bus shelter;
  - (6) at any location whereby the clear space for the passageway of pedestrians is reduced to less than five feet; or
  - (7) on an area improved with lawn, flowers, shrubs or trees.
- (g) Each newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all times. The exterior of the newsrack shall not be a medium for general advertisements.
- (h) No newsrack shall be placed in a location that creates a safety hazard or interferes with the maintenance of municipal infrastructure.

#### **SECTION 1206. NEWSRACK IDENTIFICATION REQUIRED:**

Within sixty days after this Ordinance becomes effective, every person or other entity which places or maintains a newsrack in the public right-of-way of the Village shall have his/her or its name, address and telephone number affixed thereto in a place where such information may be easily seen.

#### **SECTION 1207. DAMAGE, VANDALISM, ETC.**

Any person who places a newsrack in the public right-of-way does so at his/her own risk. The Village of Essex Junction shall not be responsible for any loss, theft or damage.

#### **SECTION 1208. PROOF OF INSURANCE**

Every person or other entity which places or maintains a newsrack in a public right-of-way or parking space in the Village shall provide proof that the applicant maintains public liability insurance for personal injury and property damage which names the Village as an additional insured. Proof shall be in the form of a Certificate of Insurance from an insurance company authorized to do business in this state, with the provision that such insurance shall be noncancellable except after ten days notice to the Village Manager. Such public liability insurance shall provide coverage of at least one million dollars (\$1,000,000) for personal injury to or death of any one or more persons in any one accident, and for damages to property in the amount of at least one million dollars (\$1,000,000) resulting from any one accident.

**SECTION 1209. REMOVAL OF NEWSRACK**

Without advanced notice to the owner, the Village Manager, Public Works or emergency management personnel may remove any newsrack that is not permitted under this Ordinance or is interfering with emergency management operations.

In order to undertake scheduled maintenance or construction, the Village of Essex Junction reserves the right, through the Village Manager or Public Works Director, to require the owner to temporarily remove a permitted newsrack within 48 hours of written notice. If the owner does not remove the newsrack within 48 hours, the Village of Essex Junction may remove the newsrack.*(Amended 10/27/98)*.

**VILLAGE OF ESSEX JUNCTION, VT****MUNICIPAL CODE****CHAPTER 14****ORDINANCE REGULATING SKATEBOARDS, SCOOTERS AND ROLLERBLADES****SECTION 1401.**

Every person riding a skateboard, scooter or using rollerblades is granted all of the rights and is subject to all of the duties applicable to operators of vehicles, except as to those provisions which by their very nature, have no applications, or is otherwise stated in this ordinance. Whenever such person dismounts from a skateboard, scooter or rollerblades, he/she shall be subject to all regulations applicable to pedestrians.

**SECTION 1402.**

A person emerging from an alleyway, driveway or building while skateboarding, riding a scooter or rollerblading shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all motorized vehicles approaching on said roadway, unless they are in a designated crosswalk.

**SECTION 1403.**

Whenever any person is skateboarding, riding a scooter or rollerblading upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

**SECTION 1404.**

At no time may any person ride a skateboard, scooter or rollerblade on Park Street, Pearl Street, Main Street, Lincoln Street, West Street or South Street. They must use the sidewalk.

At no time may any person ride a skateboard, scooter or rollerblade in the roadway or on the sidewalk on Railroad Avenue or Central Street from the railroad tracks to Lincoln Street or on Main Street from the railroad tracks to the Five Corners intersection.

At no time may any person ride a skateboard, scooter or rollerblade in Lincoln Hall Square. This includes all buildings (Essex Jct. Municipal Building, Brownell Library, and Essex Jct. Fire Station), grounds and municipal parking lots. At no time may any person ride a skateboard, scooter or rollerblade in Veterans Memorial Park. (amended 1/11/05)

**SECTION 1405.**

Any person who violates a provision of this ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Police Officers of the Town of Essex shall be authorized to

act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.

**SECTION 1406:**

An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First offense - \$ <b>25</b>	Third offense - \$ <b>100</b>
Second offense - \$ <b>50</b>	Fourth - and subsequent offenses \$ <b>200</b>

Offenses shall be counted on a calendar year basis.

**SECTION 1407:**

An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

<b>First offense - \$ 50</b>	<b>Third offense - \$ 200</b>
<b>Second offense - \$ 100</b>	<b>Fourth - and subsequent offenses \$ 400</b>

Offenses shall be counted on a calendar year basis.

**SECTION 1408:**

In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Village Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

*Chapter 14 adopted by Board of Trustees December 14, 1999*

*(Sections 1401 through 1404 were amended May 8, 2001 to include 'scooters')*

**VILLAGE OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 15****ORDINANCE REGULATING VACANT BUILDINGS, BLIGHTED PREMISES AND DANGEROUS PROPERTY**

**PURPOSE:** In accordance with 24 V.S.A. 2291, to define what constitutes vacant buildings, blighted premises and dangerous property, and to provide procedures and take action for their abatement or removal as the public health, safety or welfare may require.

**SECTION 1501. DEFINITIONS:**

- a.) Blighted Premises: Any building, structure or parcel of land, except exempt property as defined below, in which at least one of the following conditions exists:
  - 1. It is dilapidated or becoming dilapidated as documented by the Village Manager and/or assigns;
  - 2. It is attracting illegal activity as documented by the Police Department;
  - 3. It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department;
  - 4. It is determined by the Village Manager and/or assigns or by Health Department reports that the condition of the building, structure or parcel of land poses a serious or immediate danger to the safety, health or general welfare of the community.
  - 5. It is not being maintained. The following factors may be considered in determining whether a structure or building is not being adequately maintained: missing or boarded windows or doors; collapsing or missing walls, roof or floors; seriously damaged or missing siding or walls; a structurally faulty foundation; garbage, trash or abandoned/unregistered cars on the premises (unless the premises is a junkyard legally licensed); overgrown grass or weeds of at least one foot in length; graffiti; and fire damage; or
  - 6. It is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the neighborhood as documented by neighborhood complaints, or cancellation of insurance on the subject property or on adjacent properties.
- b.) Building Safety Officer: Village Manager and/or assign
- c.) Dangerous Property:
  - 1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of
    - (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause is likely to partially or completely collapse.
  - 2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- d.) Inadequate Maintenance. Whenever a building or structure, used or intended to be used for

- dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
- e.) Fire Hazard. Exists whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
  - f.) Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
  - g.) Vacant building: Any structure or building that is unoccupied by a person or occupied by unauthorized persons for ninety (90) days, excepting permitted warehouse structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis.
  - h.) Vacant Nuisance Property: Any property that has been vacant for ninety (90) days and has also been determined to be a Dangerous Property.

#### **SECTION 1502. VACANT BUILDINGS:**

- a.) When the owner of a vacant building fails to actively maintain and manage a building the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or on unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.
- b.) It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety or welfare.
- c.) One vacant property that is not actively and well maintained and managed can be the core and cause of spreading blight.
- d.) Owners of multiple buildings, either concurrently or serially, that are vacant and blight to the community are a significant problem in the Village. Owners of buildings who fail to correct deficiencies and blighted conditions in their buildings contribute to the decline of neighborhoods to a greater extent than those who own only one building. It is in the interest of the welfare of neighborhoods that owners of properties who fail to maintain properties and correct vacant and blighted buildings are subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of this article in a prompt manner.
- e.) No owner shall allow a building designed for human use or occupancy to be a vacant building for more than ninety days, unless one of the following applies:
  - 1. The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.
  - 2. The building meets all Village codes, does not contribute to blight, is ready for occupancy, and is:
    - a. Actively being offered for sale, lease, or rent, or
    - b. Is actively being maintained and monitored by the owner, as defined in

below:

1. Maintenance of the building in continuing compliance with all applicable codes and regulations.
2. Prevention of criminal activity on the premises.
3. The posting of a notice in a conspicuous place on the front of the building stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high and shall be generally readable from at least thirty feet away.

### **SECTION 1503. VACANT BUILDING MAINTENANCE STANDARDS:**

a.) Active maintenance and monitoring shall include all of the following:

1. Accessory and appurtenant structures: Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these vacant building maintenance standards.
2. Building openings: Doors, windows, areaways and other openings shall be weather-tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials which are weather protected, and tightly fitted and secured to the opening.
3. Building structure: The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage. The building shall be sanitary. The building shall not pose a threat to the public health and safety.
4. Chimneys and towers: Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
5. Decorative features: The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored, and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
6. Drainage: The building storm drainage system shall be functional and installed to Village Standards, and allow discharge to Village Standards.
7. Exterior walls: The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
8. Foundation walls: The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal proof.
9. Overhanging extensions: All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good



- repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
10. Premises: The premises upon which the structure or building is located shall be clean, safe, and sanitary, free from waste, rubbish, debris or excessive vegetation, and shall not pose a threat to the public health or safety.
  11. Roofs: The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building, or admit moisture or rain to a contiguous building.
  12. Structural members: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
  13. Walkways: Walkways shall be safe for pedestrian travel.

#### **SECTION 1504. REQUIRED BOARDING OF VACANT BUILDINGS.**

- a.) For the purposes of this article, “boarded” shall mean the covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the buildings by persons or animals.
- b.) Vacant buildings shall be boarded when the building can no longer be secured against intrusion by the closing and locking of doors and windows.
- c.) Vacant buildings that are immediately dangerous and are open and accessible to the general public may be summarily boarded by the Village, pursuant to this Ordinance.
- d.) Any building that is boarded, whether by voluntary action of the owner or as a result of enforcement activity by the Village, shall be boarded in compliance with Village standards promulgated by the Village Manager, and approved by resolution of the Board of Trustees.

#### **SECTION 1505. DANGEROUS BUILDINGS.**

- a.) If, upon inspection of a building, the Village or Village Agent determines that a building, structure or anything attached or connected therewith, or any hazardous condition appears to endanger the public safety, the Village Manager shall commence an abatement action by issuing a Building Safety Order. The Building Safety Order shall:
  1. Identify the hazardous conditions that cause the premises, building, structure or anything attached or connected thereto to be dangerous.
  2. Identify the actions that must be taken by the owner to secure the Dangerous Building or Premises and abate the hazardous conditions identified in the order, including, where appropriate, removal of a Dangerous Building.
  3. Set a date by which the actions to secure a Dangerous Building or Premises and abate the hazardous conditions must be completed by the owner, which shall be not less than fifteen (15) days from the date of service of the order.
  4. Inform the owner of his/her right to appeal the Building Safety Order and the right to be represented by legal counsel at the appeal hearing.
- b.) The Safety Order shall be served upon the owner of the Dangerous Building or Premises by first class certified mail, return receipt requested. A copy of the Order shall be provided to the Board of Trustees of Essex Junction.

- c.) If it appears to the Village Manager or Village Agent that such structure or premises would be especially dangerous, the Village may affix a notice of dangerousness in a conspicuous place upon the structure's exterior walls, or may affix a posted notice in the ground which shall not be removed or defaced without the Villages authority.
- d.) If the owner continues such refusal or neglects to remove or make the building or premises safe, and the Order has become final by the failure to appeal, the Village shall be fully authorized to abate the nuisance, except where removal or demolition of a building is required. The Building Safety Officer may, as necessary, install boards or otherwise secure a dangerous building or order that a building be vacated by any occupants and removed.
- e.) For removal or demolition, the Village Manager, or other appropriate Village officer, may seek approval from the appropriate Court for a remedy in equity to remove or demolish a dangerous building, or to order such steps as may be necessary to abate any hazardous condition. The Village Manager Officer may also seek the imposition of fines in accord with this Ordinance.
- f.) The Building Safety Officer may contract with such service providers or use such other Village employees as may be necessary to ensure public safety in the circumstances. The full cost of any work necessitated by a Safety Order shall constitute a lien chargeable against the property owner and may be recovered in the same manner as taxes for real estate pursuant to 32 V.S.A. Ch. 133.
  - 1. For removal or demolition, the Village Manager, or other appropriate Village officer, may seek approval from the appropriate Court for a remedy in equity to remove or demolish a dangerous building, or to order such steps as may be necessary to abate any hazardous condition. The Village Manager may also seek the imposition of fines in accord with of this Ordinance.

## **SECTION 1506. ADMINISTRATIVE PENALTY**

Any owner of a building that is in violation of this Ordinance shall be subject to an administrative penalty, in an amount not to exceed one thousand dollars (\$1,000.00) per building for the first violation. A second administrative penalty shall be imposed upon an owner pursuant to this article if the owner's building remains in violation of this Ordinance thirty (30) days following the imposition of the first administrative penalty. Additional penalties may be imposed in each thirty (30) day period following the imposition of an administrative penalty under this article. Additional penalties may be imposed so long as the violations continue. A second and any subsequent penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00).

If a previous administrative penalty has been imposed pursuant to this article upon an owner within two years of the date of the imposition of the present administrative penalty, and that previous administrative penalty related to a vacant building other than the building presently the subject of an administrative penalty, any penalty imposed shall in no case be less than two thousand dollars (\$2,000.00) nor more than ten thousand dollars (\$10,000.00).

## **SECTION 1507. APPEAL**

A person aggrieved by a revocation, suspension or penalty pursuant to this Ordinance may appeal as outlined in the Trustees' Policy regarding the Ordinance Appeals Board.

**SECTION 1508. MONITORING FEE FOR VACANT NUISANCE PROPERTIES**

Any vacant building that also constitutes a public nuisance shall be subject to monthly monitoring fees and enforcement response fees, to recover the Village's regulatory costs to monitor and respond to the vacant building. The separate monthly monitoring fee and enforcement response fee shall be set by resolution of the Village Trustees. The monitoring fee shall be imposed upon the initial determination that the vacant building constitutes a public nuisance. The fee shall thereafter be imposed in each thirty (30) day period following the imposition of the initial monitoring fee. On buildings requiring more than one (1) involuntary Village enforcement response within any thirty (30) day period, an additional and separate enforcement response fee shall be imposed, for each response, upon the owner. Monitoring fees of \$250 per month shall be imposed as long as the vacant building remains a public nuisance. Any monitoring fee imposed pursuant to this section may be appealed by the same process that is available for appeal of Safety Orders and Administrative Penalties.

**SECTION 1509. NONCOMPLIANT BUILDINGS OR PROPERTY.**

Any building or property in violation of this Ordinance shall not be accepted for review by the Planning Commission or Zoning Board of Adjustment until the violation is rectified.

**SECTION 1510. SEVERABILITY.**

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

*New Chapter 15 adopted 1/10/12*

**VILLAGE OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 16****ORDINANCE PROHIBITING PLACING SUBSTANCES IN PUBLIC FOUNTAINS****SECTION 1601. PLACING SUBSTANCES IN PUBLIC FOUNTAINS**

No person shall throw, put or place or cause to be thrown, put or placed in any public fountain, or the water thereof, in the City, soap, stone, dirt, ashes, shavings, sticks, garbage, rubbish or filth of any kind, nor shall any person wade or bathe in, or cause or permit a dog or other animal to go into or swim in the water of a public fountain in the City.

**SECTION 1602. PENALTIES:**

- a. Any person who violates a provision of this Chapter of the Municipal Code shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Police Officers of the Town of Essex shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.
- b. An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

Each offense - \$500.00

Offenses shall be counted on a calendar year basis.

- c. An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

Each offense - \$500

Offenses shall be counted on a calendar year basis.

*Amended by the City Council 12/14/22*

**VILLAGE OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 17****ORDINANCE REGULATING KEEPING OF  
DOMESTICATED CHICKENS IN BACKYARDS**

**PURPOSE:** The purpose of this Ordinance is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

**SECTION 1701. PERMIT REQUIRED**

- a.) An annual permit is required for the keeping of any domesticated chickens. The annual permit is personal to the permittee and may not be assigned.
- b.) The initial fee for the annual permit to keep chickens is thirty-five dollars (\$35.00). Said fee to include the cost of staff inspection and zoning permit (if required). The annual permit will expire twelve (12) months from date of issuance. The fee for a renewal of an annual permit shall be ten dollars (\$10.00). Accessory structures less than fifty square feet (50 s.f.) do not require a zoning permit under the Land Development Code, but the structure may not be placed within the property line setbacks.
- c.) A Permit is not valid until fifteen (15) days after the date of issuance.
- d.) The Permit may be appealed within fifteen (15) days of its issuance.
- e.) The applicant shall post the Permit immediately after receipt of the Permit on the property to which it refers in a location visible from the street until the development is complete.
- f.) An applicant for a Permit to keep chickens must demonstrate compliance with the criteria and standards in this Ordinance in order to obtain a permit.
- g.) The application for a Permit shall be submitted to the Village Manager or his/her designee.

**SECTION 1702. EXCEPTIONS**

- a.) "Agriculture" and/or "farming" practices and/or structures as defined by the Vermont State Statutes or Vermont Secretary of Agriculture shall be exempt from this Ordinance.
- b.) Any use permitted as "Keeping of Livestock" under the Village of Essex Junction Land Development Regulations shall be exempt from this Ordinance.

**SECTION 1703. NUMBER AND TYPE OF CHICKENS**

- a.) The maximum number of chickens allowed is four (4) total per lot regardless of how many dwelling units are on the lot.
- b.) Only female chickens are allowed. There is no restriction on chicken species.

**SECTION 1704. NON-COMMERCIAL USE ONLY**

Chickens shall be kept for personal use only. Slaughtering of chickens is not permissible in public view.

## **SECTION 1705. ENCLOSURES**

- a.) Chickens must be kept in an enclosure, such as a henhouse, chicken tractor, or fenced area at all times during daylight hours. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. Enclosures may be portable, but cannot be set up within the property line setbacks.
- b.) Chickens shall be secured within a structure (such as henhouse or chicken tractor) during non-daylight hours. The structure shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night.
- c.) Enclosures shall not exceed fifty (50) square feet in size but may be located within a larger structure approved through the Land Development Regulations.
- d.) Henhouses, enclosures, chicken tractors, and fenced areas are not permitted in the front yard of any property and must meet either minimum setback requirements of the zoning district or be kept no less than ten (10) feet from side yard property lines, and fifteen (15) feet from the rear yard property lines, whichever is greater.
- e.) If a primary residence exists on the property, henhouses, enclosures, chicken tractors and fenced areas shall be located only in rear yards. For a corner lot or other property where no rear yard exists, these facilities shall not be located within the front yard setback for the zoning district.
- f.) Chickens are not allowed to be located in any part of a home or garage.

## **SECTION 1706. ODOR AND NOISE IMPACTS**

- a.) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.
- b.) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

## **SECTION 1707. LIGHTING**

Lighting for the exterior of the henhouse shall not impact or illuminate adjoining properties or disrupt the neighbors.

