



Town of Shelburne, Vermont

CHARTERED 1763

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Memorandum

To: Shelburne Selectboard
From: Stormwater Advisory Committee
Date: August 28, 2018
Re: Stormwater Ordinance and Associated Documents

Since August, 2017, the Stormwater Advisory Committee (SWAC) has pursued its temporary mission of learning about and evaluating funding mechanisms for Shelburne's stormwater obligations and helping to educate the public. The Selectboard's mission for the SWAC is:

Mission: A citizen-based group known as the Shelburne Stormwater Advisory Committee, that includes residents from diverse backgrounds and interests representing business, institutions, environmental concerns, and residences, was formed to work with staff on developing a Stormwater Utility. This temporary committee of up to seven people is an advisory group only, with no executive or policy-making authority. They are advisory to staff, the public, and the Selectboard. The purpose is to educate the Selectboard, other boards and commissions, and the public. They can help ensure that staff is presenting the necessary information and would become experts on the subject to help answer questions in the community.

Over the last year, the SWAC learned about best practices from municipalities that have a stormwater utility (Burlington, South Burlington, Colchester, and Williston). It sought to understand a variety of topics including Shelburne's stormwater obligations and costs, the reasons for developing a fee vs. increasing the tax rate, the method for calculating fees, and a draft stormwater ordinance.

The SWAC also advised staff on two major presentations: One to the Selectboard and one to large property owners who would incur the highest stormwater fees. In addition, it collaborated with staff on the creation of a stormwater information piece that was sent to all property owners in Shelburne.

The SWAC now asks the Selectboard to warn a public hearing for September 25, 2018 to create a stormwater fee by adopting the attached draft ordinance, credit manual, and technical standards for stormwater upgrades. The SWAC believes that paying for stormwater obligations with a stormwater fee is more equitable than keeping these costs in the tax rate.

SWAC members stand ready to help answer questions from the Selectboard and the public regarding this effort. Attached:

1. Stormwater Information Piece (flyer sent to all residential properties)
2. Introduction to Shelburne's Stormwater Management Proposal – Executive Summary
3. Draft Stormwater Ordinance, Credit Manual, and Technical Standards for Stormwater Upgrades
4. Stormwater Fees for Single Family Residential – Flat Fee vs. Multiple Categories

 You may receive a stormwater bill in the future. To learn more, please read.



What is stormwater?



Impervious surfaces, such as roads, driveways and rooftops generate stormwater runoff that flows into our streams and Lake Champlain. This runoff carries sediment and surface pollutants and can erode stream banks and increase water pollution.

The most common pollutants include sediment, trash, heavy metals, pathogens, petroleum, and nutrients such as phosphorus and nitrogen -- which contribute to blue green algae blooms.

Why does Shelburne need to manage its stormwater runoff?



It's bad for the environment.

Stormwater runoff can erode stream banks and increase water pollution.



The state requires it.

Per state statute, Shelburne must reduce phosphorus delivered to Lake Champlain and the amount of stormwater flowing into Munroe Brook.

What needs to be done?

Shelburne has been designated as an MS4 (Municipal Separate Storm Sewer System) town by the state. Towns with this designation must prepare a Flow Restoration Plan for each stormwater-impaired watershed. This and the rest of Shelburne's stormwater needs are estimated to cost \$400k annually.



The Munroe Brook Flow Restoration Plan

The purpose of a Flow Restoration Plan is to identify stormwater management practices that will be implemented to meet state targets for stormwater-impaired watersheds.

Shelburne is looking into funding options.



Shelburne's Selectboard asked staff to investigate the development of a stormwater utility, similar to what other cities and towns in Chittenden County have done (Burlington, South Burlington, Williston, and Colchester).



Town staff are working with the City of South Burlington, a leader in stormwater management, and Shelburne's Stormwater Advisory Committee on this project.



Town staff and the Stormwater Advisory Committee have also connected with other utilities to gain knowledge about best practices.

What's a stormwater utility?

A stormwater utility manages water quality through stormwater management via:



Storm drains

Culverts

Swales

Stonelined ditches

Retention & detention ponds

Bioretention areas & other best practices

A stormwater utility can be an effective and dedicated source of funding to pay for stormwater management programs and related infrastructure investments.

What would a stormwater utility mean for Shelburne residents?



Every single-family home in Shelburne would be assessed a flat fee.



A stormwater utility fee is comparable to a water or sewer fee and is based on a common rate for a property's contribution to stormwater runoff.



The fee would go toward funding all the needed infrastructure and administrative costs.



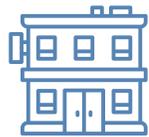
The stormwater fee would apply to taxable as well as tax exempt properties.

How much?



Around \$4 to \$5 per month. The fee would be billed quarterly. *

* Estimate as of May, 2018



I own property, but not a single-family home. What would this mean for me?

All other property owners (commercial, multi-unit residential, etc.) would be assessed a fee based on the amount of impervious surface. However, credits will be available for properties with stormwater treatment best practices.

Public process & next steps



Draft an ordinance to launch a stormwater utility in Shelburne.

The Shelburne Stormwater Advisory Committee is currently developing a draft ordinance, which will be followed by a series of public hearings. If the ordinance is adopted by the Shelburne Selectboard, that adoption will launch the Shelburne Stormwater Utility.



Engage stakeholders.

The Stormwater Advisory Committee is working to engage stakeholders in vetting the draft ordinance prior to the Selectboard ordinance public hearings. A robust public engagement process is key to the success of a stormwater utility.

How to get involved & stay informed

For more information or to get involved in the public process, please visit the Shelburne Stormwater / Water Quality webpage:



<http://shelburnevt.org/221/Stormwater-Water-Quality>



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Town of Shelburne, Vermont

Community Introduction to Shelburne's Stormwater Management Proposal

Executive Summary

Proposed Stormwater Systems Ordinance Proposed Stormwater System Credit Manual Proposed Technical Standards for Stormwater Upgrades

Purpose

As per [state statute](#), Shelburne must reduce, and then maintain reduced levels of pollution caused by pollution from stormwater flows to Lake Champlain. In order to fund the Town's new stormwater management program and capital improvement projects, Shelburne is working to establish an ordinance that includes an equitable funding source to not affect the property tax rate while enabling all contributors of stormwater to finance the required work.