## **SECTION 1708. PREDATORS, RODENTS, INSECTS, AND PARASITES**

The property/chicken owner shall take all necessary action to reduce the attraction of predators and rodents. Infestation of insects and parasites that may result in unhealthy conditions to human habitation will result in the chicken facility being removed by the Village, through the animal control officer, or any other designee, and the cost of the same shall be borne by the property/chicken owner. In tandem with any removal of a chicken facility the Village will revoke any permit for same.

## **SECTION 1709. FEED AND WATER**

Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators.

## **SECTION 1710. WASTE STORAGE AND REMOVAL**

Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed container or compost bin. No more than one, twenty (20) gallon container of manure shall be stored on any one property housing chickens. All other manure shall be removed or composted. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

## **SECTION 1711. VIOLATION**

Each violation of this ordinance shall be subject to a daily \$25.00 fine. Each day a violation continues shall constitute a separate offense. The Village shall retain the right to inspect any property to determine whether a violation has been corrected.

## **SECTION 1712. PERMIT REVOCATION**

- a.) A permit may be revoked without reimbursement of any fee for:
  - 1. Misrepresentations on an application;
  - 2. Violation of the provisions of this ordinance or other Village of Essex Junction regulations, and failure to correct said violation upon re-inspection.
  - 3. Any revocation or suspension pursuant to this section may be appealed to a Committee appointed by the Board of Trustees.

## **SECTION 1713. APPEAL PROCEDURE**

A person aggrieved by a revocation, suspension or penalty pursuant to this Ordinance may appeal as outlined in the Trustees' Policy regarding the Ordinance Appeals Board.

## **SECTION 1714. ENFORCEMENT**

Any violation of this ordinance may be enforced by injunction or other action available at law.

## **SECTION 1715. REMOVAL OF CHICKENS**

- a.) In addition to the penalty stated in Section 1711, any violation of the provisions of this Ordinance shall be grounds for an order from the Village to remove the chickens and the chicken-related structures. The health officer, animal control officer and/or Village Manager designee may order the removal of the chickens upon a determination that the chickens pose a health risk and/or there is probable cause of abuse or neglect.
- b.) If a chicken dies, it must be disposed of promptly in a sanitary manner by the Permit holder.

## **SECTION 1716. SEVERABILITY**

In the event that any section, subsection or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity

of any other section, subsection or portion of this Ordinance.

*New Chapter 17 adopted 1/10/12*



**VILLAGE OF ESSEX JUNCTION****MUNICIPAL CODE****CHAPTER 18****ORDINANCE REGULATING CONTROL OF LITTER, REFUSE, GARBAGE, JUNK,  
JUNK MOTOR VEHICLES, TRASH AND SOLID WASTE**

**PURPOSE:** This Ordinance mandates that all litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash be disposed of in either private or public receptacles and puts the responsibility on property owners to maintain their premises in a litter/refuse/garbage/junk/trash/waste-free manner.

**SECTION 1801: DEFINITIONS**

- a.) The following words and terms, when used in this Ordinance, shall for the purpose of this Ordinance, have the following meanings ascribed to them:
1. Abatement cost means the Village's cost for labor, equipment, and supplies for, or the contract price of, and any charges to, the Village, with respect to the removal and disposal of litter, garbage, rubbish, or refuse from a property.
  2. Construction site means any residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads and traveled ways, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.
  3. Construction waste means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.
  4. Discard means to abandon, dispose of, accumulate, store or treat before or instead of being abandoned, disposed of.
  5. Discarded material means a material that is abandoned, disposed of, accumulated, stored or treated before or instead of being abandoned, disposed of.
  6. Dispose means to discharge, deposit, inject, dump, spill, leak or placement of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.
  7. Garbage means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.
  8. Junk means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.

9. Junk motor vehicle means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered for a period of 90 days from the date of discovery.
10. Litter means any man-made material that, if thrown, discarded, or disposed as prohibited by this ordinance, may create a danger to public health, safety, or welfare or degrades the environment of the Village. Litter shall include, but is not limited to, any garbage, trash, refuse, rubbish, newspaper, magazine, glass, metal, plastic or paper container, construction waste, or any discarded object likely to injure any person, create a traffic hazard, or degrade the environment.
11. Motor vehicle means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agricultural and construction operations are excluded from this definition.
12. Person means any individual, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind.
13. Receptacle means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.
14. Refuse means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.
15. Rubbish means combustible or slowly putrescible discarded materials, which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term garbage.
16. Solid waste or waste means any garbage, refuse, rubbish, trash, or other discarded material, which include but are not limited to tires, furniture, clothes, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.
17. Trash means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.
18. Traveled way means that portion of a public highway designed for the movement of a immediately a adjacent and contiguous to the traveled portion of the roadway. motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas

## **SECTION 1802. ADMINISTRATION AND ENFORCEMENT.**

The Village Manager or Agent shall be responsible for the administration of this Ordinance and shall have the authority to enforce compliance through the use of civil and criminal penalties as authorized by this Ordinance. Further, any law enforcement officer, fire marshal, or any assistant fire inspector is authorized and shall have the authority to enforce all sections of this Ordinance.

## **SECTION 1803. DUTY OF OWNERS AND OCCUPANTS.**

- a.) General Requirement. It shall be the responsibility of each owner, agent, occupant, or lessee to keep his or her property free of litter, refuse, garbage, junk, junk motor vehicles, solid

waste, and trash. The owner, agent, occupant, or lessee of any property shall be responsible for removing litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash accumulating on said property.

- b.) Litter Prohibited. No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter, refuse, garbage, junk, waste, or trash on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter, refuse, garbage, junk, waste, or trash contained therein, except that this requirement shall not apply to an area designated and approved by the Village as a permitted disposal site.
- c.) Litter Prevention and Control in Adjacent and Surrounding Areas. It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash. These areas include, but are not limited to public and private sidewalks, roads, and alleys; traveled ways; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash shall be performed in accordance with this Ordinance.
- d.) Sidewalks. Each owner, agent, occupant, or lessee whose property faces on the sidewalks in the Village or the strips between the streets and sidewalks shall be responsible for keeping such sidewalks and strips free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash. Removal of any litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash shall be performed in accordance with this Ordinance.

#### **SECTION 1804. CONSTRUCTION SITES.**

- a.) Litter Prohibited. It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter, refuse, garbage, junk, waste, or trash on such site outside of a proper receptacle or to cause, permit, or allow litter, refuse, garbage, junk, solid waste, or trash to be spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash.
- b.) Receptacles Required. The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter, refuse, garbage, junk, trash and waste from being spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. The number and capacity of receptacles should be determined by the primary contractor, but no less than one (1) receptacle for worker's litter, refuse, garbage, junk, trash and waste and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage.

**SECTION 1805. NOTICE OF VIOLATION; SUMMONS OR WARRANT.**

- a.) Notice of Violation. The Village may commence enforcement of any provision of this chapter by notifying in writing the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the owner, lessee, occupant, or responsible person in charge or in possession of a property by first class certified mail, return receipt requested, or may be served by the Police Department, to the last known address of the owner as indicated in the Town of Essex current real estate tax assessment records. Such notice shall contain a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this Ordinance; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed ten (10) days.
- b.) Abatement Required. Every owner, lessee, occupant, or person in responsible charge or in possession of a property or premises shall, upon written notice of an unlawful condition, abate, correct, and eliminate such condition within the timeframe required by such notice.
- c.) Any penalty assessed will be according to Section 1808.

**SECTION 1806. REMOVAL OF LITTER , REFUSE, GARBAGE, JUNK, JUNK MOTOR VEHICLES, TRASH OR WASTE BY VILLAGE.**

- a.) Abatement Required. After receipt of a written notice of violation, it shall be unlawful for the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires.
- b.) Removal by Village. Ten (10) days after due notice is given to any owner, agent, occupant, operator, contractor in charge, or lessee of any property, business, industry, institution, or construction site to remove litter , refuse, garbage, junk, junk motor vehicles, trash or waste from the premises, the Village is authorized to clean up such property, by use of Village employees or by employing an agent of the Village, and bill such owner or agent for the abatement costs thereof. If the bill has not been paid within thirty (30) days, execution may be issued by the Village against the property for the abatement cost, and such execution shall constitute a lien on the property, on parity with liens for unpaid taxes, until the claim has been satisfied. Execution of the notice to remove litter, refuse, garbage, junk, junk motor vehicle, trash or waste shall be in writing and shall be in the form of a first class, certified letter, return receipt requested. Nothing in this section shall be deemed to bar the prosecution of any person for violation of this Ordinance.

**SECTION 1807. EQUITABLE REMEDIES.**

In addition to the penalty provided in the Ordinance, the Village Manager may initiate injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate, or remove a violation of any of the provisions of this Ordinance.

**SECTION 1808. PENALTY.**

Except where otherwise noted, a violation of any provision of this Ordinance shall be punishable by a fine of up to \$500 per day until the unlawful condition is abated, corrected or removed.

**SECTION 1809. SEVERABILITY.**

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

**SECTION 1810. APPEAL OF NOTICE OF VIOLATION PENALTY**

A person aggrieved by a revocation, suspension or penalty pursuant to this Ordinance may appeal as outlined in the Trustees' Policy regarding the Ordinance Appeals Board

*New Chapter 18 adopted 1/10/12*

---

**VILLAGE OF ESSEX JUNCTION**

**MUNICIPAL CODE**

**CHAPTER 19**

**ORDINANCE ESTABLISHING STORMWATER PERMIT TRANSFER AUTHORITY  
FOR EXPIRED AND UNPERMITTED DISCHARGES TO IMPARED WATERWAYS**

**PURPOSE:** To establish and transfer responsibility for State of Vermont issued Department of Environmental Conservation Authorization to Discharge Permits under General Storm Water Permits and for Unpermitted Discharges to Impaired waterways within the Town of Essex, Inclusive of the Village of Essex Junction (the "Town") to NPDES MS4 General Permit 3-9014

**SECTION 1901.**

**The Village of Essex Junction shall incorporate all provisions of the Essex Town Title 10.20 Stormwater Ordinance, as amended. When conflict occurs between Village Land Development Code and the Ordinance 10.20, the Town Ordinance shall govern.**

*Adopted by the Village Board of Trustees on July 22, 2014.*

**Town of Essex Selectboard**

**Town Ordinance**

The Selectboard of the Town of Essex hereby ordains that Chapter 10.20 be added to the Municipal Code:

**Chapter 10.20**

**STORM WATER**

**Sections:**

<b>10.20.010</b>	<b>General Provisions</b>	<b>10.20.072</b>	<b>Development Storm water Management Applicability</b>
<b>10.20.011</b>	<b>Basis for the Ordinance</b>	<b>10.20.073</b>	<b>Storm Water Design Manual.</b>
<b>10.20.012</b>	<b>Purpose</b>	<b>10.20.074</b>	<b>General Performance Criteria.</b>
<b>10.20.013</b>	<b>Applicability</b>	<b>10.20.075</b>	<b>Basic Storm Water Management Design Criteria.</b>
<b>10.20.014</b>	<b>Documents Incorporated by Reference</b>	<b>10.20.076</b>	<b>Requirements for Storm Water Management Plan Approval.</b>
<b>10.20.015</b>	<b>Definitions</b>	<b>10.20.077</b>	<b>Construction Inspection.</b>
<b>10.20.016</b>	<b>General Exemptions</b>	<b>10.20.078</b>	<b>As-built Plans.</b>
		<b>10.20.079</b>	<b>Landscaping and Stabilization Requirements.</b>
<b>10.20.050</b>	<b>Illicit Discharges</b>	<b>10.20.080</b>	<b>Storm Water Control - Operation and Maintenance.</b>
<b>10.20.051</b>	<b>Illicit Discharges-General</b>	<b>10.20.081</b>	<b>Design.</b>
<b>10.20.052</b>	<b>Discharge Prohibitions.</b>	<b>10.20.082</b>	<b>Routine Maintenance.</b>
<b>10.20.053</b>	<b>Suspension of MS4 Access.</b>	<b>10.20.083</b>	<b>Maintenance Easement.</b>
<b>10.20.054</b>	<b>Industrial or Construction Activity Discharges.</b>	<b>10.20.084</b>	<b>Maintenance Covenants.</b>
<b>10.20.055</b>	<b>Monitoring of Discharges.</b>	<b>10.20.085</b>	<b>Maintenance Inspections.</b>
<b>10.20.056</b>	<b>Requirement to Prevent, Control, and Reduce Storm Water Pollutants.</b>	<b>10.20.086</b>	<b>Records of Installation and Maintenance Activities.</b>
<b>10.20.057</b>	<b>Watercourse Protection.</b>	<b>10.20.087</b>	<b>Failure to Maintain Practices.</b>
<b>10.20.058</b>	<b>Notification of Spills.</b>	<b>10.20.090</b>	<b>Riparian Buffer Zones (reserved for future).</b>
<b>10.20.060</b>	<b>Erosion and Sediment control</b>	<b>10.20.100</b>	<b>Waivers</b>
<b>10.20.061</b>	<b>Erosion and Sediment Control-General.</b>	<b>10.20.105</b>	<b>Appeals</b>
<b>10.20.062</b>	<b>Erosion and Sediment Control Applicability</b>	<b>10.20.110</b>	<b>Enforcement.</b>
<b>10.20.063</b>	<b>Disturbance of Less Than One Acre of Land</b>	<b>10.20.111</b>	<b>Stop-work order; Revocation of Permit.</b>
<b>10.20.064</b>	<b>Applicability of State Erosion and Sediment Control Permits</b>	<b>10.20.112</b>	<b>Violation and Penalty.</b>
<b>10.20.065</b>	<b>Permit Required.</b>	<b>10.20.113</b>	<b>Notice of Violation.</b>
<b>10.20.066</b>	<b>Erosion and Sediment Control Plans</b>	<b>10.20.114</b>	<b>Appeal of Notice of Violation.</b>
<b>10.20.067</b>	<b>Construction Site and Driveway Access Requirements</b>	<b>10.20.115</b>	<b>Enforcement Measures after Appeal.</b>
<b>10.20.068</b>	<b>Inspection</b>	<b>10.20.116</b>	<b>Cost of Abatement of the Violation.</b>
<b>10.20.070</b>	<b>Development Storm Water Management.</b>	<b>10.20.117</b>	<b>Injunctive Relief.</b>
<b>10.20.071</b>	<b>Development Storm Water Management - General</b>	<b>10.20.118</b>	<b>Violations Deemed a Public Nuisance.</b>
		<b>10.20.119</b>	<b>Remedies not Exclusive.</b>
		<b>10.20.120</b>	<b>Other Applicable Regulations.</b>
		<b>10.20.130</b>	<b>Adherence to Public Works Specifications.</b>
		<b>10.20.140</b>	<b>Fees, Fines, and Applicable Charges.</b>
		<b>10.20.150</b>	<b>Severability.</b>

**APPENDIX A: Small Site Erosion Control Guide**

**APPENDIX B: Town of Essex Erosion and Sediment Control Permits Application**

**APPENDIX C: Storm Water Management Permit and Plan**

**APPENDIX D: Storm Water Management Design Criteria**

**§10.20.010 General Provisions**

This chapter is adopted pursuant to the Town's enabled right to adopt ordinances, bylaws, and regulations according to Section 103(a), et seq. of the Town of Essex Charter, and Sections 3508 and 3617 of Title 24, Vermont Statutes Annotated.

**§10.20.011 Basis for the Ordinance**

A. Land development activities and associated increases in site impervious cover often alter the hydrologic response and water quality aspects of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, sediment transport and deposition and the concentration of waterborne pollutants and pathogens.

B. Clearing and grading during construction tend to increase soil erosion and reduce the native vegetation important for terrestrial habitat, for stream regulation through shading and for maintenance of natural food cycles important to food chains and aquatic habitat.

C. Improper design and construction of storm water management practices can increase downstream flooding and increase the velocity of storm water runoff causing stream bank erosion and build-up of sedimentation.

D. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.

E. Storm water runoff, soil erosion and non-point source pollution can be controlled, minimized and in some cases eliminated through the regulation of storm water runoff from land development activities. Illicit discharges must be eliminated.

F. The regulation of storm water discharges from new development and redevelopment of existing sites, the elimination of illicit discharges and the control of erosion and sediment discharge is in the public interest and will minimize threats to public health and safety

G. Economic loss and stream water quality degradation can result from these adverse impacts. Pet and wildlife wastes in storm water may raise bacteria levels, potentially resulting in loss of recreation use of the streams and Lake Champlain

**§10.20.012 Purpose**

The purpose of this chapter is to provide for increased regulation to address the items outlined in Section 10.20.011 and to thereby protect the public health, safety, and general welfare of the Town of Essex through the establishment of storm water best management practices in the following areas:

- A. Illicit Discharges (reference Section 10.20.050).
- B. Erosion and Sediment Control (reference Section 10.20.060).
- C. Development Storm Water Management (reference Section 10.20.070).
- D. Storm Water Control, Operation, and Maintenance (reference Section 10.20.080).
- E. Riparian Buffer Zones (reserved for the future)

In addition, this chapter ensures compliance with the storm water management provisions of the Small Municipal Separate Storm Sewer Systems (MS4), General Permit No. 3-9014, for those construction sites and post construction storm water management projects which disturb 1 acre or more of earth.

**§10.20.013 Applicability.**

This chapter applies to all property within the Town of Essex, Vermont outside the Village of Essex Junction and shall apply specifically as indicated in other sections by topic matter in this Ordinance.

**§10.20.014 Documents Incorporated by Reference.**

The latest versions of the following documents are incorporated herein by reference:

- A. *Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations.*
- B. *Town of Essex Outside the Village of Essex Junction Official Zoning Bylaws.*
- C. *Town of Essex Standard Specification for Construction.*
- D. *Vermont Storm water Management Manual, Volumes I and II.*
- E. *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*
- F. *Town of Essex Storm Water Management Plan dated April 2003*

**§10.20.015 Definitions.**

As used in this chapter:

"Accelerated erosion" means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn by the action of water, wind, or chemical action.



*"Applicant"* means a property owner or duly designated agent who files an application for a land disturbance activity.

*"Best management practices"* (BMP's) means schedules of activities, prohibitions of practices, maintenance procedures, the use of pollution control devices and other management practices to prevent or reduce the amount of pollution introduced to receiving bodies of water from storm water runoff. BMP's can include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*"Building"* is as defined in Article XXVII of the Town of Essex Zoning Bylaws, as amended.

*"Channel"* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*"Clean Water Act"* means the federal Water Pollution Control Act (33 USC §1251, et seq.), and any subsequent amendments thereto.

*"Clearing"* means any activity that removes the vegetative surface cover.

*"Construction activity"* means activities such as clearing and grubbing, grading, excavating, and demolition. Coverage for construction site runoff under the State of Vermont General Permit may be required for projects resulting in land disturbance of 1 acre or more of land.

*"Conveyance"* means the process of water moving from one place to another.

*"Detention"* means the temporary storage of storm water runoff in a storm water system with the goal of controlling peak discharge rates and providing gravity settling of pollutants.

*"Detention facility"* means a detention basin or alternative structure designed to temporarily store stream flow or surface runoff and to gradually release stored water at controlled rates.

*"Development"* is as defined in Article XXVII of the Town of Essex Zoning Bylaws, as amended.

*"Drainage easement"* means a legal right granted by a landowner to a grantee allowing the use of land for storm water management purposes.

*"Drainage way"* means a channel that conveys surface runoff through the site.

*"Erosion"* means when land is diminished or worn due to wind or water. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

*"Erosion and sediment control plan"* means a plan that indicates the specific measures and their sequencing for use to control sediment and erosion on a development site during and after construction.

*"Existing development"* means a development that was built prior to the effective date of the adoption of this Ordinance.

*"Grading"* means excavation or fill of material, including the resulting conditions thereof.

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

*"Hotspot"* means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

*"Hydrologic soil group"* (HSG) means a Natural Resource Conservation Service classification in which soils are categorized into 4 runoff potential groups. The groups range from "A" soils with high permeability and little runoff production to "D" soils that have low permeability rates and produce much more runoff.

*"Illicit discharge"* means any direct or indirect non-storm water discharge to the storm drain system, except as may be exempted under this chapter.

*"Illicit connections"* means either of the following definitions:

- A. Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

*"Impervious cover"* means human-made surfaces including, but not limited to, paved and unpaved roads, parking areas, building roofs, driveways (paved and unpaved) walkways and compacted surfaces, from which precipitation runs off rather than infiltrates. A measure of imperviousness is a "C" value for runoff under of the Unified Soil Classification System of .70 or greater.

*“Industrial activity”* means activities subject to NPDES Industrial Permits as defined in 40 CFR §122.26(b)(14).

*“Industrial storm water permit”* means a NPDES permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial storm water discharges or specifies on-site pollution control strategies.

*“Infiltration”* means the process of percolating storm water into the subsurface.

*“Infiltration facility”* means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above or below grade.

*“Jurisdictional wetland”* means an area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

*“Land disturbance activity”* means any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land’s surface. This may include grading, digging, cutting, scraping, or excavating soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or human-made watercourse.

*“Landowner”* means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

*“Maintenance agreement”* means a legally recorded document that acts as a property deed restriction and that provides for long-term maintenance of storm water management practices.

*“Maximum extent practicable”* (MEP) means the requirement in the federal Clean Water Act permitting discharges from municipal storm sewers to include controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the state of Vermont determines appropriate for the control of such pollutants.

*“Minimum control measures”* means any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

*“MS4”* means the municipal separate storm water system.

*“National Pollutant Discharge Elimination System”* (NPDES) means the name of the surface water quality program authorized by Congress as part of the 1987 Clean Water Act. This is EPA’s program to control the discharge of pollutants to waters of the

United States and means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC §1342(b)) authorizing the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*“New development”* means the construction of new impervious surfaces on a tract or tracts of land occurring after the effective date of this Ordinance

*“Non-point source (NPS) pollutants”* means pollutants from many diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters, and even into underground sources of drinking water.

*“Non-storm water discharge”* means any discharge to the storm drain system that is not composed entirely of storm water.

*“Nonstructural best management practices”* means non physical methods or activities used to mitigate the adverse impacts of storm water runoff including, but not limited to ordinances, maintenance activities and education/outreach activities.

*“Offset fee”* means a monetary compensation paid to a local government for an inability to meet pollutant load reduction targets.

*“Offsite”* means the land within the development’s drainage area that is not owned or controlled by the permit applicant.

*“Outfall”* means the point where drainage discharges from a pipe, ditch, or other conveyance to a receiving body of water.

*“Perimeter control”* means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*“Person”* means any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner’s agent.

*“Phasing”* means clearing of a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

*“Point source pollutant”* means pollutants from a single, identifiable source such as a factory or refinery.

*“Pollutant”* means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes and solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution, floatables, pesticides, herbicides,

and fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure, and noxious or offensive matter of any kind.

*"Recharge"* means the replenishment of underground water reserves.

*"Redevelopment"* means in the context of storm water, any construction, alteration, or improvement exceeding 10,000 SF on previously developed land.

*"Riparian Buffer Zone"* means the width of land adjacent to streams or lakes between the top of the bank or top of slope or mean water level and the edge of other land uses. Riparian buffer zones are typically undisturbed areas that protect the waterbody and adjacent riparian corridor ecosystem from the impact of adjacent land uses.

*"Riparian corridor"* means the waterbody and width of adjacent land that supports a distinct ecosystem with abundant and diverse plant and animal communities and which provides for channel stability of the water body.

*"Runoff"* means drainage or flood discharge that leaves an area as surface flow or as pipeline flow that has reached a channel or pipeline by either surface or sub-surface routes.

*"Sediment"* means soil, sand, and minerals washed from land into water, usually after rain. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud water so that sunlight does not reach aquatic plants.

*"Sediment control"* means measures that prevent eroded sediment from leaving the site.

*"Sheet flow"* means the portion of precipitation that moves initially as overland flow in very shallow depths before eventually reaching a stream channel.

*"Site"* means a parcel of land or contiguous combination thereof, where grading work is performed as a single unified operation.

*"Stabilization"* means the use of practices that prevent exposed soil from eroding.

*"Start of construction"* means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling, installation of streets and walkways, excavation for basements, footings, piers, or foundations, erection of temporary forms, and installation of accessory buildings such as garages.

*"Stop work order"* means an order issued requiring that all construction activity on a site be stopped.

*"Storm drainage system"* means facilities by which storm water is collected and/or conveyed including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered

drainage channels, reservoirs, and other drainage structures.

*"Storm water"* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*"Storm water management"* means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

*"Storm water pollution prevention plan"* means a document describing the BMP's and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

*"Storm water retrofit"* means a storm water management practice designed for an existing development site that previously had either no storm water management practice in place or a practice inadequate to meet the storm water management requirements of the site.

*"Storm water runoff"* means flow on the surface of the ground, resulting from precipitation.

*"Storm water treatment practices"* (STP's) means measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to storm water runoff and water bodies.

*"Structural best management practices"* means physical features used to improve storm water quality or reduce peak flows such as detention ponds, grassed swales, sand filters, and infiltration basins.

*"Substantially deteriorated"* means the condition of a storm water treatment practice that would necessitate repair or reconstruction beyond that which would be considered typical, periodic maintenance for a system of similar design.

*"Total maximum daily load"* (TMDL) means the maximum amount of pollutants that can be released into a water body without adversely affecting the water quality.

*"Urban runoff"* means storm water from urban areas that tend to contain heavy concentrations of pollutants from urban activities.

*"Wastewater"* means any water or other liquid other than uncontaminated storm water discharged from a facility.

*"Water quality volume"* (Wqv) means the storage needed to capture and treat 90% of the average annual storm water runoff volume. Numerically (Wqv) will vary as a function of long-term rainfall statistical data.

“*Watercourse*” means a permanent or intermittent stream or other body of water, either natural or human-made, that gathers or carries surface water.

“*Watershed*” means that geographical area that drains to a specified point on a watercourse, usually a confluence of streams or rivers.

“*Wetland*” means those areas that are inundated by surface or ground water with a frequency sufficient to support plants and animals that depend on saturated soil conditions for growth and reproduction. Designated wetlands in Vermont are classified as Class I, II or III.

#### **§ 10.20.016 General Exemptions**

The Illicit Discharge requirements of this Ordinance are applicable in all cases.

The following activities are exempt from review or control under this Ordinance to the extent they do not involve Illicit Discharges:

A. Agricultural and silvicultural activity, except that log landing and log haul roads are subject to the provisions of this Ordinance. In addition, logging or silvicultural activity conducted as a part of a land development application is not exempt from the general provisions of this Ordinance.

B. Repairs to any storm water management system that is deemed necessary by the Town Engineer

C. Cemetery facilities

D. Installation of fence, sign, telephone and electric poles and other kinds of fences, posts or poles.

E. Emergency activity immediately necessary to protect life, property or natural resources.

F. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for the use by that person and his/her family.

G. Land development activities that disturb less than one (1) acre.

H. Municipal activities not requiring Site Plan or Subdivision approval. Reconstruction/maintenance of municipal gravel roads shall adhere to the guidelines entitled “Vermont Better Back Roads Manual,” latest version.

#### **§10.20.050 Illicit Discharges**

##### **§10.20.051 Illicit Discharges - General.**

This sub-chapter regulates non-storm water discharges to the storm drainage system as required by federal and state law. Methods are established for controlling the introduction of pollutants into the municipal separate storm water system (MS4) to meet the following objectives, consistent with the

requirements of the State of Vermont General Permit process:

- A. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- B. To prohibit illicit connections and discharges to the MS4.
- C. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Ordinance.

#### **§10.20.052 Discharge Prohibitions.**

Prohibition of illicit discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct, or continuance of any illicit discharge to the storm drain system is prohibited except as described herein. The following discharges are exempt from discharge prohibitions established by this sub-chapter:

- A. Flushing of water line or other potable water sources (except when a particular substance in the water is subject to control by State or federal regulation and then the discharge is still exempt if within the limits of acceptability for the controlled substance).
- B. Landscape irrigation or lawn watering (unless such watering results in a direct discharge and the discharge is identified as containing pollutants or chemicals that are required to be controlled by state or federal regulation).
- C. Diverted stream flows.
- D. Rising or pumped ground water, providing such groundwater is not contaminated or polluted.
- E. Ground water infiltration to storm drains.
- F. Foundation or footing drains (not including active ground water dewatering systems) containing no contaminants or pollutants.
- G. Air conditioning condensation (except when control of a particular substance in the water is by federal regulation and then the discharge is still exempt if within the limits of acceptability for the controlled substance).
- H. Uncontaminated springs.
- I. Non-commercial washing of vehicles (unless such watering results in a direct discharge and the discharge is identified as containing pollutants or chemicals that are

required to be controlled by state or federal regulation).

- J. Natural riparian habitat or wetland flows.
- K. Swimming pools (if de-chlorinated— typically less than one PPM chlorine and except when control of a particular substance in the water is by State or federal regulation and then the discharge is still exempt if within the limits of acceptability for the controlled substance).
- L. Fire fighting activities, not including the cleanup of spills or accidents involving contaminated material such as oil spills or hazardous wastes.
- M. Any other water source not containing pollutants.
- N. Discharges specified in writing by an authorized representative of the Town of Essex as being necessary to protect public health and safety.
- O. Dye testing is an allowable discharge, if approved by the Town Engineer.

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued for the discharge and administered under the authority of the US EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the Town for any discharge to the storm drain system.

**Prohibition of illicit connections.** The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A person is in violation of this sub-chapter if the person connects a line conveying sewage, laundry waste or other forms of gray water to the MS4 or allows such a connection to continue.

#### **§10.20.053 Suspension of MS4 Access.**

**Suspension due to illicit discharges in emergency situations.** The Town may, without notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town

Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or water of the United States, or to minimize danger to persons.

A person commits a violation of this Ordinance if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Town Engineer.

#### **§10.20.054 Industrial or Construction Activity Discharges.**

Any person subject to an industrial multi-sector permit or other separately-issued storm water permit by the Town, State or EPA shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

#### **§10.20.055 Monitoring of Discharges.**

**Applicability.** This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

**Access to facilities.** Authorized representatives of the Town shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to authorized representatives of the Town.

Facility operators shall allow the authorized Town representative ready access to all parts of the premises for inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES or State permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

The Town shall have the right to require the discharger to install on any permitted facility such devices necessary in the opinion of the Town Engineer to conduct monitoring and/or sampling of the facility's storm water discharge at the expense of the discharger.

The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized Town

representative and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Unreasonable delay in allowing the authorized Town representative access to a permitted facility is a violation of a storm water discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits a violation of this Ordinance if the person denies the authorized Town representative reasonable access to the permitted facility for conducting any activity authorized or required by this chapter.

If the authorized Town representative has been refused access to any part of the premises from which storm water is discharged, such refusal shall be a violation of this Ordinance. The authorized Town representative may secure warrants from the applicable court having jurisdiction in cases where access is refused.

#### **§10.20.056 Requirement to Prevent, Control, and Reduce Storm Water Pollutants.**

The Town has adopted best management practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States through the State of Vermont Phase II Storm-water Permit. The owner or operator of a commercial or industrial establishment shall provide, at their expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of applicable structural and non-structural BMP's. Further, any person responsible for a property or premise, that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMP's to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid Multi-sector General permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provision of this section. These BMP's shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

#### **§10.20.057 Watercourse Protection.**

Every person owning property through which an intermittent or continuously flowing watercourse passes, or such person's lessee, shall not deposit in the watercourse or on the land impacted by runoff to the watercourse trash, debris, cut brush, grass or

wood, pet waste and other obstacles that would pollute, contaminate, or significantly alter the natural flow of water through the watercourse. Natural blockages of the stream by wildlife are considered not the responsibility of the landowner or lessee. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Riparian buffers established as part of development approval and required by Town regulations shall be maintained by the developer and all other subsequent property owners or associations within the development.

#### **§10.20.058 Notification of Spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States from such facility or operation, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies and the Town Engineer of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the Town Engineer no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town Engineer within 3 business days of the phone or in-person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

#### **§10.20.060 Erosion and Sediment Control**

##### **§10.20.061 Erosion and Sediment Control-General.**

During construction, soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat. For erosion and sediment control, this sub-chapter:

- A. Safeguards persons, protects property, and prevents damage to the environment.
- B. Promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land.

**§10.20.062 Erosion and Sediment Control Applicability.**

This sub-chapter applies to any clearing, grading, construction or land disturbance activity within the jurisdictional area of the Ordinance.

All such activities are regulated under this sub-chapter unless exempted under section 10.20.016

**§10.20.063 Disturbance of Less Than One Acre of Land**

Erosion Control Permits will not be required for clearing, grubbing, grading or any land disturbance activities that involve one acre or less of contiguous disturbed land, unless a Storm Water Management Plan per Section 10.20.072 is required.

The Town shall provide erosion and sediment control standard diagrams for mandatory compliance on sites that involve less than one acre of disturbance, and that do not require a Storm Water Management Plan. The small site plan diagrams and guidelines shall be provided with the issuance of each building permit issued within the Town and shall be available for all persons within the Town at the Town offices. The information is contained in Appendix A. Non-compliance with any of the provisions within Appendix A is a violation of this Ordinance, subject to the same legal remedies and fines as under the main body of the Ordinance.

Compliance with the erosion control guidelines is also required for individual building construction performed within a larger subdivision or project which is subject to additional conditions imposed under a broader Town or State issued General Permit for Construction Site Runoff.

**§10.20.064 Applicability of State Erosion and Sediment Control Permits**

The Town shall accept a State of Vermont General Permit for construction site runoff as evidence of meeting Town erosion and sediment control permit requirements for those projects which fall under the jurisdiction of the State requirements. If a state permit is accepted as evidence of compliance with the Town Ordinance, a separate Town application will not be required and Town storm-water permit fees shall be waived.

**§10.20.065 Permit Required**

No person shall be granted a permit for construction activities disturbing more than one acre of land without the Town Engineer's approval of an erosion and sediment control plan.

Appendix B to this Ordinance contains the requirements for inclusion in an Erosion and Sediment Control Permit issued by the Town. Each permit application shall be accompanied by a non-refundable permit application fee as established by the Selectboard, which shall be reviewed annually. Incomplete applications will not be accepted. The erosion and sediment control plan shall be submitted by a registered professional engineer in the State of Vermont or by a licensed and certified erosion control technician. Each application shall include a statement that any land clearing, construction, or development involving the disturbance of at least one acre of earth shall be in accordance with the erosion and sediment control plan and that an authorized representative of the applicant shall be onsite or readily accessible on all days when construction or grading takes place.

The applicant shall file with the Town, if required based upon the scope of the work, a faithful form of improvement security, such as a letter of credit or similar financial instrument, in an amount deemed sufficient by the Town to cover all costs of improvements, landscaping and maintenance of improvements for such period as specified by the Town, including any necessary amount to cover inflationary and contingency costs, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site. If the project is included as part of an overall development involving a formal letter of Credit and Highway Agreement, the estimated costs for erosion control compliance may be included as a line item in the overall development letter of credit.

Review and approval. The Town shall review each application for an erosion and sediment control permit to determine its conformance with the provisions of this regulation. Within 15 business days after receiving an application deemed complete by the Town, the Town shall, in writing: approve the permit application; approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or, disapprove the permit application, indicating the reason(s).

**§10.20.066 Erosion and Sediment Control Plans.**

A description and listing of the plan requirements is contained in Appendix B.

**§10.20.067 Construction Site Access and Driveway requirements.**

All construction site accesses shall meet the minimum requirements for a construction access road as contained in Appendix A. In addition:

A. The Town may require more stringent site access requirements if conditions warrant or if the construction site access is not maintained in an acceptable condition.

B. All persons within the Town of Essex are required to take preventative action to prevent the tracking of sediment from construction sites and driveways onto Town or State roads. Immediate action shall be taken by the responsible persons to wet sweep the road and to clean any catch basins or remove such sediment from drainage ditches affected by the tracking of sediment onto paved roadways. Failure to comply shall be a violation of this Ordinance, subject to the remedies contained therein.

**§10.20.068 Inspection.**

The Town Engineer or his representative shall make inspections on an as needed basis.

For projects operating under a Town approved and issued erosion control plan, periodic scheduled inspections are required by the design engineer or licensed technician to certify the status of the implemented plan. The following inspection schedule is a requirement of the issued permit:

- A. Start of construction.
- B. Installation of sediment and erosion measures.
- C. Completion of final grading.
- D. Close of the construction season (if multi-season).

E. Completion of final landscaping and following clean-up of all impacted Town infrastructure, such as catch basins, storm water piping and detention basins.

The permit holder shall notify the Town Engineer or his authorized representative at least 24 hours in advance of the scheduled inspections by the certifying engineer or licensed technician.

All inspections shall be documented in writing and submitted to the Town Engineer as specified by the approved permit.