The primary purpose of Shelburne's proposed new stormwater ordinance (the Ordinance) is to establish an equitable fee collection system for all properties in Town, including public and private systems. These fees will relate to the amount of impervious surface on a property and apply to taxable as well as tax exempt properties, which do not currently contribute to the Town's stormwater management obligations. The Ordinance was drafted based on similar stormwater ordinances passed by other Vermont municipalities, including South Burlington, Burlington, Williston and Colchester; and has been reviewed and refined by Shelburne staff and the Shelburne Stormwater Advisory Committee.

Ordinance and Credit Manual - Fees and Credits

The Ordinance will apply to stormwater from developed property. It defines what discharges are allowed, describes best management practices and defines illicit or illegal discharges (Article II).

The Ordinance establishes user fees (Article III) using the Equivalent Residential Unit (ERU) method. As defined in the Ordinance, an ERU is the square footage that represents the median area of impervious surface for all single family residences in Shelburne. The Ordinance recognizes two types of properties – single family residential (SFR) and non single family residential (NSFR). All SFR properties would be assessed one ERU. All other properties (NSFR) would be assessed a number of ERUs based on the amount of impervious surface on the property.

The Stormwater Superintendent will prepare a user fee Credit Manual (a companion document), which may be used by NSFR properties to apply for up to 70% credit on their monthly fee. Credits must be applied for by the property owner; they will not be automatic. The Stormwater Superintendent will determine an award of credit based on criteria set forth in the Ordinance. The Ordinance establishes a Stormwater Appeal Board to handle appeals of the Superintendent's decision. The Ordinance also defines what user fees and other



Town of Shelburne, Vermont

revenue sources shall be used for, such as capital construction, maintenance and operations, engineering and planning, administration and management, etc. (Article III).

The Ordinance describes a process for the acceptance or inspection of private stormwater systems (Article IV). If a system meets certain requirements, the Town may accept conveyance of and assume responsibility for certain private systems.

The Ordinance also includes a section regarding municipal cost sharing for capital projects (Article V). In certain circumstances the Town may contribute funds from the stormwater utility budget for the construction of stormwater upgrades as required by the Town's MS4 Permit, Flow Restoration Plans and/or Phosphorus Control Plans on private properties. In these instances, the Town would provide funding in proportion to the amount of Town owned impervious surface that drains to the stormwater treatment practice.

And finally, the Ordinance provides a framework for inspection and enforcement (Article VI). It describes the power and authority of inspectors and enforcement regarding violations of any provision in the Ordinance, judicial enforcement, and civil penalties (fines) that may be recovered by the Town.

Technical Standards for Stormwater Upgrades

The Ordinance provides an opportunity for properties with existing or expired State stormwater permits to obtain valid State stormwater permit coverage under the Town's MS4 Permit. The Technical Standards for Stormwater Upgrades companion document establishes a procedure by which an existing site can be evaluated for retrofit and installation of stormwater treatment practices capable of addressing water quality impairment issues. In lieu of installing stormwater treatment upgrades, the Technical Standards for Stormwater Upgrades document describes a process for property owners to pay a stormwater mitigation fee. It also provides for a combination of installing some stormwater treatment practices and paying some fees in order to gain a valid permit (properties are not required to work with the Town to obtain permit coverage; they may also work directly with VT DEC to obtain valid permit coverage). The document describes penalties and enforcement for failure to install stormwater treatment practices or payment of fees.

Ordinance Regulating the Use of Public and Private Stormwater Systems



Approved by the Shelburne Selectboard on ___/ ___/ ___

DRAFT – August 21, 2018 – Attorney Reviewed

(This Ordinance supersedes the Stormwater Discharge
Ordinance previously adopted on August 8, 2006.)

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The Selectboard of the Town of Shelburne hereby ordains:

ARTICLE I - GENERAL

1.1 Authority

This Ordinance Regulating the Use of Public and Private Stormwater Systems (the "Ordinance") is adopted pursuant to 24 V.S.A. Chapters 99, 101 and Sections 1.4(3) and 1.6 of the Town of Shelburne Charter. It shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

1.2 Purpose

This Ordinance exists to establish an equitable fee collection system from all properties with impervious surfaces within the Town and to use these fees to manage and implement infrastructure projects, as informed by the Phosphorus Control Plan, the State of Vermont Stormwater Manual and as required by the Municipal Separate Storm Sewer System (MS4) Permit, to mitigate stormwater impacts to waterways and to prevent their further degradation and impairment.

1.3 Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Authorized Person The Town Manager, Stormwater Superintendent, Wastewater Superintendent and such other persons as they specifically appoint or authorize to perform duties for Stormwater management.

Best Management Practices (BMPs) Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants directly or indirectly to the Stormwater System or waters of the State of Vermont or the United States. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Town Manager The Town Manager of the Town of Shelburne, or his/her authorized deputy, agent, or representative.

Combined Sewer A sewer receiving both Stormwater runoff and sewage.

Construction Activity shall mean activities including, but not limited to clearing and grubbing, grading, excavating, and demolition.

Credit An ongoing reduction in the stormwater user fee for certain identified and approved qualifying and ongoing private actions or activities that reduces the potential impact of increased Stormwater Discharges that result from development of a property.

Department of Public Works Wastewater Division That Town department responsible for construction, operation and maintenance of the sewage works.

Developed Property Any property that is altered from a natural state by construction or installation of more than five hundred (500) square feet of Impervious Surface.

Discharge Permit A permit issued by the Vermont Department of Environmental Conservation pursuant to authority granted in 10 V.S.A., Chapter 47, or the U.S. Environmental Protection Agency pursuant to 33 U.S.C. § 1251, et. seq.

Equivalent Residential Unit or ERU The base billing unit for stormwater fees and shall be equal to the square footage that represents the median of the area of Impervious Surface for all Single Family Residences in the Town as of the date of adoption or amendment of this Ordinance.

Exclusively Residential As used in Article IV of this Ordinance shall mean land development in the Town comprised of properties containing solely residential uses and permitted accessory uses, such as one-family, two-family and multi-family dwelling units. Land development with commercial, industrial or other non-residential uses is excluded.

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

Illicit Discharge Any direct or indirect Non-Stormwater Discharge to the Stormwater System.