The authorized representative of the Town shall enter the property of the applicant as deemed necessary to conduct periodic inspections.

Failure to inspect or keep a written record of the inspection as required shall be considered a violation of this Ordinance.

**§10.20.070 Development Storm Water Management**

**§10.20.071 Development Storm Water Management - General.**

This subchapter establishes minimum storm water management requirements for new development/redevelopment to augment existing Town development regulations and to provide controls to protect and safeguard the general health, safety, and welfare of the public. This subchapter:

- A. Minimizes increases in storm water runoff from new development/redevelopment to reduce flooding, siltation, and streambank erosion.
- B. Minimizes increases in non-point source pollution caused by storm water runoff from development that would otherwise degrade water quality.
- C. Minimizes the total annual volume of surface water runoff that flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable.
- D. Reduces storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

**§10.20.072 Development Storm Water Management Applicability.**

This subchapter applies to all subdivision and site plan applications for new development and redevelopment activities that create new or is an expansion of old impervious surfaces that are equal to or greater than one-half (1/2) acre.

In addition, this subchapter applies to land development activities smaller than the minimum applicability criteria if such activities are part of a larger common plan of development (Master Plan, Planned Residential Development, Planned Unit Development) meeting the applicable criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Exemptions. The following activities shall be exempt from the provisions of this chapter:

Additions/modifications to existing single-family residential structures



**Permit required.** No landowner or land operator shall receive any Town permit, including a Zoning Permit, required for new development or redevelopment projects that creates a new or expanded impervious area of one-half (1/2) acre or more without first meeting the requirements of this chapter.

**Application requirements.** Unless specifically excluded by this chapter, any person desiring a permit for a new development or redevelopment project creating or disturbing one acre or more of land and/or creates a new or expanded impervious land area of one-half acre (1/2) acre or greater shall submit to the Town Engineer a Development Storm-water Permit application on a form provided for that purpose.

**State permits.** Projects requiring a State Storm-water permit may submit a copy of the issued State permit with supporting documentation as evidence of compliance with the requirement for a Town Development Storm-water Management Permit. The permit requirements are found in Appendix C.

Unless otherwise exempted by this chapter, a Development Storm-water Management Permit application must be accompanied by the following for an application to be considered complete: a storm water management plan; a maintenance agreement; an erosion and sediment control permit per Section 10.20.065, if applicable and a non-refundable permit review fee. The storm water management plan shall be prepared to meet the requirements of this chapter, and the fees shall be those established by the Selectboard of the Town, which shall be reviewed annually.

**Application review fees.** The fee for review of a Development Storm-water Management permit shall be based on the amount of new or disturbed impervious land. The fee shall be used to support local plan review, inspection, and program administration or related municipal storm water projects or storm-water related taskings. The fee must be submitted with the application prior to the issuance of any Zoning Permit for construction.

**Application procedure.** Applications for Development Storm-water Management Permit Applications must be filed with the Town. An original and three copies of the permit application shall be submitted, including four copies of all supporting documents. Within 15 business days of the receipt of a complete application, including all documents as required by this chapter, the Town shall inform the applicant whether the application, plan, and maintenance agreement is approved, approved with conditions, or disapproved. If the permit application, final storm water management plan, and maintenance agreement are approved (with or without conditions), a Development Storm-water Management Permit shall be issued.

**Permit duration.** Permits issued under this section shall be valid from the date of issuance through the date three years after the Town notifies the permit holder that all storm water management practices have passed final inspection.

**Other related permits.** Issuance of a local Development Storm-water Management Permit does not negate the requirement of the applicant to obtain State or other storm-water permits as may be required.

#### **§10.20.073 Storm Water Design Manual.**

The storm water manual as referenced in this chapter refers to the technical analysis and design standards specified in the *Vermont Storm Water Management Manual* (volumes I and II), latest revision.

#### **§10.20.074 General Performance Criteria.**

The following performance criteria shall be addressed for storm water management at all sites:

- A. All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms, as noted in the Vermont Storm Water Management Manual, Volumes I and II, aimed at reducing the generation of storm water. These practices should seek to use pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide for both water quality treatment and control of quantity.
- B. All storm water runoff generated from new development shall not discharge storm water directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Town. In no case shall the allowable impact on functional values be any less than the impact allowed by the Army Corps of Engineers (ACE) or the state wetlands office (or its successor).
- C. Annual groundwater recharge rates shall be maintained by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall be at the same rate as the annual recharge from pre-development site conditions.

- D. For new development, structural storm water treatment practices, where required, shall be designed at a minimum to remove 80% of the average annual post development total suspended solids load (TSS) and 40% of the total phosphorus load, unless a TMDL has been established requiring a more stringent criteria in the receiving water. It is presumed that a STP complies with this performance standard if it is: sized to capture the prescribed water quality volume, designed according to the specific performance criteria outlined in the current state storm water manual, constructed properly, and maintained regularly.
- E. To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the current state storm water manual.
- F. Storm water discharges to critical areas with sensitive resources (e.g., swimming areas, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to use or restrict certain storm water management practices.
- G. Certain industrial sites are required to prepare and implement a storm water pollution prevention plan and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The storm water pollution prevention plan requirement applies to existing and new industrial sites.
- H. Storm water discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots," may require the use of specific structural STP's and pollution prevention practices.
- I. Prior to design, applicants are required to consult with the Town to determine if they are subject to additional storm water design requirements.
- J. The calculations for determining peak flows as found in the current storm water design manuals shall be used for sizing all storm water management practices.
- K. An evaluation may be required of any downstream impacts.

**§10.20.075 Basic Storm Water Management Design Criteria.**

Minimum control requirements are contained in Appendix D to this Chapter, which is incorporated herein by reference.

Maintenance agreements. All storm water treatment practices shall have an enforceable operation

and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the storm water treatment practices and to perform routine maintenance as necessary to ensure proper functioning of the storm water treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all storm water treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

On projects involving storm-water systems that will ultimately become the responsibility of the Town because of location in the public right of way or on public land, the maintenance agreement shall identify the responsibilities of all parties from permit approval through transfer of responsibility to the Town.

**§10.20.076 Requirements for Development Storm Water Management Plan Approval.**

A storm water management plan is required for all developments, meeting the criteria of section 10.20.072. No application for development, meeting the criteria of section 10.20.072, will be approved unless it includes a storm water management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by a professional engineer and must indicate whether storm water will be managed on-site or off-site and, if on-site, the general location and type of practices. The complexity and details of the submitted plan may vary depending upon the extent of the submitted project.

The storm water management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final storm water management plan. This final plan must be signed by a licensed, professional engineer, who will verify that the design of all storm water management practices meet the submittal requirements. No building permit shall be issued until a satisfactory final storm water management plan, or a waiver thereof, shall have undergone a review and been approved by the Town after determining that the plan or waiver is consistent with the requirements of this chapter.

**§10.20.077 Construction Inspection.**

The applicant must notify the Town in advance before the commencement of construction. Regular inspections of the storm water management system construction shall be conducted by the professional design engineer and certified upon completion to the Town.

The Town shall also conduct periodic inspections as verification of the work progress and compliance with the approved plans. All inspections shall be documented and written reports prepared that contain the following information: date and location of the inspection; whether construction is in compliance with the approved storm water management plan; variations from the approved construction specifications; and, any violations that exist.

If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. All corrective actions shall be made within a reasonable time as determined by the Town. If corrective actions are not taken in accordance with the Town's schedule, it shall be considered a violation of this Ordinance subject to the penalties established herein. If the situation is determined to pose an immediate threat to the environment or the public health, safety and welfare, the Town may order work to cease on the project until the corrections are satisfactorily completed.

**§10.20.078 As-built Plans.**

All applicants shall submit actual "as-built" plans for any storm water management practices after final construction completion. The plan must show the final design specifications for all storm water management facilities and must be certified by a professional engineer. A satisfactory final inspection by the Town Engineer is required before the release of any performance securities may occur.

If the final construction is substantially different from the approved plans, a final plan amendment may be required as part of the development review process.

**§10.20.079 Landscaping and Stabilization Requirements.**

Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within 10 business days from the substantial completion of such clearing and construction, or as otherwise approved by the Town. The criteria for vegetative cover are identified in Appendix D.

A landscaping plan must be a component element of the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape planner or other qualified person, and must be approved prior to receiving a

permit. A landscaping plan submitted in compliance with other Town requirements as noted in the Subdivision Regulations or Zoning Bylaws will satisfy the requirements in this Ordinance provided the landscaping plan addresses the requirements of this Ordinance.

**§10.20.080 Storm Water Control, Operation and Maintenance.**

**§10.20.081 Design.**

All storm water Best Management Practices (BMP's) shall be designed to minimize the need for maintenance and reduce the chance of failure in accordance with the design guidelines outlined in the most current state storm water management manual.

Storm water easements and covenants shall be provided by the property owner for access for facility inspections and maintenance. Easements and covenants shall be recorded in the Town Land Records for any storm water discharge permit.

**§10.20.082 Routine Maintenance.**

All storm water BMP's shall be maintained according to the measures outlined in the current state storm water management manual or as directed in approval documents issued by the Town specific to the permit.

**§10.20.083 Maintenance Easement.**

Prior to the issuance of any permit that has a storm water management facility as one of the requirements of the permit, the property owner of the site must execute a maintenance access agreement that shall be binding on all subsequent owners of land served by the storm water management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement agreement shall be recorded in the Town Land Records.

**§10.20.084 Maintenance Covenants.**

Maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the Town and recorded in the Town Land Records prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant shall include plans for periodic inspections to

ensure proper performance of the facility between scheduled cleanouts.

The Town, in lieu of a maintenance covenant, may accept dedication of an existing or future storm water management facility for maintenance, provided such facility meets all the requirements of this chapter, includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance, and the components of the system are entirely within a Town right-of-way or Town easement. All storm water management facilities must undergo, at a minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include: removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any identified maintenance needs must be addressed in a timely manner, as determined by the Town, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water management facility.

#### **§10.20.085 Maintenance Inspections.**

Inspection programs. Inspection programs may be established on any reasonable basis including, but not limited to: routine inspections; random inspections; inspections based on complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type that are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES storm water permit; and, joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and, evaluating the condition of drainage control facilities and other storm water treatment practices.

Right-of-entry for inspection. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this chapter is oc-

curing or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

#### **§10.20.086 Records of Installation and Maintenance Activities.**

Parties responsible for the operation and maintenance of a storm water management system including but not limited to catch basins, pipes and treatment systems shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 years. These records shall be made available to the Town during inspection of the facility and at other reasonable times upon request.

#### **§10.20.087 Failure to Maintain Practices.**

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the Town after reasonable notice may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the Town shall notify the party responsible for maintenance of the storm water management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to effect maintenance and repair of the facility in an approved manner. After proper notice, the Town may assess the owner of the facility for the cost of repair work and any penalties, and the cost of the work shall be a lien upon the real estate furnished with such service in the same manner and to the same effect as taxes are a lien upon real estate under section 5061 of Title 32 and shall be an assessment enforceable under the procedures set forth in section 3504 of Title 24.

#### **§10.20.090 Riparian Buffer Zones (Reserved for Future)**

#### **§10.20.100 Waivers.**

Every applicant shall provide for storm water management as required by this chapter, unless a written request is submitted to the Town Selectboard to waive applicable portions of this Ordinance.

Input from the Town Engineer shall be obtained as to whether there is a technical basis for the granting of a waiver.

Minimum requirements for storm water management may be waived in whole or in part provided at least one of the following conditions applies:

- A. It can be demonstrated that the proposed development will not impair attainment of the objectives of this chapter.

- B. Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan approved by the Town.
- C. Provisions are made to manage storm water by an off-site facility. The off-site facility is required to be in place, designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the storm water practice.
- D. The Town finds meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
- E. Non-structural practices will be used on the site that reduce: the generation of storm water from the site, the size and cost of storm water storage, and the pollutants generated at the site. These non-structural practices are explained in detail in the current state design manual and the amount of credit available for using such practices shall be determined by the Town.

In instances where one of the above conditions applies, the Town may grant a waiver from strict compliance with this chapter, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the Town that the waiver will not result in any of the following impacts to downstream waterways: deterioration of existing culverts, bridges, dams, and other structures; degradation of biological functions or habitats; accelerated stream bank or streambed erosion or siltation; or increased threat of flood damage to public health, life, and property.

Furthermore, where compliance with minimum requirements for storm water management is waived, the applicant shall satisfy the minimum requirements by meeting one of the following mitigation measures approved by the Town.

Mitigation measures may include, but are not limited to, the following: the purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or re-forestation (these lands should be located adjacent to the stream corridor to provide permanent buffer areas to protect water quality and aquatic habitat); the creation of a storm water management facility or other drainage improvements on previously developed properties, public or private, that currently lack storm water management facilities designed and constructed pursuant

to the purposes and standards of this chapter; monetary contributions (fee-in-lieu) to fund storm water management activities such as research and studies.

- A. Where the Town waives all or part of the minimum storm water management requirements, or where the waiver is based on the provision of adequate storm water facilities provided downstream of the proposed development, the applicant shall be required to pay a fee based on the impact of the impervious area created in an amount determined by the Town.
- B. In lieu of a monetary contribution, an applicant may obtain a waiver of the required storm water management practice by entering into an agreement with the Town for the granting of an easement or the dedication of land by the applicant, for the construction of an off-site storm water management facility. The agreement shall be entered into by the applicant and the Town prior to the recording of a plat(s) or, if no record of a plat(s) is required, prior to the issuance of any Zoning Permit for construction.

#### **§10.20.105 Appeals.**

Any applicant aggrieved by a decision of the Town not associated with a noticed violation of this Ordinance may appeal that decision in writing to the Selectboard within 15 calendar days of such decision. With public notice, the Selectboard shall hold a hearing within calendar 30 days of such an appeal and shall render a decision within calendar 15 days after the close of such hearing. Following the Selectboard's decision, any person aggrieved by the decision may appeal that decision to the appropriate court. The administrative process must be exhausted before appeal to court.

#### **§10.20.110 Enforcement.**

#### **§10.20.111 Stop-work Order; Revocation of permit.**

Should any person holding a development storm water permit or erosion and sediment control permit pursuant to this chapter, violate the terms of the permit or implement site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site, the Town may suspend or revoke the storm water permit.

#### **§10.20.112 Violation and Penalty.**

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, fill, or cause the

same to be done, contrary to or in violation of any terms of this Ordinance. Any person violating any of the provisions of this Ordinance or a permit issued hereunder shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation of this Civil Ordinance.

Each day that any violation of any of the provisions of this Ordinance or a permit issued hereunder continues shall constitute a separate offense.

Any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall bear the expense of any required restoration. The Town may recover all attorney's fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

#### **§10.20.113 Notice of Violation.**

Whenever the Town finds that a person violates a prohibition or fails to meet a requirement of this Ordinance or any permit issued hereunder, the Town may order compliance by written notice of violation to the responsible person. Such notice may require without limitation: the performance of monitoring, analyses, and reporting; the elimination of illicit connections or discharges; that violating discharges, practices, or operations shall cease and desist; the abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; payment of a fine to cover administrative and remediation costs; and, the implementation of source control or treatment BMP's.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to re-mediate or restore within the established deadline, the work will be done by the Town or its designated contractor and the expense thereof shall be charged to the violator.

#### **§10.20.114 Appeal of Notice of Violation.**

Any person receiving a notice of violation may appeal the determination of the authorized representative of the Town to the Selectboard. The notice of appeal must be received by the authorized representative of the Town or the Town Clerk within 5 business days from the date of the notice of violation. After public notice, the Selectboard shall conduct a hearing on the appeal. The hearing shall take place within 30 calendar days of the date of receipt of the notice of appeal. The decision of the Town Selectboard shall be final, subject to appeal procedures under Vermont Statutes.

#### **§10.20.115 Enforcement Measures after Appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of any appeal, within 10 business days of the decision of the Town upholding the violation, then representatives of the Town shall be authorized to enter upon the subject property and take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Town to enter upon the premises for the purposes set forth above.

#### **§10.20.116 Cost of Abatement of the Violation.**

Within 30 calendar days after abatement of the violation, the property owner shall be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 calendar days. If the amount due is not paid within a timely manner as determined by the decision of the Town or by the expiration of the time in which to file an appeal, the charges shall become a lien upon the real estate furnished with such service in the same manner and to the same effect as taxes are a lien upon real estate under section 5061 and Title 32 and shall be an assessment enforceable under the procedures set forth in section 3504 of Title 24.

Any person violating any of the provisions of this section shall become liable to the Town for the cost of abating such violation. Interest at the legal percentage rate established by State Statute shall be assessed on the balance beginning on the 1<sup>st</sup> day of the 1<sup>st</sup> month following discovery of the violation.

#### **§10.20.117 Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance or any permit issued hereunder. If a person has violated or continues to violate the provisions of this chapter, the Town may petition for an injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

#### **§10.20.118 Violations Deemed a Public Nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance or any permit issued hereunder is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily

abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**§10.20.119 Remedies not Exclusive.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Town to seek cumulative remedies.

**§10.20.120 Other Applicable Regulations.**

In case of any other applicable regulation, bylaw, ordinance, or statute that differs from this chapter, the stricter shall apply.

Any requirements under this chapter may be administered by the Town through other regulatory and permitting processes including but not limited to the reviews enabled in the Essex Zoning Bylaws and the Essex Subdivision Regulations.

**§10.20.130 Adherence to Public Works Specifications.**

All development, redevelopment, construction, etc. shall adhere to the Town's Public Works Specifications.

**§10.20.140 Fees, Fines, and Applicable Charges.**

The Town Selectboard shall adopt a schedule of reasonable fees, fines, and other charges applicable to carrying out the purposes of this chapter, and shall review the schedule of fines and fees on an annual basis.