Impervious Surface Those manmade surfaces, including, but not limited to, paved and unpaved roads, parking areas, roofs, driveways, sidewalks, walkways, compacted gravel and soil surfaces, and awnings and other permanent fabric or plastic coverings, from which precipitation runs off rather than infiltrates.

Industrial Activity Activities subject to National Pollutant Discharge Elimination System (NPDES) Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

Industrial Wastes The liquid wastes from an industrial manufacturing process, trade, or business. Industrial Wastes do not include sanitary sewage.

MS4 Permit The Vermont Agency of Natural Resources' General Permit #3-9014, as amended or re-issued, pursuant to which the Town obtained coverage for Stormwater discharges from its municipal separate storm sewer system.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non Single Family Residence (NSFR) All types of Developed Property in the Town except Single Family Residences.

Non-Stormwater Discharge Any discharge to the Stormwater System that is not composed entirely of Stormwater or such other waters or materials as are specifically authorized herein. It shall also include placing or depositing any Hazardous Material or Pollutant in the Stormwater System.

Parcel Any lot of land, plot of land, tract of land, subdivided piece of land, unit of land, any subset of land, land owned in common, or a condominium unit in the Town of Shelburne in separate ownership as of April 1 of the year the user fee is based on, and has a separate parcel identification number, map identification number or is identified as a separate parcel in the Town of Shelburne Grand List. Included in this definition are land controlled and managed by homeowners', condominium, planned community and unit owner associations. and all public and private roadways including but not limited to those owned by the Town, the State and the United States .

Person Any individual, firm, company, association, society, corporation, institution, partnership, governmental entity, group or other entity.

Private Stormwater System All elements of the Stormwater System located in the Town of Shelburne that are privately owned and not controlled and operated by Town.

Public Stormwater System All elements of the Stormwater System located in the Town of Shelburne that are controlled and operated by the Town of Shelburne or that carry Stormwater that drains directly or indirectly from any public property, including street rights-of-way.

Pollutant Any introduced substance which 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, ordinances, and accumulations, so that same may cause or contribute to

pollution; floatables; pesticides, herbicides, sediment, nutrients 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.

Regulated Private System Those Stormwater Systems located on privately owned property in the Town that are subject to or required to obtain a permit for Stormwater Discharges under federal or state law, which permits routinely require installation and maintenance of Stormwater management or treatment improvements.

Selectboard – A five member elected Selectboard constituting the legislative body of the Town. The Selectboard sets policy through budgets, ordinances, and tax rates among other regulatory duties.

Sewage and Stormwater Commissioners (or “Commissioners”, or “Board”) Members of the Selectboard acting as a Board of Sewage and Stormwater Commissioners under 24 V.S.A. Section 3614.

Sewer A pipe, culvert, ditch, swale or other conduit for carrying sewage or Stormwater.

Shall is mandatory; "may" is permissive.

Single Family Residence (SFR) Detached single family homes, duplexes, and triplexes.

Storm Drain A sewer intended to carry only Stormwater and surface waters.

Stormwater Excess water from rainfall and snow melt that does not evaporate or penetrate into the ground, which flows overland and is collected and transported to waters of the State of Vermont or the United States by the Stormwater System, together with any material that becomes dissolved or suspended in such water during its overland flow before entering surface waters of the State or a Stormwater System

Stormwater Appeal Board The Town Manager, and two other individuals appointed by the Selectboard.

Stormwater Discharge Any Stormwater that is transported, naturally or otherwise, from a Developed Property to the Public Stormwater System or surface waters.

Stormwater System Natural and man-made drainage structures, conveyances, Storm Drains, catch basins, and any other appurtenant device or structure where Stormwater is collected, transported, pumped, treated, infiltrated, dispersed or disposed of.

Stormwater Superintendent The Town Manager or his designee to oversee the Stormwater Services Division.

Stormwater Treatment Practice (STP) A specific device or technique, including but not limited to a non-structural practice, designed to provide stormwater quality treatment and/or quantity control as defined in the Vermont Stormwater Management Manual, as amended (VSMM)

Technical Standards for Stormwater Upgrades Those standards and procedures, as adopted and amended by Selectboard, defining the processes of engineering feasibility analysis for upgrade, repair and maintenance of Stormwater Systems in the Town, which shall be incorporated by reference herein.

VSMM The Vermont Stormwater Management Manual, as amended from time to time by the Vermont Agency of Natural Resources, which shall be incorporated by reference herein.

Wastewater Superintendent That employee of the Town of Shelburne who shall be designated by the Town Manager to oversee the Department of Public Works Wastewater Division.

Watercourse A perennial, intermittent or ephemeral river, brook or stream, or any natural or man-made channel that carries Stormwater to any perennial, intermittent or ephemeral river, brook, stream or Stormwater drainage system.

ARTICLE II - STORMWATER SYSTEM

2.1 Purpose

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of Shelburne through the regulation of Stormwater Discharges to the Stormwater System as required by federal and state law.

2.2 Applicability

Any discharge of Stormwater from Developed Property in the Town shall be subject to the provisions of this Article.

2.3 Required Approvals

(A) No owner of Developed Property in the Town shall change or alter, or allow to be changed or altered, the discharge of Stormwater from such property occurring on the effective date of this Article without first obtaining any permit or approval required under this or any other Town Ordinance, state law, or federal law. As used herein, change or alter shall mean an act done which will result in a direct or indirect impact on the contribution of Stormwater into the Public Stormwater System.

(B) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public Storm Drain or appurtenance thereof without first obtaining a written permit from the Stormwater Superintendent.

2.4 Compliance with Existing Permits

It shall be a violation of this Article for any owner of Developed Property that is subject to any local, state, or federal permit requirements regarding the discharge of Stormwater to fail to comply with such permit requirements.

2.5 Use of the Public Stormwater System:

(A) The following may be discharged into the Public Stormwater System, subject to obtaining and complying with any required permit:

- (1) Stormwater;
- (2) Landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to Storm Drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), emergency firefighting activities, and any other water source not containing Pollutants;
- (3) Discharges specified in writing by an Authorized Person as being necessary to protect public health and safety;
- (4) Dye testing is an allowable discharge, but requires a verbal notification to an Authorized Person prior to the time of the test;
- (5) Any non-Stormwater discharge permitted under a National Pollutant Discharge Elimination System (NPDES) permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, 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 for any discharge to the Storm Drain system.

(B) It shall be a violation of this Ordinance for any Person to cause or allow to occur any Illicit Discharge to the Public Stormwater System or allow any Illicit Discharge existing on the date this Article becomes effective to continue regardless of whether such existing discharge was permissible under law or practices applicable or prevailing at the time the discharge commenced.

(C) No Person shall throw, deposit, leave or maintain, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk,

component of the Storm Drain system, or Watercourse, any refuse, rubbish, garbage, litter, leaf and yard waste, or other discarded or abandoned objects, articles and accumulations, so that the same may cause or contribute to pollution. Any such wastes deposited in streets in proper waste receptacles for the purpose of collection are exempted from this prohibition.

2.6 Best Management Practices

(A) The Stormwater Superintendent will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to an Illicit Discharge to the Stormwater System. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from an accidental Illicit Discharge into the Public Stormwater System. Further, any Person responsible for a property or premises, which is, or may be, the source of an Illicit Discharge to the Public Stormwater System, may be required to implement, at said Person's expense, additional BMPs to prevent or discontinue the Illicit Discharge. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed in compliance with the provisions of this Section.

(B) 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 which are resulting or may result in an Illicit Discharge into the Stormwater System, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said Person shall notify the Stormwater Superintendent in person or by phone or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Stormwater Superintendent within three business days of the phone notice. If the Illicit Discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

2.7 Protection from Damage

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Public Stormwater System.

2.8 Watercourse Protection

Every Person owning property through which a manmade or natural Watercourse passes, or such Person's lessee, shall not dump or dispose of trash, debris, or other obstacles that would pollute, contaminate or

alter the flow of water through a Watercourse. In addition, the owner or lessee shall maintain existing privately owned infrastructure within or adjacent to a Watercourse, so that such structures will not adversely impact the use, function, or physical integrity of the Watercourse. Natural riparian buffers and manmade Watercourses established as part of a development and required by Town regulations shall be maintained by the developer and all other subsequent property owners, including but not limited to associations, within the development.

ARTICLE III - STORMWATER SYSTEM USER FEES

3.1 Establishment of Stormwater User Fees

- (A) A user fee based on an Equivalent Residential Unit (ERU) shall be imposed on every owner of Developed Property within the Town. An ERU shall equal that square footage that represents the median of the area of Impervious Surface for all Single Family Residences in the Town. The Selectboard shall, by resolution, establish the square footage that constitutes one ERU on a periodic basis.
- (B) The Selectboard shall have the authority to set and modify the user fee rates so that the total revenue generated by said charges, and any secondary sources of revenue, shall be sufficient to fund the Town's stormwater program.
- (C) The Selectboard shall establish by resolution the monthly rate for each ERU. The monthly user fee for a specific property is determined by multiplying the rate per ERU times the number of ERUs allocated to the property.
- (D) There are no exempt properties under this Article.

3.2 User Fee Credits:

- (A) The Stormwater Superintendent shall prepare for the Selectboard's approval, a "Credit Manual for Stormwater Fees" specifying the design and performance standards of on-site Private Stormwater Systems, facilities, activities and services which qualify for application of a user fee credit and the method of calculating Credits. The Selectboard shall have the authority to approve, modify and approve or disapprove the Credit Manual.
- (B) Following approval of a Credit Manual, the Stormwater Superintendent may, at the request of a property owner, reduce the user fee established for any property by awarding a Credit based on the policies and conditions set forth in the Manual. No Credit shall exceed seventy percent (70%) of the applicable monthly user fee for a given property. Any property owner may appeal the Stormwater Superintendent's determination regarding an award of a Credit by filing a written notice of appeal with the Stormwater Appeal Board within ten (10) business days of the Stormwater Superintendent's decision. The Stormwater Appeal Board shall review such appeal at a meeting preceded by fifteen (15) calendar

days written notice of the meeting date to the property owner. Following the meeting, the Stormwater Appeal Board shall issue its decision on the appeal in writing, which decision shall be final.

(C) Credits shall be applied to user fees on the next billing period after the completed credit application is approved.

(D) Any award of Credit shall be conditioned on continuing compliance with the Town's design and performance standards as stated in the "Credit Manual for Stormwater Fees" and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the Credit is based. The Stormwater Superintendent may revoke or reduce a Credit at any time for non-compliance by providing thirty (30) days written notice of a non-complying condition and intent to revoke or reduce the Credit to the property owner. If the non-compliance is not cured within the thirty (30) day period, the Stormwater Superintendent shall eliminate the Credit for user fee bills issued to the property owner after such period. A property owner may appeal the Stormwater Superintendent's determination regarding Credit revocation or reduction in the same manner set forth in paragraph (B), above.

3.3 Establishment of ERUs:

(A) Each Single Family Residence (SFR) shall be allocated one (1) ERU.

(B) The ERUs allocated to NSFR properties, except Town highways, shall be determined in the following manner:

(1) The amount of Impervious Surface on each Parcel shall be divided by the gross area of the Parcel resulting in the percent of imperviousness for the Parcel.

(2) Based on the percent imperviousness, a "tier factor" shall be determined, based on the following categories:

IMPERVIOUS PERCENTAGE OF GROSS AREA	TIER FACTOR
1 to 10.99%	* See Below
11 to 20.99%	0.15
21 to 30.99%	0.25
31 to 40.99%	0.35

41 to 50.99%	0.45
51 to 60.99%	0.55
61 to 70.99%	0.65
71 to 80.99%	0.75
81 to 90.99%	0.85
91 to 100%	0.95

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*Fee will be based on actual amount of Impervious Surface, measured in square feet. The tier factor used shall be the percent impervious area of the Parcel represented as a decimal (e.g. 1.5% would be 0.015, 6.9% would be 0.069, 10.3% would be 0.103, etc). The gross area of the Parcel shall be multiplied by the tier factor, and then divided by the ERU. The resulting value is rounded up to the nearest whole number, which is the number of ERUs for the property.

(C) The ERUs allocated to properties comprised solely of Town owned roadways shall be determined by dividing two-thirds of the total Impervious Surface for the property by the ERU. The resulting value is then rounded up to the nearest whole number which is the number of ERUs for the property.