**§10.20.150 Severability.**

If any portion of this chapter is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

Approval of any storm water management system design and installation by the granting of a municipal storm water permit and certificate of compliance shall not imply that the approved system will be free from malfunction. Proper maintenance of storm water systems is vital to their proper functioning. The provisions of this chapter shall not create liability on the part of the Town, of any Town official, or employee for the storm water management system.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the Essex Selectboard

\_\_\_\_\_  
Tom E. James, Chair

\_\_\_\_\_  
Jeffrey B. Carr, Vice Chair

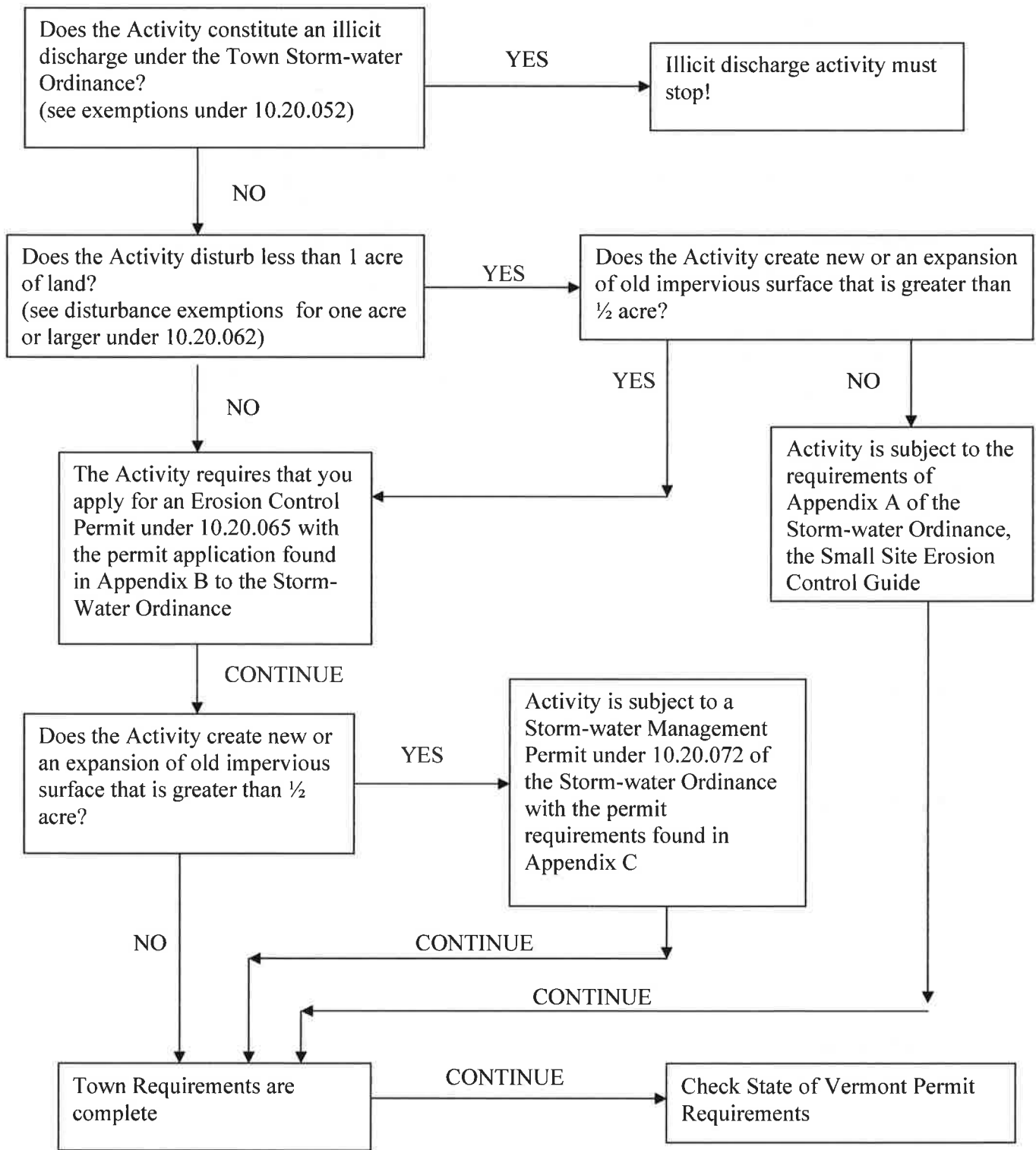
\_\_\_\_\_  
Thomas W. Torti, Clerk

\_\_\_\_\_  
Linda K. Myers

\_\_\_\_\_  
Alan L. Nye

Received for Record by Essex Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

# Storm-water Activity Within the Town of Essex





# Town of Essex

## Small Site Erosion Control Guide

### Why do we need to protect against erosion?

**Water Quality:** Erosion and the transport of sediment and pollutants impacts the water quality of nearby streams which all flow into Lake Champlain. Erosion degrades the habitat of aquatic organisms and fish, decreases the recreational value of the waterways and promotes the growth of nuisance weeds and algae.

**Local Taxes:** Sediment that finds its way into streets, catch basins, storm sewers and ditches results in added maintenance and removal costs for local government. Tax dollars used for sediment clean up are not available for other purposes such as road repair or education.

**Flooding:** Sediment accumulates in streams and rivers reducing their capacity to carry runoff. The gradual build-up clogs natural channels resulting in increased flooding and property damage.

**Property Values:** Erosion and sediment loss can cause soil instability, which can create unsafe conditions around structures. Soil erosion can lead to expensive repairs to fix damaged property.

### What can you do to minimize erosion during construction?

- Disturb the minimum construction area at any given time.
- Reduce runoff over disturbed areas. Divert run off away from slopes into grassed swales or temporary silt basins. Keep runoff velocities as low as possible. If permanent measures for drainage control are in the plans,, build these first.
- Use sediment fence and other measures to keep soil onsite
- Sediment basins or traps should be considered to allow settling of particles before any storm water is discharged from the site. Mulch and erosion control blankets reduce erosion.

### Areas to pay special attention to:

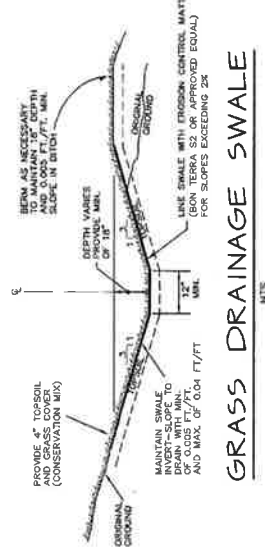
- Culvert inlets and outlets
- Steep Slopes
- Any areas of concentrated flow
- Ditches
- Accesses to the property
- Inlets and outlets of catch basin systems
- Area abutting waterways or wetlands

## Erosion Control Basics

- 1) Evaluate the site for the effect of runoff from sudden rainstorms.
- 2) Identify areas where you want to limit construction traffic. Wherever possible, preserve existing vegetation. To protect root damage to trees and other sensitive areas, mark areas off for preservation and do not allow grading, burning, storage, parking or driving within these areas. Place mesh snow fence around the drip lines of trees, designated leach field areas and across any protected buffer zones.
- 3) Install erosion/sediment control before the site is cleared.
- 4) At least once a week and after each rainfall event inspect measures put in place and repair them as necessary.
- 5) Ensure that all drainage is away from the home and not directed to an adjacent property owners lot. Provide an outlet for foundation drains and for general lot drainage by using storm sewers or by obtaining drainage easements if you must cross or if the runoff affects adjoining properties.
- 6) Do not fill existing drainage channels or roadside ditches. This could result in flow capacity reduction, flooding on another property and/or damage to adjacent road.
- 7) Do not flush sediment to the street with water.
- 8) Re-vegetate the site as soon as possible. A well-maintained lot has a higher sale potential.
- 9) Pay special attention to runoff adjacent to driveways and affected road ditches; use stone/erosion control in the ditch to prevent erosion.

## Erosion Control Options

**Ditch and Swale Protection:** These are often a basic element of any storm water and erosion control plan. All ditches and swales should be protected by plantings or coarse stone. The decision should be made based upon slope and potential velocities in the channel. Preferred grasses include Bermuda grass, reed canary grass, tall fescue, Kentucky bluegrass, grass legume mixtures, and red fescue.



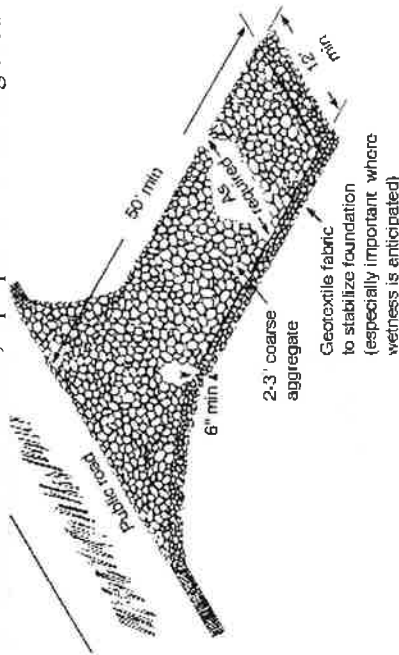
**Erosion Control Blankets:** Blankets are made of biodegradable materials such as jute matting, excelsior wood fiber; coconut fiber, straw or interwoven paper strips and netting made of biodegradable polypropylene or extruded plastics. These are formed into sheets and used as temporary or permanent mulching primarily to stabilize disturbed slopes and can be used in areas of moderate concentrated flows such as ditches and swales. Use anchoring staples. Place at least four inches of the material edge into a dug slot or soil then tamp down firmly to prevent floating blankets. The surface below the blanket should be smooth and stabilized to prevent the flow of water underneath.

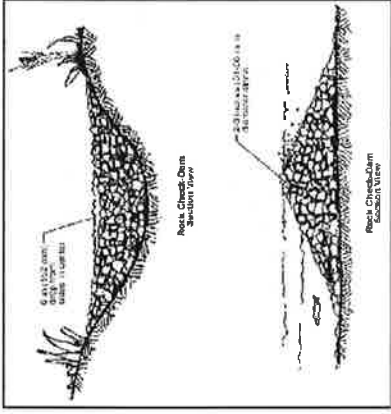
**Vegetative Filter Strips:** On hillside slopes, preserve a 20 foot wide vegetative buffer strip back from the top of slope.

**Mulch:** Apply hay, straw, bark mulch, crushed stone or cellulose fiber to disturbed surfaces. This method can be used on any area subject to erosion, as well as any area that may be otherwise unfavorable for plant establishment. Permanent mulch is particularly valuable in stabilizing chronic erosion areas such as those subject to high vehicle or foot traffic.

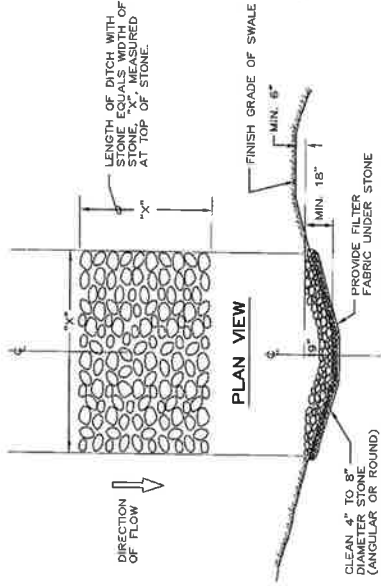
Mulch Material	Application per Acre	Depth of application of Area covered per unit	Notes
Hay or Straw	90 - 100 bales	95-100% coverage	Hay and Straw are not effective in areas of concentrated flows.
Green Wood Chips or Shavings	10 - 20 tons	2 - 4 inches	Decomposes rapidly, resistant to wind blowing, can be used in critical areas if protected from washing.
Bark Mulch	14,000 cubic feet	4 inches	Decomposes slowly, can be left for long periods of time, resistant to wind, vegetation may eventually grow over
Gravel and Stone	11,500 cubic feet	100% surface coverage	Should be ¼ inch to 5 inches in size. Should be washed before placement in sensitive areas

**Stabilized Construction Entrances:** Entrances shall be installed at every point where construction vehicles leave a paved or gravel road and enter onto a site. Large washed stone that is round in shape to prevent damage to tires should be placed over geo-textile. The protected entrance will minimize dusting as well as transportation of sediment into existing drainage ways. If two-way traffic is likely the entrance must be wide enough to allow for this. If the entrance crosses a swale or stream, flow must not be inhibited; a proper water crossing should be constructed.





**Check Dams:** Small dams constructed of dumped stone are effective in drainage channels both for temporary and permanent use. They are placed in small open channels, which are under construction or are downstream from a disturbed area. They lose efficiency on slopes greater than 15% ; however they can still be utilized in such case to slow flow. Only stone check dams may be left over the winter. Sediment that builds up behind the check dam should be removed when it has accumulated to ½ the original height of the dam. Repairs should be done frequently to ensure the system is effective. They should only be removed when vegetation has been established sufficiently.



#### NOTES:

1. STONE DAMS SHALL BE INSTALLED AT THE LOCATIONS SHOWN ON THE PLANS.
2. SWALE SHALL BE SEEDED & MULCHED (IF GRASS-LINED) PRIOR TO THE INSTALLATION OF THE STONE FILTER.
3. THE CONTRACTOR IS RESPONSIBLE FOR PREVENTING CLOGGING / SILTATION OF THE STONE DAM DURING AND IMMEDIATELY AFTER CONSTRUCTION UNTIL THE PROJECT'S PERMANENT EROSION CONTROLS ARE IN PLACE ( VEGETATION ESTABLISHED, ETC. ) AND THE PROJECT HAS BEEN ACCEPTED BY THE OWNER. IF NECESSARY THE STONE SHALL BE CLEANED AND REPLACED.

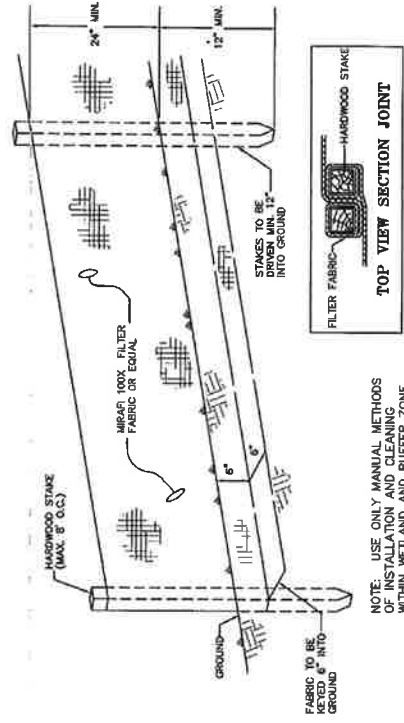
#### STONE FILTER DAM

NTS

# **Slope Steepness      Maximum Slope Length**

2:1—(50%)	50 feet
3:1—(33%)	75 feet
4:1—(25%)	125 feet
5:1—(20%)	175 feet
<5:1—(<20%)	200 feet

**Silt Fences:** A geo-textile fabric wall is effective as a temporary measure. The fence is held in place with stakes or fence posts and compacted soil. These can be used as an alternative to straw bales to catch sediment on slopes or to prevent sediment from leaving the property. The fence should be aligned perpendicular to the flows and following the above slope limitations. Fence should be inspected after every storm event and sediment build up behind the fence should be removed and any torn sections of fence should be promptly repaired.



## **TEMPORARY SILT FENCE**

NTS

**Storm Drain Inlet Protection:** If storm drains on site or adjacent to construction will receive flow from the site, these drains must be protected. Protect storm sewer curb inlets with stone filled or gravel filled geo-textile bags before disturbing the soil. Means of sediment detention such as hay bale dams or silt fence can be used to protect the inlet; otherwise, runoff should be diverted to a detention area on site.

Placing of filter fabric under the catch basin cover is an acceptable method of protecting the basin.

Another option is to construct drop inlet protection. This includes the building of a box like structure to surround the inlet, lining the box with filter fabric, then burying the edges of the filter fabric to prevent flow from going around or under the filter.

All new or existing catch basins affected by the construction must be cleaned at the project completion.

**Seeding:** Rapid restoration of vegetation is one of the most important elements of erosion control. It is used both as a temporary and a permanent solution. Seeding provides long term protection, while reducing runoff velocities and promoting infiltration of runoff into the soil. Disturbed areas that are not fine graded and will otherwise remain exposed for several weeks must be seeded. Examples of areas needing temporary vegetative cover may include soil stockpiles, dams, sediment basin sides, buffer areas, filter strips, vegetative ditches or swales, steep slopes and stream banks. Exposed soils that are not immediately seeded should be mulched. Soil amendments may be necessary to establish permanent growth. Conventional fertilizers should not be applied near areas that flow directly to a waterway. Permanent seeding should be performed in combination with other erosion and sediment control practices until full cover has been firmly established.

**Trees, Shrubs, Vines, Groundcover:** These materials are used as permanent vegetative stabilization. Install them on steep and rocky slopes where mowing would be difficult, for landscaping purposes, in shady areas where turf maintenance is difficult, and in vegetated buffer areas.

**Gutters and Downspouts:** should have downspout extenders installed as soon as gutters are installed. They aid in preventing erosion from roof runoff.

## Quick Access Guide to Erosion Control

Feature	Suggested Erosion Control Measure
Slopes	Erosion control blankets, filter strips, diversion ditches, silt fence and/or straw bale fence.
Construction Access	Stabilized Gravel Construction Entrance.
Ditches and Swales	Plantings, check dams and/or erosion control blankets
Storm Water Inlet	Prevent sediment from entering system though use of filter
Edge of disturbed Area	Silt Fence or Straw Bales
Paths	Gravel Mulch
Flat Disturbed Area	Mulch, and seed if it will be exposed and unmodified for more than week
Finished graded area	Hay or straw mulch and seeding

To minimize erosion the best practice is always to leave area undisturbed and vegetated whenever possible.

## Town of Essex

### Erosion and Sediment Control Permit Application

A permit is required per Section §10.20.065 of the Town Storm Water Ordinance when one acre or more of land is disturbed, except as exempted for certain activities under the Ordinance, or when a Storm Water Management plan is required. Completion of this permit is not required if an Erosion and Sediment Control Plan has been prepared for coverage under the State of Vermont General Permit. Plans and information required for issuance of the Erosion and Sediment Control Permit may be included within Site Plans or Subdivision Plans required by the Town.

The application consists of the following seven components: (1) administrative data (2) a narrative statement (3) a location map (if not provided as a component of other submitted plans) (4) an existing conditions site plan (5) an erosion and sediment control site plan(s) (6) a permit fee and (7) an applicant certification.