3.4 Billing and Collection

(A) Stormwater user fees will be billed quarterly and shall be reflected on the water and sewer bills for each property owner, where applicable. The bill shall also state the ERUs allocated to each property.

(B) A property owner may appeal an allocation of ERUs to the Stormwater Superintendent by submitting a written notice of appeal to the Stormwater Superintendent within fifteen (15) calendar days of the mailing date of the bill. The Stormwater Superintendent shall promptly meet with the property owner and issue a decision of the allocation of ERUs. A property owner may appeal the Stormwater

Superintendent's determination regarding Credit revocation in the same manner set forth in Section 3.3(B). The filing of an appeal shall not relieve a property owner of the obligation to pay the user fee when due.

(C) In the event any stormwater user fee is not paid within thirty (30) days from the billing date, a late penalty charge will be added to the fee together with interest charges. The amount of the late penalty charge and the interest rate on the overdue accounts shall be the same as those applied to delinquent taxes. If such payment is not made, such stormwater user fee shall be a lien upon such real estate and may be collected in the manner provided in 24 V.S.A. §§ 3504 and 3612. Any payment made to the Town for utility fees shall first be allocated to delinquent water, then delinquent sewer, then delinquent stormwater fees. The remaining amount of the payment shall first be allocated to current water, then current sewer, then current stormwater fees.

3.5 Expenditures.

(A) The user fees, as well as any secondary sources of revenue, shall be used to fund the Town's efforts to manage Stormwater. Acceptable expenditures include, but are not limited to, capital construction, maintenance and operations, engineering and planning, regulation and enforcement, water quality programs, special services, administration and management, coverage requirements, reserve funds, staff or labor costs, vehicle and equipment purchases, water quality related public education, and miscellaneous overhead costs.

(B) Excess revenues may be placed into a sinking fund, and may be retained and expended pursuant to 24 V.S.A. § 3616. The Town reserves the right to increase, decrease, stop and/or maintain regular deposits into a sinking fund not exceeding 15% of the normal total budgeted expenses for maintenance/replacement in that year. The Selectboard holding office shall have the authority to withdraw sinking fund amounts only for the purposes of paying acceptable expenditures as outlined in Section 3.5(A), above.

ARTICLE IV – ACCEPTANCE OR INSPECTION OF REGULATED PRIVATE SYSTEMS

4.1 Exclusively Residential Regulated Private Systems.

(A) Subject to the terms and conditions of this Ordinance, the Town may accept conveyance of and assume responsibility for the following types of Regulated Private Systems that serve Exclusively Residential development in the Town:

- (1) Regulated Private Systems with valid Vermont stormwater discharge permits issued pursuant to the guidance and standards in the Vermont Stormwater Management Manual (VSMM) if the Regulated Private System has been constructed and maintained in accordance with the approved plans and specifications;

- (2) Regulated Private Systems with valid Vermont stormwater discharge permits issued under standards in effect prior to the adoption of the VSMM, if the Regulated Private System is not located in a stormwater-impaired watershed and the Regulated Private System has been constructed and maintained in full accordance with the approved plans and specifications;
 - (3) Regulated Private Systems with expired Vermont stormwater discharge permits located within a stormwater-impaired watershed if the Regulated Private System is upgraded in accordance with the Technical Standards for Stormwater Upgrades;
 - (4) Regulated Private Systems with valid Vermont stormwater discharge permits issued under standards older than the VSMM and located in a stormwater-impaired watershed only if the Regulated Private System is upgraded in accordance with the Technical Standards for Stormwater Upgrades; and
 - (5) Regulated Private Systems with valid Vermont individual stormwater discharge permits provided that the Stormwater Services Division determines that the permit's requirements and the maintenance of any associated offset projects would not place an undue burden on the Town.
- (B) The Owner of any Regulated Private System listed in Section (A), above, may offer to convey such system to the Town by:
- (1) Applying to the Stormwater Superintendent, using forms developed by the Stormwater Superintendent;
 - (2) Paying the applicable fee as determined by resolution of the Shelburne Selectboard; and
 - (3) Agreeing to reimburse the Town for any reasonable costs, fees, expenses and other charges the Town incurs in evaluating the Regulated Private System's design and inspecting the Regulated Private System's Stormwater management and treatment improvements prior to acceptance of such Regulated Private System.
- (C) Upon receipt of a complete application described in Section (B), above, the Stormwater Superintendent shall determine whether the Regulated Private System meets the applicable standards which determination shall be final.
- (D) Upon a determination that a Regulated Private System meets applicable standards, the Stormwater Superintendent, working with the Town Attorney or the Town Attorney's designee, shall direct the Owner of the Regulated Private System to prepare all documents, using forms developed by the Stormwater Superintendent, the Town Attorney, or the Town Attorney's designee, necessary to convey the Regulated Private System, free and clear of all encumbrances, to the Town and transfer any applicable permit to the Town. The Stormwater Superintendent, Town Attorney or the Town Attorney's designee shall review such documents to determine their accuracy and completeness.

(E) Upon an Owner of the Regulated Private System's satisfactory completion of the work required under paragraphs (A) through (D) above, and payment of any sums due under paragraph (B) above, the Stormwater Superintendent shall submit to the Selectboard the Owner's offer to convey the Regulated Private System to the Town. The Selectboard may accept such offer if it determines that such acceptance is in the best interests of the Town.

(F) Upon acceptance of a Regulated Private System pursuant to paragraph (E) above, the Town shall be responsible for operating, maintaining, repairing, replacing and upgrading the Regulated Private System to comply with any applicable permit and for renewing or obtaining any permit required for operation and maintenance of the Regulated Private System, except that the Former Owner of the Regulated Private System shall be responsible for all costs, fees, charges and expenses for:

(1) Remedying damage caused by the Former Owner of the Regulated Private System; or

(2) In the event that an extreme unforeseen circumstance requires extraordinary repair and reconstruction measures unique to the Regulated Private System. As used herein, an "extreme unforeseen circumstance" shall mean an act, event, cause or condition that is beyond the Town's reasonable control such as a fire, storm, earthquake, flood, lightning, landslide, hurricane, tornado, war, strike, terrorism, riot or insurrection.

(G) For a period of twenty (20) years from the date the Town accepts a Regulated Private System and other than the User Fee described in Article III hereof, the Town shall not impose an assessment or surcharge that is unique to the Former Owner of such accepted Regulated Private System to cover all or a portion of the cost of performing the Town's duties outlined in paragraph (F) above, unless the Town imposes a similar assessment or surcharge on other Former Owners of other similar Regulated Private Systems, or in the event of a need to remedy damage described in subparagraphs (F)(1) and (F)(2) above.

(H) For purposes of this Article VII, the phrase "Former Owner" includes the successors in interest of Owners of Regulated Private Systems that have been accepted by the Town pursuant to the procedures outlined in paragraphs (B) through (G) of this Section 4.1. If a "Former Owner" is a membership organization, company, corporation or other entity, whether for profit or not-for-profit, the phrase "Former Owner" shall also include its officers, members, directors and their respective successors in interest.

4.2 Regulated Private Systems That Are Not Exclusively Residential

(A) Subject to the terms and conditions of this Ordinance, the Town may, at the discretion of the Stormwater Superintendent, allow Regulated Private Systems that serve properties with non-residential uses to obtain permit coverage under the Town's MS4 Permit provided the Owner of such Regulated Private System meets all of the following conditions:

(1) The Regulated Private System shall comply with the VSMM or the Technical Standards for Stormwater Upgrades.

(2) Regulated Private Systems located in a stormwater-impaired watershed, as determined by said watershed's placement on the State's list of stormwater-impaired waters pursuant to 33 U.S.C. Section 1313(d), shall satisfy the goals outlined in any Agency of Natural Resources-approved plan for the Town to meet MS4 Permit requirements (e.g., the Town's Flow Restoration Plan).

(3) The Owner of a Regulated Private System enters into an agreement with the Town obligating the Owner of the Regulated Private System to maintain the Regulated Private System in accordance with the MS4 Permit and the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System, and grants the Town access by license:

(a) To monitor and inspect the Regulated Private System at regular intervals to confirm compliance with the MS4 Permit and either the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System; or

(b) To maintain the Regulated Private System only in the event the Superintendent determines that the Owner of the Regulated Private System has failed to perform maintenance of the Regulated Private System in accordance with the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System and that public good requires that the Town to perform such maintenance on the Regulated Private System. The Town's performance of maintenance on a Regulated Private System shall be performed at its sole discretion and shall not relieve the Owner from complying with the MS4 Permit and the VSMM or the Technical Standards for Stormwater Upgrades, as applicable. If the Town chooses to perform such maintenance after the Owner's failure or refusal to do so, the Owner shall reimburse the Town for its costs, fees, expenses and other charges it incurs as a result of the Owner's failure or refusal to perform such maintenance. If the Owner refuses to reimburse the Town within thirty days of the Town's mailing of a bill for such charges, such charges shall be a lien on the Owner's property and enforceable in accordance with 24 V.S.A. §§ 3504 and 3612 .

(4) The Superintendent determines that allowing the Regulated Private System to obtain coverage under the Town's MS4 Permit would not place an undue burden on the Town.

(B) The Owner of a Regulated Private System meeting the requirements of paragraph (A), above, may request coverage under the Town's MS4 Permit by:

(1) Applying to the Stormwater Superintendent, using forms developed by the Stormwater Superintendent;

(2) Paying the applicable fee as determined by the Shelburne Selectboard;

(3) Submitting a plan for maintenance and repair of the Regulated Private System to ensure compliance with the MS4 Permit and either the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System; and

- (4) Agreeing to reimburse the Town for any reasonable costs, fees, expenses and other charges the Town incurs in evaluating the Regulated Private System's design and inspecting the Regulated Private System's Stormwater management and treatment improvements prior to the Town accepting coverage of such Regulated Private System under its MS4 Permit.
- (C) Upon receipt of a complete application as described in paragraph (B) above, the Superintendent shall determine whether the Regulated Private System meets the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System. The Superintendent's determination shall be final.
- (D) Upon determination that a Regulated Private System satisfies the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System, the Stormwater Superintendent, working with the Town Attorney or the Town Attorney's designee, shall direct the Owner of the Regulated Private System to prepare all documents, using forms developed by the Stormwater Superintendent, the Town Attorney or the Town Attorney's designee, necessary for the Regulated Private System to obtain coverage under the Town's MS4 Permit. The Stormwater Superintendent, Town Attorney or the Town Attorney's designee shall review such documents to determine their accuracy and completeness.
- (E) Upon an Owner of the Regulated Private System's satisfactory completion of the work required by paragraphs (A) through (D) above, and payment of any sums due under paragraph (B) above, the Stormwater Superintendent shall submit to the Selectboard the Regulated Private System Owner's request to obtain coverage under the Town's MS4 Permit. The Selectboard may approve such request if it determines that such approval is in the best interests of the Town.
- (F) Upon allowing a Regulated Private System to obtain coverage under the Town's MS4 Permit pursuant to paragraph (E) above, the Town shall periodically monitor, inspect and report on the Regulated Private System per the Town's MS4 Permit requirements. Notwithstanding such coverage, the Owner of the Regulated Private System remains responsible for all costs, fees, charges and expenses for:
- (1) Operation, maintenance, repair, improvement or replacement of the Regulated Private System to ensure compliance with the MS4 Permit and with either the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System;
 - (2) Remedying damage caused by the Owner of the Regulated Private System; and
 - (3) In the event that an extreme unforeseen circumstance requires extraordinary repair and reconstruction measures unique to the Regulated Private System. As used herein, an "extreme unforeseen circumstance" shall mean an act, event, cause or condition that is beyond the Town's reasonable control such as a fire, storm, earthquake, flood, lightning, landslide, hurricane, tornado, war, strike, terrorism, riot or insurrection.

(G) For a period of twenty (20) years from the date the Town allows a Regulated Private System to obtain coverage under the Town's MS4 Permit and other than the User Fee described in Article III hereof, the Town shall not impose an assessment or surcharge that is unique to the Owner of such Regulated Private System to cover all or a portion of the cost of performing the Town's duties outlined in paragraph (F) above unless either:

- (1) The Town imposes a similar assessment or surcharge on Owners of other similar Regulated Private Systems;
- (2) In the event of a need to remedy damage caused by negligence or malfeasance on the part of the Owner;
- (3) In the event that an extreme unforeseen circumstance requires extraordinary repair and reconstruction measures unique to the Regulated Private System; or
- (4) If the Town deems in the reasonable exercise of its discretion that the Owner has failed to maintain, repair or improve the Regulated Private System to comply with the Town's MS4 Permit and such maintenance, repair or improvement is necessary, as determined by the Stormwater Superintendent's sole discretion, to ensure compliance with the Town's MS4 Permit.