#### **Item 1, Administrative Data:**

1. Applicant Name: \_\_\_\_\_  
(Person or corporation to whom the permit will be issued)
2. Legal Entity: \_\_\_\_\_  
(Individual, corporation, partnership, firm, other)
3. Mailing Address: \_\_\_\_\_  
\_\_\_\_\_
4. Contact: \_\_\_\_\_ Telephone: \_\_\_\_\_  
(Person to contact regarding the application) Fax: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

#### **Item 2, Narrative:**

Provide a general written description of the project, containing the following information:

- Site inventory and analysis, with name and location of all affected streams, general topography, soils and type of vegetation and the calculation of disturbed land acreage
- A description of the proposed grading plan and a timetable by project phase from start of project to completion, including winter shutdowns if applicable
- A description of the strategies of the erosion and sediment control plan and how it will protect the nearby watercourses
- A discussion of the seeding and mulching plan
- A description of the erosion and sediment control measures, both temporary and permanent
- A copy of the supporting design calculations
- A discussion of the proposed maintenance and inspection plan

#### **Item 3, Location Map:**

Provide a 7½ minute U.S.G.S. quadrangle map or equal that shows:

- The proximity of the site to any surface water bodies
- Property lines
- Any significant features affected by the project



**\_\_\_ Item 4, Existing Site Conditions Map:**

Provide an existing conditions map on a scale of 1 inch = 100 feet or larger with the following information:

- \_\_\_ Existing topographic features with a minimum of five-foot contours
- \_\_\_ Existing soils and general vegetative cover types
- \_\_\_ Existing drainage ways, water features and FEMA identified floodplains
- \_\_\_ Identification of sensitive areas including slopes greater than 25% and wetlands
- \_\_\_ Basic site and plan data with property lines, scale, elevation USGS datum or similar

**\_\_\_ Item 5, An Erosion and Sediment Control Site Plan:**

Provide a site plan that depicts the location of all erosion and sediment control measures, the timetable for the work and the sequencing of the control measures, including:

- \_\_\_ The limits of the disturbed area and phases as applicable
- \_\_\_ Any riparian conservation buffer limits and the method to be used for demarcation
- \_\_\_ The location of all temporary and permanent erosion and sediment control measures and details supporting the measures
- \_\_\_ The location of all soil stockpiles and areas to be seeded/mulched and timetables
- \_\_\_ Chart of the inspection and maintenance frequency for all control measures, to include street sweeping of affected roads both new and existing, cleaning of existing catch basins
- \_\_\_ Details of construction including storm water inlet protection, stabilized entrance construction, silt fence construction, permanent rock check-dams
- \_\_\_ Designated responsible party with contact information

**\_\_\_ Item 6, Permit Fee:**

A permit fee of \$300 plus an additional \$100 per acre of disturbed area shall be paid at the time of permit application.

**\_\_\_ Item 7, Applicant Certification:**

I, \_\_\_\_\_, hereby certify that the application as submitted is accurate to the  
(Name of Applicant)

best of my knowledge, and that I will take all steps necessary to comply with the erosion and sediment controls as submitted or as required as a condition of approval by the Town.

\_\_\_\_\_  
(Signature of Applicant)

\_\_\_\_\_  
(Date)

\_\_\_ Approved as submitted

\_\_\_ Approved with conditions as attached

\_\_\_\_\_  
(Town of Essex Representative)

\_\_\_\_\_  
(Date)

## **Storm-water Management Permit and Plan**

A storm-water management permit is required per section §10.20.072 of the Town Storm Water Ordinance when a project creates new or an expansion of old impervious surfaces that are equal or greater than one-half (½) acre in size.

### **A Storm-water management permit shall contain the following items:**

- 1) A completed permit application form
- 2) A storm-water management plan
- 3) An erosion and sediment control permit
- 4) A proposed long term maintenance agreement
- 5) A non-refundable permit application fee

### **Preliminary Storm water management plan requirements.**

A preliminary storm water management plan shall be submitted early in the development review process with sufficient information (e.g., maps hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. For most projects submitted for development review, the preliminary storm-water management plan shall be submitted as part of the preliminary subdivision application. The intent of the preliminary management plan is to determine the type of storm water management measures necessary for the proposed project, and to ensure adequate planning for management of storm water runoff from future development. To accomplish this goal the following information shall be included:

- A. Map(s) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment control facilities. The map(s) shall clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns, locations of utilities, roads and easements; the limits of clearing and grading; written description of the site plan and justification of proposed changes in natural conditions.
- B. Sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications of the current state storm water manual.
- C. Written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

- D. Written description of the required maintenance burden for any proposed storm water management facility.
- E. At the Town's discretion, the management shall consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the storm water preliminary management plan measures for controlling existing storm water runoff discharges from the site in accordance with the provisions of this chapter to the maximum extent possible.

**Final storm water management plan requirements.**

After review of the preliminary storm water management plan, and modifications to that plan as deemed necessary the Town, a final storm water management plan must be submitted for approval. A final storm-water management plan shall be submitted as part of the Final Subdivision application process or as part of a final Site Plan application. The final storm water management plan, in addition to the information from the concept plan, shall include the following information:

- A. Name, address, and telephone number of all persons having a legal interest in the property and the parcel number of properties affected.
- B. 1"=200' topographic base map of the site that extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and human-made features not otherwise shown.
- C. Hydrologic and hydraulic design calculations for the design storms specified in the Ordinance and Appendices. Such calculations shall include: description of the design storm frequency, intensity and duration; time of concentration; soil curve numbers or runoff coefficients; peak runoff rates and total runoff volumes for each watershed area; infiltration rates, where applicable; culvert capacities; flow velocities; data on the increase in rate and volume of runoff for the design storms referenced in the current state storm water design manual; and, documentation of sources for all computation methods and field test results.
- D. If a storm water management control measure depends on the hydrologic properties of soils, a soils report submittal. The soils report shall be based on SCS soils information at a minimum. On-site boring logs or soil pit profiles may be required if an infiltration system of treatment is proposed. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- E. Detailed maintenance procedures to ensure their continued function. The parts or components of a storm water facility that need to be maintained, the necessary equipment and a maintenance schedule will be identified. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

- F. Ensured access to all storm water treatment practices at the site for inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan in the Town Land Records and shall run with the land.
- G. Executed easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site storm water management measure in accordance with the provisions of this chapter.
- H. At the Town's discretion, a performance security or bond prior to issuance of a permit to insure storm water practices are installed by the permit holder as required by the approved storm water management plan may be required. There is a requirement for such a Town performance security or bond, even if the storm water permit is a State rather than Town permit. The amount of the installation performance security shall be the total estimated construction cost of the storm water management practices approved under the permit. The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan. The installation performance security shall be released in full only upon submission of "as-built" plans and written certification by a registered professional engineer that the storm water practice has been installed in accordance with the approved plan and other applicable provisions of this chapter. The Town will make a final inspection of the storm water practice to ensure that it is in compliance with the approved plan and the provisions of this chapter. Provisions for a partial pro-rata release for the performance security based on the completion of various development stages can be done at the discretion of the Town.

## **Storm-Water Management Permit**

### **Administrative Data:**

1. Applicant Name: \_\_\_\_\_  
(Person or corporation to whom the permit will be issued)
2. Legal Entity: \_\_\_\_\_  
(Individual, corporation, partnership, firm, other)
3. Mailing Address: \_\_\_\_\_  
\_\_\_\_\_
4. Contact: \_\_\_\_\_ Telephone: \_\_\_\_\_  
(Person to contact regarding the application) Fax: \_\_\_\_\_

### **Attachments:**

- a) A storm-water management plan
- b) An erosion and sediment control permit
- c) A proposed long-term maintenance agreement
- d) A non-refundable permit application fee

### **Permit Fee:**

A flat permit fee of \$300 shall be paid at time of final application, if no Town erosion control permit is required. If an erosion control permit is required, the \$300 flat fee portion of the storm-water permit shall be waived. An additional fee of \$100 per acre of impervious surface shall be paid at the time of permit application, whether or not an erosion control permit is required. All permit fees once paid are not refundable.

### **Applicant Certification:**

I, \_\_\_\_\_, hereby certify that the application as submitted is accurate  
(Name of Applicant) to the best of my knowledge, and that I will take all steps necessary to comply with the storm-water management plan as submitted or as required as a condition of approval by the Town.

\_\_\_\_\_  
(Signature of Applicant)

\_\_\_\_\_  
(Date)

\_\_\_ Approved as submitted

\_\_\_ Approved with conditions as attached

\_\_\_\_\_  
(Town of Essex Representative)

\_\_\_\_\_  
(Date)

## **Storm Water Management Design Criteria**

Storm water management design criteria apply to the following: (1) erosion and sediment control systems (2) conveyance systems such as culverts, catch basins and pipelines and (3) treatment systems. Existing Town and State Standards apply as noted in the Town Storm Water Ordinance, Section §10.20.014. The purpose of this Appendix is to provide supplemental guidance to those guidelines and standards that are listed in the Ordinance.

The goal for all new development and redevelopment is to reduce the impervious area to the minimum essential area to meet regulatory requirements and to restrict runoff to the maximum practical extent from the site.

### **Erosion and Sediment Control Systems**

Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and stabilized.

Soil stabilization shall be completed within 10 business days following clearing or construction inactivity.

Soil stockpiles must be protected or stabilized at the end of each workday; properly installed silt fence or hay bales shall be used to prevent erosion from unused soil stockpiles in existence for longer than 72 hours.

The entire disturbed site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

The area of disturbance shall be limited to the minimum necessary to perform the construction task being undertaken; entire sites shall not be cleared or graded without prior permission from the Town.

Temporary and permanent erosion and sediment control, if required, may consist of rock check dams, specialized plantings for erosion control and topographic changes that create grassed depressed areas to allow for the infiltration of runoff water onsite.

A component of an effective erosion and sediment control plan is the rapid growth of replacement land cover and landscaping. The landscaping plan, when required, shall detail both the vegetation to be used in the practice and how/who will manage and maintain this vegetation. This plan must be prepared by a qualified person, experienced in landscape planning. The criteria for vegetative cover is:

- A. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over 90% of the seeded area.
- B. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- C. Any area of re-vegetation must exhibit survival of a minimum of 90% of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum 90% survival for 1 year is achieved.
- D. All disturbed areas must be mulched before winter.

### **Conveyance Systems**

All storm water management practices shall be designed to convey storm water to allow for the maximum removal of pollutants and reduction in flow velocities.

Pre and post development drainage calculations must be submitted. The post development calculations shall include conveyance systems and treatment systems.

Conveyance systems that allow for the infiltration of storm water, in part or in whole are preferred, providing the designer can demonstrate that the underlying soil can accommodate the infiltration without a negative impact on adjacent roads, structures, etc.

All conveyance systems located within a current or planned Town Right of Way shall be designed with non-leak joints for both pipes and catch basins. Catch basin “boots” for both the inlet and outlet piping shall be provided on all catch basins. No new catch basins will be allowed that have a portion of the frame or concrete basin under the curb.

In special situations, the Town may require the use of catch basin inserts to capture added solids, organics or oil based products

Flow paths shall be maximized from inflow points to outflow points.

All catch basins and associated piping shall be protected from sediment during construction and shall be cleaned prior to Town acceptance..

The outlet from all piped drainage systems shall be designed so there is no vertical head loss to the adjacent stream and the outlet stream channel shall be stone lined to eliminate erosive flow velocities.

The as built plans on all completed projects shall contain a certification that no cross-connections have been made between storm and sanitary service lines and main lines.

The Town Subdivision requirements state that all post-development drainage calculations must be based on a 25-year storm event; structural components of a storm drainage system may be designed on the basis of a lesser storm event providing the calculations demonstrate that the 25 year event can be accommodated through a combination of design features, such as infiltration and storage. The minimum pipe sizes in the Public Works Specifications shall apply.

### **Treatment Systems:**

All storm water management systems shall be designed to capture and treat storm water runoff according to the specifications outlined in the current State Storm Water Design Manual.

On large projects, involving up to 5% of the specific watershed in the Town, the Town may require that studies be undertaken to determine the cumulative impact on other downstream storm-water facilities in the specific watershed of the Town.

Site design feasibility. Storm water management practices for a site shall be chosen based on the physical conditions of the site. Factors that should be considered include: topography, maximum drainage area, depth to water table, soils, slopes, terrain, head, location in relation to environmentally sensitive features or ultra-urban areas.

Applicants shall consult the current state storm water design manual for guidance on the factors that determine site design feasibility when selecting a storm water management practice.

Pretreatment requirements. Every storm water treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current state storm water design manual. Certain storm water treatment practices, as specified in said manual are prohibited even with pretreatment in the following circumstances: storm water generated from highly contaminated source areas know as “hotspots,” storm water carried in a conveyance system that also carries contaminated non-storm water discharges, storm water managed in a designated groundwater recharge area, or certain geologic conditions that prohibit the proper pretreatment of storm water.

## TOWN OF ESSEX SELECTBOARD CHANGES TO TITLE 10.20, STORM WATER ORDINANCE

The Selectboard of the Town of Essex hereby ordains that the following changes be made to the Municipal Ordinance, Title 10.20, Storm Water Ordinance. Added material is underlined, with the exception that entire added chapter sub-sections shall be noted in the heading as **"added in entirety"**. Deleted material is in brackets and struck through.

Add the following to Section 10.20.015, Definitions:

### **Added in Entirety:**

*"Authorization to Discharge Permits"* means permits issued by the State of Vermont to discharge storm water into receiving water bodies, which may or may not be valid permits at time of adoption of Section 10.20.090 of this Ordinance.

*"Expired storm water permits"* means storm water permits previously issued by the State of Vermont that are no longer current.

*"Flow Restoration Plan (s)"* means a stream flow plan required by the State of Vermont designed to implement storm water runoff controls producing runoff characteristics that return stream flows to compliant, stable flow conditions as required to meet the water-quality based TMDL requirements for a particular impaired waterway.

*"Impaired waterways"* means rivers, lakes, or streams that do not meet one or more water-quality standards, and therefore are considered too polluted for their intended uses.

*"Non-impaired waterways"* means rivers, lakes, or streams that currently meet the designated water-quality standards for the water body.

*"Non-public contributing storm water permittee"* means a current storm water permit holder, including homeowner associations and any successors or assigns, of either a valid or expired storm water permit that is not a public entity.

*"Non-public storm water infrastructure"* means storm water infrastructure not owned, operated or maintained by the Town.

*"Private (storm water) system owner"* means the non-public owner of a storm water system, including homeowner associations and any successors or assigns, consisting of, but not limited to, culverts, pipes, catch basins, treatment ponds, treatment devices, and/or storm water infiltration systems.

*"Public storm water infrastructure"* means storm water infrastructure such as, but not limited to, culverts, pipes, catch basins, treatment ponds, treatment devices, and/or storm water infiltration systems, all of which is under Town ownership or within Town



easements, and which infrastructure has been accepted by the Town as a component of the Town storm water system or systems.

*"Residual Designation Authority (RDA) "* means the authority granted to the United States Environmental Protection Agency and delegated to the State of Vermont to issue a permit directly to a party or parties discharging storm water to a water body where a TMDL supports such a determination and where discharges are contributing to water quality violations.

*"Shared storm water system"* means a storm water system such as, but not limited to, culverts, pipes, catch basins, treatment ponds, treatment devices, and/or storm water infiltration systems which consist of both public and non-public storm water infrastructure.

*"Unpermitted (storm water) discharges"* means a system discharging storm water to a stream or watercourse that has never been issued any type of authorization to discharge storm water by either the Town or the State of Vermont.

*"Valid storm water system"* means a system which has been issued a storm water permit by the Town or the State of Vermont that is current with respect to the issuance and expiration dates of the permit.

Revise Section 10.20.090 to delete reference to (~~Riparian Buffer Zones (Reserved for Future)~~ and rename): Establishment and Transfer of Responsibility for State of Vermont issued Department of Environmental Conservation Authorization to Discharge Permits under General Storm Water Permits and for Unpermitted Discharges to Impaired Waterways within the Town of Essex, Inclusive of the Village of Essex Junction

Add Section 10.20.90: **(added in entirety):**

**10.20.090 Establishment and Transfer of Responsibility for State of Vermont issued Department of Environmental Conservation Authorization to Discharge Permits under General Storm Water Permits and for Unpermitted Discharges to Impaired Waterways within the Town of Essex, Inclusive of the Village of Essex Junction (the "Town") to NPDES MS4 General Permit 3-9014.**

A. The Vermont Agency of Natural Resources Department of Environmental Conservation ("DEC") issues Authorization to Discharge Permits under General Permits for area or site-specific storm water discharges to applicants, including municipalities, private parties, and shared storm water systems involving both privately-owned and publicly-owned components.

B. Valid storm water system discharge permits have been issued by the DEC for projects in the non-impaired and impaired waterways within the Town, and the Town has either accepted full responsibility for such permits in these waterways or shared permit responsibility based upon the percentage of impervious area contributed by the

publicly-owned component of the system in comparison to the impervious area contributed by the privately-owned component.

C. As of the adoption of this Ordinance, valid storm water system discharge permits have not been issued to expired storm water permit holders in the impaired waterways due to the inability to legally authorize, under State law, renewal of the previously issued Authorization to Discharge Permits.

D. Current responsibility for previously issued expired storm water permits and valid storm water system discharge permits in the impaired watersheds in the MS4 area varies widely. In some cases, there is a well-defined chain of responsibility from the "owner" of the original permit to the current permit holder. In other cases, permit responsibility is either poorly defined or non-existent notwithstanding that permit responsibility runs with the land. Some expired and valid (permit) discharges are defined in the original permit as directly to a stream or water body; in others, they are defined as being directed to or connected into a shared storm water system.

E. Pre-existing unpermitted storm water discharges occur within the impaired and non-impaired waterways. These discharges were either never issued permits or the discharges occurred before DEC began issuing discharge permits. Pre-existing unpermitted storm water discharges into impaired waterways may obtain legal coverage under the MS4 general permit in the manner outlined in this Ordinance.

F. The Village of Essex Junction ("Village") regulates storm water discharges through its Land Development Code. The Village intends to amend its Ordinances to incorporate the terms of this Town Ordinance, which is intended to apply to storm water discharges in the Town, inclusive of the Village. To the extent the terms of this Ordinance conflict with the Village Ordinance, the Town Ordinance governs.

G. For purposes of this Ordinance, the "appropriate legislative body" for the Town outside the Village shall be the Selectboard, and for the Village, the Board of Trustees. Either appropriate legislative body may delegate its authority under this Ordinance to an appropriate municipal panel.

#### **10.20.091 General Approach and Purpose**

A. The Town seeks to develop consistent policy and procedures for determination of storm water permit responsibility for both valid storm water system discharge permits and expired storm water permits, and to establish minimum requirements for transfer of expired and future new permit responsibility by and between the appropriate parties.

B. MS4 responsibility for operation, repair and maintenance of storm water infrastructure extends only to public storm water infrastructure and proportional shared

responsibility on shared storm water systems, and is separate and distinct from permit responsibility. The Town may accept permit responsibility if determined by the appropriate legislative body to be in the Town's best interests. Factors to be considered when determining whether acceptance of permit responsibility is in the Town's "best interests" include, but are not limited to, whether improved water quality is not otherwise obtainable without additional Town participation, potential cost savings to the Town, or provision of land or easements for treatment or storage of storm water for shared systems. The non-public contributing storm water permittee shall be responsible for the operation, maintenance, repair, replacement and upgrade of the non-public infrastructure, unless the Town determines that accepting some or all of this responsibility to be in its best interests as defined above.