(H) For purposes of this Section 4.2, the term "Owner" includes the successors in interest of Owners of Regulated Private Systems that have obtained coverage under the Town's MS4 Permit. If an "Owner" is a membership organization, company, corporation or other entity, whether for profit or not-for-profit, the phrase "Owner" shall also include its officers, members, directors and their respective successors in interest.

(I) In addition to the rights and remedies for non-compliance with this Ordinance provided in Article VI below, if the Owner of the Regulated Private System fails to operate, improve, inspect, maintain, repair and replace its Regulated Private System in accordance with the Town's MS4 Permit, the VSMM or the Technical Standards for Stormwater Upgrades, as applicable to that Regulated Private System, then the Stormwater Superintendent in his sole discretion and at any time may terminate the agreement described in Section 4.2(A)(3), above, provided the Superintendent mailed a notice of termination to the Owner thirty (30) days in advance of such termination.

ARTICLE V – MUNICIPAL COST SHARING

5.1 Purpose

The Purpose of this article is to establish a Town policy regarding cost sharing of upgrading or improving Stormwater Treatment Practices on private property that are required by the MS4 Permit, Flow Restoration Plans (FRPs), Phosphorus Control Plans (PCPs) or any other future MS4 permit requirement.

5.2 Applicability

(A) This section shall apply to stormwater system upgrades or improvements as required by Article IV of this document.

5.3 Municipal Share of Stormwater Project Costs

(A) The Town shall share in the cost of upgrading or improving Stormwater Treatment Practices (STPs) that are required by the MS4 Permit, Flow Restoration Plans (FRPs), and/or Phosphorus Control Plans (PCPs) as follows:

- (1) The Town shall contribute funds from the stormwater utility budget for the construction of upgrades or improvements to STPs on a pro rata basis. Cost sharing shall be determined by the percentage of Impervious Surface area that is publicly owned and covered by the existing Stormwater permit as compared to the total Impervious Surface area covered by the existing Stormwater permit;
 - (a) Areas outside of the existing Stormwater permit that drain to the STP will not be included in this calculation unless the additional off-site area is routed to the STP as part of the upgrade or improvement. If offsite areas are being redirected to the STP as part of the upgrade or improvement, then these areas will be included as part of the Town's Impervious Surface area in the cost sharing calculation.
- (2) The Town's share of funding for upgrades or improvement of any particular STP will be determined on a schedule established by and at the discretion of the Town. The Town will update this schedule on an annual basis, as needed, to ensure that expenditures are budgeted in a way that is sustainable for both the Stormwater utility sinking fund and Stormwater utility rate payers, and to permit the required objectives.
- (3) The Town will cost share in the upgrade or improvement of an STP to the minimum design requirements that achieve the Stormwater treatment necessary to satisfy FRPs and the Vermont Stormwater Management Manual (VSMM). Work included as part of any upgrade or improvement that is beyond the minimum necessary to meet the minimum design requirements will be the responsibility of the Owner of the Regulated Private System. The Town will not share in the cost of any work undertaken that is not directly related to the STP.
- (4) The Town shall review and will share in the costs of any change orders during construction until the total of change order requests exceeds 10% of the estimated total project cost. Change order requests seeking cost increases beyond 10% of the estimated total project cost will be borne by the Owner of the Regulated Private System, unless otherwise agreed to by the Town in the Stormwater Superintendent's sole and complete discretion.

- (5) The Town shall not contribute funds for engineering or design services incurred as part of upgrades or improvements to STPs unless:
- (a) The Town obtains grant or other outside funding for the engineering or design project and a signed Stormwater system improvement agreement with the Owner of the Regulated Private System that addresses engineering or design cost sharing is in place;
 - (b) The Town will not be responsible for engineering or design costs that were incurred prior to the effective date of a Stormwater system improvement agreement for the upgrade or improvement to the STP.
- (6) The Town will provide its pro rata share of STP upgrade or improvement costs only after the Stormwater Superintendent or his designee has inspected the Stormwater treatment system and the STP upgrade or improvement and certified that it has been constructed in accordance with the previously approved project plans.
- (7) The Town is not required to obtain grants or other outside funding for any individual project. Grants will be obtained at the discretion of the Stormwater Superintendent based on staff availability and other factors.
- (8) If a grant or outside funding is obtained by the Town for a STP upgrade or improvement project, such grant or outside funding will first be applied to offset the Town's pro rata share of the STP upgrade or improvement costs. Any amount in exceedance of the Town's pro rata share may be applied to the Regulated Private System Owner's pro rata share of the STP upgrade or improvement project costs at the discretion of the Stormwater Superintendent.
- (9) STP upgrade or improvement projects that are eligible for Town cost sharing must follow the process outlined for inclusion of the Stormwater treatment system under the Town's MS4 Permit as established in Article IV of this Ordinance.
- (a) If a Regulated Private System Owner performs an upgrade or improvement to an STP, but does not intend to obtain coverage under the MS4 Permit and instead obtains permit coverage directly from the State of Vermont, they may still obtain cost sharing from the Town pursuant the requirements of this Article. In order to be eligible, these projects must:
 - (i) Submit engineering and design plans for STP upgrade or improvement to the Stormwater Superintendent and obtain written approval of these plans prior to incurring any costs that would be eligible for cost sharing; and
 - (ii) Sign a Stormwater system improvement agreement with the Town that establishes pro rata cost sharing for all parties involved; and
 - (iii) Obtain the Stormwater Superintendent's written confirmation that the STP upgrade or improvement was constructed in conformance with the approved plans once construction is complete.

ARTICLE VI - INSPECTION AND ENFORCEMENT

6.1 Power and Authority of Inspectors

(A) Any Authorized Person bearing proper credentials and identification shall be permitted to enter all properties subject to regulation under this Ordinance for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. Authorized Persons shall have the right to set up such devices as are necessary to conduct monitoring and/or sampling of any regulated discharge from the property. Authorized Persons may also examine and copy records required to be kept under any permit subject to this ordinance. Authorized Persons shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the Public Stormwater System.