#### **10.20.092 NPDES Phase 2 MS4 Requirement for Expired Authorization to Discharge Permits**

A. The Vermont Agency of Natural Resources (VANR) Authorization to Discharge Permit Number 7025-9014 issued to the Town and Authorization to Discharge Permit Number 7024-9014 issued to the Village under NPDES MS4 General Permit 3-9014 requires the Town and the Village, separately as MS4 permittees, to submit to the Secretary of VANR a plan for addressing expired storm water permits discharging to the MS4 permittee's system, which was accomplished through the proposed adoption of this Ordinance.

B. A compliance date of October 2015 is set within the Authorization to Discharge Permits for verification of the condition of all public and non-public storm water infrastructure identified in and approved under each original expired permit.

C. On expired permits within the impaired waterways or with regard to discharges that have no permits in the impaired waterways, it is the intent of the VANR to either have these permits ultimately come under the umbrella of the Town MS4 Permit or issue Residual Designation Authority (RDA) permits directly to each permittee or party responsible for the storm water discharge not covered under the MS4 umbrella permit.

#### **10.20.093 Classification of Storm Water Systems within the Town as relates to Authorization to Discharge Permits**

A. Due to the complexity and variety of existing permit "ownership" and types of permits, the Town has classified all valid storm water system discharge permits and all expired storm water permits into one of the following four types for purposes of determining permit responsibility:

##### **1. Type 1 Storm Water System:**

- a. A Type 1 storm water system consists of a system of storm water infrastructure that is entirely on public land (public rights of

way, municipally-owned property or on public storm water easements) and owned by the Town, including residential subdivisions or groups of houses with no non-public storm water infrastructure, such as privately-owned catch basins or privately-owned storm water pipelines connected into storm water systems on public land (excluding private underdrain systems). For purposes of this Ordinance, a "private underdrain system" is storm water infrastructure serving individual private lots or buildings from the private lot or building to the point of interconnection with public storm water infrastructure.

b. Examples of Type 1 storm water systems include:

1) Public buildings such as municipal offices, police stations, fire stations, municipal highway garage complexes, schools or other educational facilities with no on-site storm water infrastructure (other than underdrains connected with public storm water infrastructure) which do not discharge directly into a stream, and/or similar facilities.

2) Residential subdivisions with valid or expired permits in the Town. Those residential subdivisions presently identified by the Town as meeting the Type 1 criterion are listed in Table 1 in the Appendix to this Ordinance. Table 1 may be revised by the Town, acting through its Municipal Manager or their designee(s) as such additional systems are identified.

c. Type 1 storm water systems do not include any private lot, residential subdivision or groups of housing covered under an expired storm water permit that has non-public storm water infrastructure such as catch basins and pipelines (excluding private underdrain systems) connected into public storm water infrastructure.

## 2. Type 2 Storm Water System:

a. A Type 2 storm water system consists of a system of storm water infrastructure that is entirely contained on private property, discharges directly or indirectly to a stream or other recognized water body and is not directly connected by piping to a Type 1 or Type 3 storm water system.

b. Examples of Type 2 of storm water systems include:

1) Private residential, commercial or industrial systems that retain all storm water flows onsite as originally designed and

have valid or expired permits for such discharge, and private residential, commercial or industrial systems that discharge some or all of their storm water flows to a stream or other recognized water body.

2) Select storm water systems in the Town. Those private residential, commercial or industrial systems presently identified by the Town as meeting the Type 2 criterion are listed in Table 1 in the Appendix to this Ordinance. Table 1 may be revised by the Town, acting through its Municipal Manager or their designee(s) as such additional systems are identified.

### 3. Type 3 Storm Water System:

a. A Type 3 storm water system consists of a shared storm water system covered under either valid and/or expired storm water permits that combines storm water flow from both public and non-public storm water infrastructure before discharging storm water directly or indirectly into a stream, swale or other method of water conveyance to waters of the State.

b. Examples of Type 3 storm water systems include:

1) Non-public storm water infrastructure systems that discharge directly to public storm water infrastructure; public storm water infrastructure systems that discharge to non-public storm water infrastructure; public and non-public infrastructure systems that discharge to a common storm water pond or open swale on public or private property or to an outfall pipe leading to a stream, swale or other conveyance to a recognized water body; other systems that combine storm water flow from both public and non-public storm water infrastructure; prior valid storm water permits involving both public and non-public components covered under one issued permit with responsibility defined in the permit between public and non-public contributors to a storm water system.

2) Those combined public-private systems in the Town presently identified by the Town as meeting the Type 3 criterion are listed in Table 1 in the Appendix to this Ordinance. Table 1 may be revised by the Town, acting through its Municipal Manager or their designee(s) as such additional systems are identified.

#### 4. Type 4 Storm Water System:

- a. Any other type of storm water system not covered under Types 1 through 3.
- b. Unique storm water systems with valid or expired storm water permits not included in Types 1 through 3 have not been identified as of the date of adoption of this Ordinance. This category is reserved for such systems.
- c. Storm water systems involving both Town and Vermont Agency of Transportation (VTRANS) infrastructure.
- d. Those combined public-private systems in the Town that are identified by the Town as meeting the Type 4 criterion will be listed in Table 1 in the Appendix to this Ordinance created by the Town, acting through its Municipal Manager. Table 1 may be revised by the Town, acting through its Municipal Manager or their designee(s) as additional systems are identified.

B. Prior to adoption of this section, the Town has not accepted full or shared permit responsibility for Authorization to Discharge permits within the impaired watersheds.

#### **10.20.094 Methodology for Establishment of Permit Responsibility for Each Type of Storm Water System**

##### A. Type 1 Storm Water Systems

1. The Town accepts responsibility for all valid Type 1 storm water system permits in the non-impaired waterways, all expired Type 1 storm water system permits in the impaired waterways, and all future Type 1 storm water system permits. These permits will be consolidated under the Town's NPDES MS4 General Permit 3-9014.
2. The Town accepts responsibility for the operation, maintenance, repair, replacement and upgrade of all public storm water infrastructure included in Type 1 storm water systems, with the exception of private underdrain systems and overland storm water flow systems from private lands such as driveways, open swales, and vegetated land. Such private underdrain systems and overland flow systems shall remain the responsibility of the property owner.
3. Acceptance of storm water permit responsibility by the Town does not relieve individual property owner(s) or housing and/or homeowner association(s), or any successor(s) and assign(s), from compliance with other sections of the Town's storm water ordinance or State

environmental regulations, including but not limited to sections dealing with illicit discharges, offsite discharge of sediment, site erosion, fertilizer application with respect to phosphorous and overall compliance with best storm water management practices as defined in adopted regulations or ordinances.

#### B. Type 2 Storm Water Systems

1. The Town shall have no responsibility for the operation, maintenance, repair, replacement or upgrade of non-public storm water infrastructure identified in a valid or expired storm water permit, or non-public storm water infrastructure added subsequent to the original version of a valid or expired permit, to meet an approved Flow Restoration Plan (FRP) unless it is determined by the appropriate legislative body, in its sole discretion, to be in the Town's best interests, as defined in Section 10.20.091.B above, to accept some or all of this responsibility.

2. The Town may accept MS4 permit responsibility for valid or expired Type 2 storm water system permits if requested by the current private storm water system owner and provided the following conditions are satisfied:

a. The private storm water system owner under an original valid or expired permit enters into a written agreement with the Town prior to January 1, 2015, which includes, at a minimum, the requirements set forth in section 10.20.094.b, below. A form of the Type 2 Storm Water System Agreement is provided in Appendix B to this Ordinance. If the private storm water system owner has not entered into a written agreement with the Town by January 1, 2015, the Town will request the State to use its RDA to require permit compliance by the holder of the expired Type 2 storm water permit.

b. The written agreement specified in section 10.20.094.a shall, at a minimum, require the following:

i. All applicable permit fees, including initial fees and all future renewal fees, if any such fees are required, shall be paid by the Type 2 private storm water system owner;

ii. The Type 2 private storm water system owner shall allow the Town to hire a professional engineer, at no cost to the holder of the Type 2 storm water permit, to inspect and certify that the Type 2 non-public storm water infrastructure is in compliance with the infrastructure requirements as contained in the expired permit. The certification shall occur prior to August 1, 2015. Alternatively, the

current holder of the expired non-public storm water permit may hire a professional engineer, acceptable to the Town, to perform the necessary inspection and certification. Future inspections that occur after the initial certification inspection of Type 2 non-public storm water infrastructure shall be conducted by the Town at no charge to the private storm water system owner;

iii. The Type 2 non-public contributing storm water permittee shall correct any deficiencies noted as a result of the engineer's inspection at their own expense prior to the August 1, 2015 date for system certification;

iv. The Type 2 non-public contributing storm water system permittee shall be responsible for permanent maintenance, repair, replacement and upgrade if necessary of all elements covered under the Type 2 storm water system permit. The Town shall conduct annual system compliance inspections to verify the condition and maintenance of the Type 2 storm water system and report findings to the State and the responsible party identified under the Type 2 storm water system permit;

v. The Type 2 non-public contributing storm water system permittee shall sweep clean all paved private roadways or parking lots at least twice per year and clean out all private catch basins whenever the depth of deposited material exceeds 50% of the depth of the catch basin sump, or enter into an agreement with the Town to perform the services for a fee;

vi. The failure of the Type 2 non-public contributing storm water system permittee to perform the required actions under b. iv. and v. shall be deemed a violation of this Ordinance and shall subject the non-public contributing storm water system permittee to penalties under section 10.20.112. The Town has the right but not the obligation to take the necessary actions to insure that the required maintenance is performed and otherwise correct any violation of this Ordinance. The provisions of section 10.20.116 of this Ordinance shall apply in the event the costs for the maintenance or correcting the violation are not paid by the non-public contributing storm water system permittee; and

vii. The cost of required storm water system upgrades to the Type 2 storm water system to meet the Town's adopted and State approved FRP shall be borne by the non-public contributing storm water system permittee unless it is determined by the Town to be in



its best interests as defined in Section 10.20.091.B above to participate in some or all of the system upgrade project or project costs.

3. Any prior written agreements entered into by the Town and non-public contributing storm water system permittees shall remain in full force with respect to cost sharing and operation, maintenance, repair and replacement of existing storm water infrastructure.

a. Permit responsibility and upgrades to meet the FRP are separate elements of storm water responsibility not defined in previous agreements and therefore this Ordinance is the controlling document relative to permitting.

b. In the event of any conflict between pre-existing agreements and the ordinance, the pre-existing agreements shall control.

4. Acceptance of partial storm water permit responsibility by the Town shall not relieve non-public contributing storm water system permittees from compliance with all other elements of the storm water ordinance or State environmental regulations, including but not limited to sections dealing with illicit discharges, offsite discharge of sediment, site erosion, fertilizer application with respect to phosphorous and overall compliance with best storm water management practices as defined in adopted regulations or ordinances.

#### C. Type 3 Storm Water Systems

1. The Town will not accept responsibility for operation, maintenance, repair, replacement and upgrade to meet an approved FRP of non-public storm water infrastructure identified in a valid or expired storm water permit or non-public storm water infrastructure added subsequent to the original version of the valid or expired permit, unless it is determined by the appropriate legislative body, in its sole discretion, to be in the best interests of the Town, as defined in Section 10.20.091.B above, to accept some or all of this responsibility.

2. The Town will accept MS4 permit responsibility on a proportional basis by relative impervious area contributed within the permitted area of the shared storm water system for the valid or expired Type 3 storm water system permit if requested by the non-public contributing storm water system permittee and provided the following conditions are satisfied:

a. The Type 3 non-public contributing storm water permittee shall enter into a written agreement with the Town prior to January 1, 2015, which includes, at a minimum, the requirements set forth in

section 10.20.094.b.i-vii above. A form of the Type 3 Storm Water System Agreement is provided in Appendix C to this Ordinance. If the non-public contributing storm water system permittee has not entered into a written agreement by January 1, 2015, the Town will request the State to use its RDA to require permit compliance by the Type 3 non-public contributing storm water system permittee.

b. If the Type 3 non-public contributing storm water system permittee elects not to enter into a shared agreement with the Town on MS4 permit responsibility, the Town shall comply with the requirements pertaining to the public storm water infrastructure, and may request the State to use its RDA over that portion of the shared storm water system not included within an agreement with the Town.

c. All applicable permit fees, including initial fees and all future renewals, if such fees are required, shall be shared between the municipality and the non-public contributing storm water permittee on the basis of relative impervious area, unless the appropriate legislative body determines that it is in the Town's best interests, as defined in Section 10.20.091.B above, that such fees shall be paid either on a larger percentage than relative impervious area or in full by the Town. If the Town accepts permit responsibility, then the intent is to consolidate the permit under the municipal NPDES MS4 General Permit 3-9014.

3. Any prior written agreements entered into by the Town and the Type 3 non-public contributing storm water system permittee shall remain in full force with respect to cost sharing and operation, maintenance, repair and replacement of existing storm water infrastructure.

a. Permit responsibilities and upgrades to meet the FRP are separate elements of storm water responsibility not defined in previous agreements and therefore this Ordinance is the controlling document relative to these issues.

b. In the event of any conflict between executed pre-existing agreements and this Ordinance, the pre-existing agreements shall control.

4. Acceptance of MS4 Permit responsibility by the Town does not relieve non-public contributing storm water system permittees from compliance with other elements of the Town's storm water ordinance or State environmental

regulations, including but not limited to sections dealing with illicit discharges, offsite discharge of sediment, site erosion, fertilizer application with respect to phosphorous and overall compliance with best storm water management practices as defined in adopted regulations or ordinances.

#### D. Type 4 Storm Water Systems

1. Other storm water systems with valid or expired storm water permits that do not qualify as a Type 1, 2, or 3 storm water system.
2. These systems shall be managed on a case by case basis, using the general procedures and methods as applicable from the three system types.
3. Permits involving the Town and VTRANS shall fall under this category. VTRANS is a separate MS4 permittee. Under a future adopted FRP for each impaired waterway, the Town will negotiate an agreement with VTRANS on the level of shared responsibility and costs for meeting the TMDL requirement of each impaired waterway. In the event an agreement cannot be negotiated with VTRANS, the Town will request VANR to use its RDA with respect to those VTRANS direct or indirect discharges contributing storm water flow to the impaired watersheds under the VTRANS MS4 permit.

## APPENDIX A

**Table 1: Valid and Expired Storm Water Permits in the Village of Essex Junction and the Town of Essex outside the Village as of the Date of Ordinance Adoption**

Permit #	Old Permit #	Village or Town	Project Name	Valid (V) or Expired (E)	Ordinance Type	Watershed
2-0855		Village	Village Knoll-Woods End & Acorn	Valid	Type 1	Indian Brook
2-1103		Village	Pleasant Street & East Street	Valid	Type 1	Indian Brook
1-1074		Village	Countryside II Fairview Farms: Chestnut Lane	Expired	Type 2	Indian Brook
1-1074		Village	Countryside II Fairview Farms: Spruce Lane	Expired	Type 2	Indian Brook
1-1074		Village	Countryside II Fairview Farms: Walnut Lane	Expired	Type 2	Indian Brook
2-0835		Village	Village Glen Condos	Expired	Type 2	Indian Brook
1.1527.0111		Village	Highland Village	Expired	Type 2	Sunderland Brook
1-0236		Village	Brickyard	Expired	Type 2 & 3	Indian Brook
1-1074		Village	Countryside II Fairview Farms: Locust Lane	Expired	Type 3	Indian Brook
2-0863		Village	167 Pearl Street (McEwing)	Expired	TBD	Sunderland Brook
2-0633		Town	Shillingford Crossing	Expired	Type 1	Sunderland Brook
3575-9010.R	1-1186	Town	Woodlands I	Valid	Type 1	Alder Brook
1-0667		Town	Woodlands I	Expired	Type 1	Indian Brook
3577-9010.R	1-0667	Town	Woodlands II/Lang Farm Parcel H	Valid	Type 1	Alder Brook

1-0250		Town	Kimberly Drive	Expired	Type 1	Sunderland Brook
3578-9010.R	1-0612 2-0752	Town	Pinewood Development	Valid	Type 1	Winooski River /Alder Brook
3581-9010.R		Town	Heritage Phase II	Valid	Type 1	Alder Brook
3579-9010.R		Town	Old Stage Village	Valid	Type 1	Alder Brook
3580-9010.R		Town	Rivers Bend	Valid	Type 1	Winooski River
3201-9010.R		Town	Pinewood Section G	Valid	Type 1	Winooski River
3267-9010.R		Town	Saybrook	Valid	Type 1	Alder Brook
4367-9010.R		Town	Autumn Knoll	Valid	Type 1	Browns River
3996-9010		Town	Town Swimming Pool Complex	Valid	Type 1	Alder Brook
2-0631		Town	Essex Resort and Spa	Expired	Type 2	Indian Brook
1-1463		Town	VT Systems, Inc.	Expired	Type 2	Sunderland Brook
1-0965		Town	#7 Ewing Place	Expired	Type 2	Sunderland Brook
1-0518		Town	#3 Ewing Place	Expired	Type 2	Sunderland Brook
1-0619		Town	#26 Susie Wilson Road	Expired	Type 2	Sunderland Brook
2-0634		Town	#26 Susie Wilson Road	Expired	Type 2	Sunderland Brook
1-1319		Town	Church of Latter Day Saints	Expired	Type 2	Indian Brook
1-1371		Town	Why Not LLC (Lang Farm Golf Course)	Expired	Type 2	Indian Brook
3324-9010.R		Town	Meadows Edge	Valid	Type 3	Alder Brook
3574-9010.R	1-0730	Town	Forestdale	Valid	Type 3	Winooski River /Alder Brook
3081-9010.R		Town	Perkins Bend	Valid	Type 3	Winooski River

1-1381		Town	The Commons at Essex Way	Expired	Type 3	Indian Brook
1-1307		Town	Homestead Design	Expired	Type 3	Indian Brook
1-0775		Town	The Outlets and Hannafords	Expired	Type 3	Indian Brook
2-0613		Town	The Outlets and Hannafords	Expired	Type 3	Indian Brook
1-1469		Town	Mainstay Suites	Expired	Type 3	Sunderland Brook
1-0552		Town	The Market Place	Expired	Type 3	Sunderland Brook
1-0896		Town	Yankee Enterprises, Oil #1 LLC, Bradley, Oil Annex, Patco Properties	Expired	Type 3	Sunderland Brook
1-0761		Town	Ewing	Expired	Type 3	Sunderland Brook
1-0694		Town	Ewing	Expired	Type 3	Sunderland Brook

Appendix B

TYPE 2 STORM WATER SYSTEM AGREEMENT

This STORM WATER SYSTEM AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between the [Village of Essex Junction] [Town of Essex], a Vermont municipal corporation with a principal place of business at [Village address] [81 Main Street], Essex, Vermont 05452 (the ["Town"] ["Village"]), and \_\_\_\_\_ with a principal place of business at \_\_\_\_\_ ("Permittee"). The [Town] [Village] and Permittee are sometimes each referred to in this Agreement as a "Party" or collectively as the "Parties."

WITNESSETH:

WHEREAS, the [Town has adopted an amendment to its Storm Water Ordinance] [Village has adopted an amendment to its Village Ordinance , incorporating Section 10.20.90 of the Town Storm Water Ordinance] entitled Establishment and Transfer of Responsibility for State of Vermont issued Department of Environmental Conservation Authorization to Discharge Permits under General Storm Water Permits and for Unpermitted Discharges to Impaired Waterways within the Town of Essex, Inclusive of the Village of Essex Junction; and

WHEREAS, the Storm Water Ordinance amendment identifies the requirements under section 10.20.094.B necessary for the [Town] [Village] to accept storm water permit responsibility for a valid or expired Type 2 storm water permit, as such type is defined in the Ordinance Amendment; and

WHEREAS, Permittee has identified that it is in their best interests to have the [Town] [Village] accept storm water permit responsibility by entering into this Agreement; and

WHEREAS, it is in the best interests of the Parties to work together to achieve State of Vermont storm water permit compliance; and

WHEREAS, the Parties agree that the [Town] [Village] has no responsibility for the operation, maintenance, repair, replacement or upgrade of all non-public storm water or storm water-related infrastructure, or non-public storm water infrastructure added to the original version of a valid or expired storm water permit; and

WHEREAS, the [Town] [Village] may in its sole discretion, if determined by the legislative body to be in its best interests, to accept some or all of the operation, maintenance, repair, replacement or upgrade of all non-public storm water or storm water-related infrastructure, at some future date;

NOW, THEREFORE, in consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, and on the express condition that all conditions precedent described below are satisfied, the Parties agree as follows:

## SECTION ONE [TOWN] [VILLAGE] OBLIGATIONS

The [Town] [Village] agrees to accept full or shared permit responsibility for valid or expired storm water system permits as follows and also shall:

1. Hire a professional engineer, at no cost to Permittee, to inspect and certify that the Type 2 storm water system, including but not limited to catch basins, storm pipes, and treatment facilities, is in compliance with the infrastructure requirements as contained in the expired permit, unless such work is undertaken at no cost to the [Town] [Village] by Permittee. The certification shall occur prior to August 1, 2015.
2. Conduct future inspections that occur after the initial certification inspection of Type 2 storm water systems at no charge to the Permittee.
3. Conduct annual system compliance inspections to verify the condition and maintenance of the Type 2 storm water system and report findings to the State and the Permittee.
4. Inspect and prepare an annual structural condition survey and extent of debris capture in all catch basins contributing storm water flow within the permitted area.
5. At the request of Permittee, arrange for cleaning of non-public catch basins, and to bill such cleaning costs to the Permittee.
6. Make best efforts to minimize the impact on the Permittee's property and their business operations thereon in performing its obligations under this Agreement.

## SECTION TWO PERMITTEE OBLIGATIONS

Permittee shall:

1. Accept all responsibility for the operation, maintenance, repair, replacement or upgrade of non-public storm water infrastructure identified in a valid or expired storm water permit, or non-public storm water infrastructure added subsequent to



the original version of a valid or expired permit, to meet an approved Flow Restoration Plan (FRP) unless it is determined by the appropriate legislative body, in its sole discretion, to be in the [Town's] [Village's] best interests, as defined in Section 10.20.091.B above, to accept some or all of this responsibility.

2. To pay all applicable permit fees, including initial fees and all future renewal fees, if any such fees are required of the Type 2 storm water system.
3. Hire a professional engineer, at no cost to the [Town] [Village], to inspect and certify that the Type 2 storm water system, including but not limited to catch basins, storm pipes, and treatment facilities, is in compliance with the infrastructure requirements as contained in the expired permit, unless Permittee requests such work be performed by the [Town] [Village]. The certification shall occur prior to August 1, 2015.
4. Correct any deficiencies identified in the engineer's storm water system inspection at their own expense prior to the August 1, 2015 date for system certification.
5. Maintain, repair, replace and upgrade as necessary all storm water infrastructure covered under the Type 2 storm water system permit.
6. Sweep clean all paved private roadways or parking lots at least twice per year and clean out all private catch basins whenever the depth of deposited material exceeds 50% of the depth of the catch basin sump, or enter into an agreement with the Town to perform the services for a fee.
7. Bear all costs of required storm water system upgrades (if needed) to the Type 2 storm water system to meet the [Town's] [Village's] adopted and State approved FRP unless it is determined by the [Town] [Village] to be in its best interests as defined in Section 10.20.091.B of the Town's Storm Water Ordinance [as adopted by Village's Land Development Code] to participate in some or all of the system upgrade project or project costs.
8. Comply with all other elements of the Storm Water Ordinance or State environmental regulations, including but not limited to sections dealing with illicit discharges, offsite discharge of sediment, site erosion, fertilizer application with respect to phosphorous and overall compliance with best storm water management practices as defined in adopted regulations or ordinances.

9. Perform any necessary structural repairs to any non-public storm water infrastructure beyond the annual routine maintenance within at least six (6) months of discovery of such needed structural repair or, if not repaired within six months of discovery, reimburse the [Town] [Village] for all its costs for such catch basin repair plus a ten percent (10%) surcharge for associated administrative expenses relating to such repair.
10. Indemnify, defend and hold harmless the [Town] [Village] and its officers, employees, agents, and representatives for and from any claims for liability and or damages arising out of the [Town's] [Village's] performance of the required annual operations and maintenance and required testing of the storm water infrastructure, including all catch basins and pipes, that may occur on Permittee's property, except to the extent such claims (a) arise from the gross negligence or intentional misconduct of the [Town] [Village] or its employees, agents or contractors, or (b) are covered by insurance carried by the [Town] [Village], its agents or contractors.

### SECTION THREE MISCELLANEOUS

1. The [Town] [Village] will notify Permittee at such time as the FRP for the watershed in which the property lies is adopted as to any obligations of Permittee to make on-site storm water improvements as required under the FRP.
2. All payments required under this Agreement shall be due upon receipt of an invoice. Any payments not made within thirty (30) days of their due date shall accrue interest at a rate of one percent (1%) per month on the past due amount until paid in full.
3. The Parties covenant and agree that the conditions and obligations under this Agreement shall run with the land, and shall accrue to the benefit of and be binding upon their respective successors and assigns as if they were parties to this Agreement. Any payments required under this Agreement not made when due shall constitute a lien on property of the Party failing to make payment, and shall be collectible in the same fashion as unpaid property taxes.
4. In the event a Party resorts to the judicial process to enforce another Party's obligations hereunder, the prevailing Party shall be entitled to recover its reasonable attorneys' fees.
5. This Agreement shall be interpreted consistent with and governed by the laws of the State of Vermont.

6. This Agreement consists of the entire understanding between the Parties relative to its subject matter, and may not be modified orally, but only by a written instrument signed by all Parties.

IN WITNESS WHEREOF, the Parties have caused their corporate seal to be affixed hereto and these premises to be signed in its name and on its behalf by its duly authorized agent as of the day and date first written above.

\_\_\_\_\_, VERMONT

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_  
Duly Authorized Agent

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_  
Duly Authorized Agent

STATE OF VERMONT            )  
  )     SS.  
COUNTY OF CHITTENDEN    )

At Essex in said County this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_, personally appeared \_\_\_\_\_ duly authorized officer of \_\_\_\_\_, and he acknowledged this instrument, by him sealed and subscribed to be his free act and deed and the free act and deed of the [Town of Essex] [Village of Essex Junction].

Before me,

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF VERMONT            )  
  )  
COUNTY OF CHITTENDEN    )       SS.

At Essex in said County this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_, personally  
appeared \_\_\_\_\_ duly authorized officer of \_\_\_\_\_, and  
he/she acknowledged this instrument, by him/her sealed and subscribed to be his/her free  
act and deed and the free act and deed of \_\_\_\_\_.

Before me,

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Appendix C

TYPE 3 STORM WATER SYSTEM AGREEMENT

This STORM WATER SYSTEM AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between the [Village of Essex Junction] [Town of Essex], a Vermont municipal corporation with a principal place of business at [Village address] [81 Main Street], Essex, Vermont 05452 (the ["Town"] ["Village"]), and \_\_\_\_\_ with a principal place of business at \_\_\_\_\_ ("Permittee"). The Town and Permittee are sometimes each referred to in this Agreement as a "Party" or collectively as the "Parties." (*NOTE: May be multiple parties to sign*)

WITNESSETH:

WHEREAS, the [Town has adopted an amendment to its Storm Water Ordinance] [Village has adopted an amendment to its Village Ordinance , incorporating Section 10.20.90 of the Town Storm Water Ordinance] entitled Establishment and Transfer of Responsibility for State of Vermont issued Department of Environmental Conservation Authorization to Discharge Permits under General Storm Water Permits and for Unpermitted Discharges to Impaired Waterways within the Town of Essex, Inclusive of the Village of Essex Junction; and

WHEREAS, the Storm Water Ordinance amendment identifies the requirements in section 10.20.094.C necessary for the [Town] [Village] to accept shared or full storm water permit responsibility for a valid or expired Type 3 storm water permit, as such type is defined in the Ordinance Amendment; and

WHEREAS, Permittee (*NOTE: May be multiple parties*) has identified that it is in their best interests to have the [Town] [Village] accept storm water permit responsibility by entering into this agreement; and

WHEREAS, it is in the best interests of the Parties to work together to achieve State of Vermont storm water permit compliance; and

WHEREAS, the Parties agree that the [Town] [Village] has no responsibility for the operation, maintenance, repair, replacement or upgrade of all non-public storm water or storm water-related infrastructure, or non-public storm water infrastructure added to the original version of a valid or expired storm water permit and shared responsibility on storm water systems consisting of both public and non-public infrastructure; and

WHEREAS, the [Town] [Village] may in its sole discretion, if determined by its legislative body to be in the [Town's] [Village's] best interests, to accept some or all of the operation, maintenance, repair, replacement or upgrade of all non-public storm water or storm water-related infrastructure, at some future date;

NOW, THEREFORE, in consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, and on the express condition that all conditions precedent described below are satisfied, the Parties agree as follows:

SECTION ONE.  
[TOWN] [VILLAGE] OBLIGATIONS

The Town agrees to accept full or shared permit responsibility on a proportional basis by relative impervious area contributed by the public and non-public storm water infrastructure within the permitted area for valid or expired storm water system permits. The relative impervious area has been agreed as follows: [Town] [Village] \_\_%; Permittee \_\_%. The [Town] [Village] also shall:

1. Hire a professional engineer, at no cost to the Permittee, to inspect and certify that the Type 3 storm water system, including but not limited to catch basins, storm pipes, and treatment facilities, is in compliance with the infrastructure requirements as contained in the expired permit, unless such work is undertaken at no cost to the [Town] [Village] on non-public storm water infrastructure by Permittee. The certification shall occur prior to August 1, 2015.
2. Conduct future inspections that occur after the initial certification inspection of Type 3 storm water systems at no charge to the Permittee.
3. Conduct annual system compliance inspections to verify the condition and maintenance of the Type 3 storm water system and report findings to the State and the Permittee.
4. Inspect and prepare a structural condition survey and extent of debris capture in all catch basins contributing storm water flow within the permitted area.
5. At the request of Permittee, arrange for cleaning of non-public catch basins, and to bill such cleaning costs to the Permittee.
6. Make best efforts to minimize the impact on any Permittee's property and their business operations thereon in performing its obligations under this Agreement.

SECTION TWO  
PERMITTEE OBLIGATIONS

Permittee (*NOTE: May be multiple parties*) shall:

1. Accept all responsibility for the operation, maintenance, repair, replacement or upgrade of non-public storm water infrastructure identified in a valid or expired storm water permit, or non-public storm water infrastructure added subsequent to the original version of a valid or expired permit, or their portion of a shared storm water system to meet an approved Flow Restoration Plan (FRP) unless it is determined by the appropriate legislative body, in its sole discretion, to be in the [Town's] [Village's] best interests, as defined in Section 10.20.091.B of the Storm Water Ordinance to accept some or all of this responsibility.
2. Pay their proportionate share of all applicable permit fees, including initial fees and all future renewal fees, if any such fees are required of the Type 3 storm water system, and
3. Hire a professional engineer, at no cost to the [Town] [Village], to inspect and certify that the non-public or shared portion of the Type 3 storm water system, including but not limited to catch basins, storm pipes, and treatment facilities, is in compliance with the infrastructure requirements as contained in the expired permit, unless Permittee requests such work be performed by the [Town] [Village]. The certification shall occur prior to August 1, 2015.
4. Correct any deficiencies on the non-public portion of the storm water system identified by the engineer's storm water system inspection at their own expense prior to the August 1, 2015 date for system certification.
5. Maintain, repair, replace and upgrade as necessary all non-public storm water infrastructure and to share responsibility for portions of shared storm water systems covered under the Type 3 storm water system permit according to the percentages identified above.
6. Sweep clean all paved private roadways or parking lots at least twice per year and clean out all private catch basins whenever the depth of deposited material exceeds 50% of the depth of the catch basin sump on non-public private storm water infrastructure or enter into an agreement with the [Town] [Village] to perform such services for a fee.
7. Bear the cost of required storm water system upgrades on non-public portions of the shared storm water systems and to share in the costs of all shared elements of the storm water system ( if needed) to the Type 3 storm water system to meet the [Town's] [Village's] adopted and State approved FRP according to the percentages identified above unless it is determined by the [Town] [Village] to be in its best interests as defined in Section 10.20.091.B of the Town's Stormwater

Ordinance to participate in some or all of the system upgrade project or project costs.

8. Comply with all other elements of the Storm Water Ordinance or State environmental regulations, including but not limited to sections dealing with illicit discharges, offsite discharge of sediment, site erosion, fertilizer application with respect to phosphorous and overall compliance with best storm water management practices as defined in adopted regulations or ordinances.
9. Perform any necessary structural repairs to any non-public storm water infrastructure beyond the annual routine maintenance within at least six (6) months of discovery of such needed structural repair or, if not repaired within six (months) of discovery, reimburse the [Town] [Village] for all its costs for such catch basin repair plus a ten percent (10%) surcharge for associated administrative expenses relating to such repair; and share in such costs on shared elements of the storm water system according to the percentages identified above.
10. To indemnify, defend and hold harmless the [Town] [Village] and its officers, employees, agents, and representatives for and from any claims for liability and or damages arising out of the [Town's] [Village's] performance of the required annual operations and maintenance and required testing of the storm water infrastructure, including all catch basins and pipes, that may occur on Permittee's property, except to the extent such claims (a) arise from the gross negligence or intentional misconduct of the [Town] [Village] or its employees, agents or contractors, or (b) are covered by insurance carried by the [Town] [Village], its agents or contractors.

### SECTION THREE MISCELLANEOUS

1. The [Town] [Village] will notify Permittee at such time as the FRP for the watershed in which the property lies is adopted as to any obligations of Permittee to make on-site storm water improvements as required under the FRP.
2. All payments required under this Agreement shall be due upon receipt of an invoice. Any payments not made within thirty (30) days of their due date shall accrue interest at a rate of one percent (1%) per month on the past due amount until paid in full.
3. The Parties covenant and agree that the conditions and obligations under this Agreement shall run with the land, and shall accrue to the benefit of and be binding upon their respective successors and assigns as if they were parties to this



Agreement. Any payments required under this Agreement not made when due shall constitute a lien on property of the Party failing to make payment, and shall be collectible in the same fashion as unpaid property taxes.

4. In the event a Party resorts to the judicial process to enforce another Party's obligations hereunder, the prevailing Party shall be entitled to recover its reasonable attorneys' fees.
5. This Agreement shall be interpreted consistent with and governed by the laws of the State of Vermont.
6. This Agreement consists of the entire understanding between the Parties relative to its subject matter, and may not be modified orally, but only by a written instrument signed by all Parties.

**IN WITNESS WHEREOF**, the Parties have caused their corporate seal to be affixed hereto and these premises to be signed in its name and on its behalf by its duly authorized agent as of the day and date first written above.

ESSEX], VERMONT [VILLAGE OF ESSEX JUNCTION] [TOWN OF

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_  
Duly Authorized Agent

PERMITTEE

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_  
Duly Authorized Agent

STATE OF VERMONT                    )  
  )  
COUNTY OF CHITTENDEN            )       SS.

At Essex in said County this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_, personally appeared \_\_\_\_\_ duly authorized officer of \_\_\_\_\_, and he

acknowledged this instrument, by him sealed and subscribed to be his free act and deed  
and the free act and deed of the [Town of Essex] [Village of Essex Junction].

Before me,

\_\_\_\_\_  
Notary Public

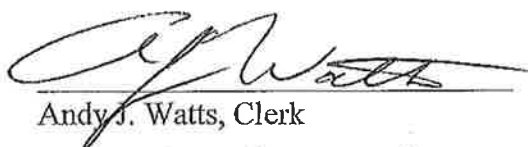
My Commission Expires: \_\_\_\_\_

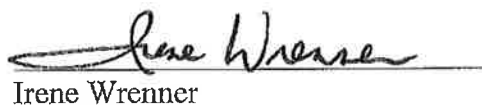
TOWN OF ESSEX SELECTBOARD  
CHANGES TO TITLE 10.20, STORM WATER ORDINANCE  
Inclusive of Appendix A, B and C:

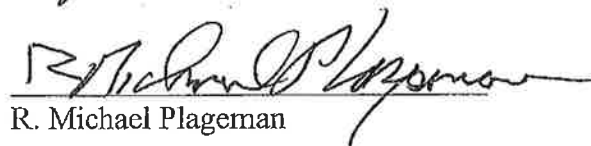
Adopted this 18<sup>th</sup> day of August 2014 by the Town of Essex Selectboard.

  
Max Levy, Chair

  
Brad M. Luck, Vice Chair

  
Andy J. Watts, Clerk

  
Irene Wrenner

  
R. Michael Plageman

Received for Record by Essex Town Clerk this 22<sup>nd</sup> day of Oct 2014.