(B) Any Authorized Person bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance or any portion of the Public Stormwater System lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(C) If a property owner has security measures in force which require proper identification and clearance before entry into onto the property, the owner shall make the necessary arrangements to allow access to any Authorized Person.

(D) Any temporary or permanent obstruction to safe and easy access to any property to be inspected and/or sampled shall be promptly removed by the property owner at the written or oral request of any Authorized Person and shall not be replaced. The costs of clearing such access shall be borne by the property owner.

(E) Causing an unreasonable delay in allowing an Authorized Person access to a property subject to regulation under this Ordinance is a violation of this Ordinance.

(F) If an Authorized Person is refused access to any part of the property containing facilities, records or discharges subject to regulation under this Ordinance, and if the Authorized Person is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Authorized Person may seek issuance of a search warrant from any court of competent jurisdiction.

(G) While performing the necessary work on private properties referred to in this Section, Authorized Persons shall observe all safety rules applicable to the premises established by the property owner and

the property owner shall be held harmless for injury or death to the Town employees and the Town shall indemnify the property owner against loss or damage to its property for personal injury or property damage asserted against the property owner and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the property owner to maintain safe conditions as required by law.

6.2 Administrative Enforcement

(A) Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance 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.

(B) Any Person found to be violating any provision of this Ordinance shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of Illicit Discharges;
- (3) The cessation of improper practices and operations and implementation of proper practices and operations;
- (4) The abatement or remediation of any contamination of the Public Stormwater System and waters of the State of Vermont or the United States and restoration of any property impacted by such contamination;
- (5) Establishment of time limits for the completion of all required work;
- (6) Payment of a fine; and
- (7) State that the Notice may be appealed in the manner set forth in paragraph (G), below.

(C) The Town has the right to require a property owner found to be in violation of this Ordinance to install monitoring equipment and maintain such equipment in proper operating condition, including proper calibration, all at the property owner's expense.

(D) If a violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the Town or persons retained by the Town may enter upon the subject property to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any Person, owner, agent or Person in possession of any premises to refuse to allow the Town or designated persons to enter upon the premises for the purposes set forth above.

(E) Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days. If the amount due is not paid within a timely manner as determined by the decision of the Town Manager or by the expiration of the time in which to file an appeal, the charges shall constitute a lien on the property for the amount of the assessment and shall bear interest at the rate of one percent (1%) per month, or portion thereof.

(F) The Town Manager may, without prior notice, suspend Public Stormwater System discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, to the Public Stormwater System, or to waters of the State of Vermont or the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town Manager may take such steps as deemed necessary to prevent or minimize damage to the Public Stormwater System or waters of the State of Vermont or United States, or to minimize danger to persons.

(G) Any Person discharging to the Public Stormwater System in violation of this Ordinance may have their Public Stormwater System access terminated if such termination would abate or reduce an Illicit Discharge. The Town Manager will notify a violator of the proposed termination of its Public Stormwater System access. The violator may appeal the Town Manager's determination to the Selectboard by filing a written notice of appeal with the Town Manager within ten (10) business days of the Town Manager's decision. The Selectboard shall review such appeal at a meeting of the Selectboard preceded by fifteen (15) calendar days written notice of the meeting date to the violator. Following the meeting, the Selectboard shall issue its decision on the appeal in writing, which decision shall be final.

(H) A Person commits an offense if the Person reinstates Public Stormwater System access to premises terminated pursuant to paragraph (F), above, without the prior approval of the Town Manager.

6.3 Judicial Enforcement

(A) This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59. Any Person who violates a provision of this Ordinance or who violates any condition of a permit issued hereunder shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues. Any law enforcement officer or the Town Manager, or Stormwater Superintendent may act as an Issuing Municipal Official and issue and pursue before the Judicial Bureau a municipal complaint for any violation of any provision of this Ordinance.

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

6.4 Civil Penalty; Waiver Fee

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

First offense	\$160
Second offense	\$320
Third offense	\$480
Fourth offense	\$640
Fifth and subsequent offenses	\$800

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

First offense	\$100
Second offense	\$250
Third offense	\$400
Fourth offense	\$550
Fifth and subsequent offenses	\$700

(C) Each day the violation continues shall constitute a separate violation.

6.5 Severability

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

6.6 Remedies and Penalties Not Exclusive

Nothing in this Ordinance shall be construed to limit any other remedies or penalties available to the Town under any applicable federal, state, or local law, rule, regulation or ordinance, and it is within the discretion of the Town to seek cumulative remedies. The Town may seek to recover all attorney's fees, court costs, and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

ARTICLE VII – ULTIMATE RESPONSIBILITY

7.1 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intent or imply that compliance by any person or entity will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

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DRAFT

Adopted at Shelburne, Vermont this _____ day of _____, 2018, and to be effective upon adoption.

SHELBURNE SELECTBOARD

_____, Chair

_____, Vice Chair

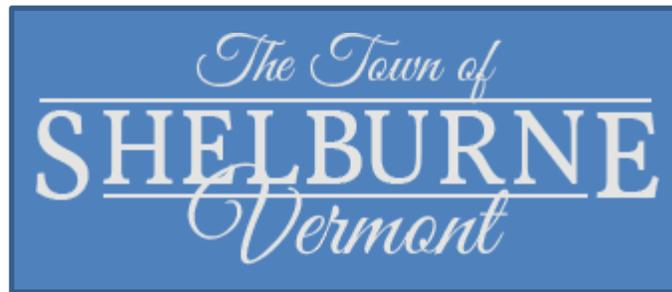
_____, Clerk

Received and recorded this _____ day of _____, 2018.

_____, Town Clerk

DRAFT

Credit Manual for Stormwater Fees



Approved by the Selectboard on __/__/__

DRAFT August 21, 2018 – Attorney Reviewed

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The Selectboard of the Town of Shelburne hereby ordains:

1. Introduction and Purpose

In insert date, the Selectboard of the Town of Shelburne Vermont established the Shelburne Ordinance Regulating the Use of Public and Private Stormwater Systems. The basic purpose of the Utility is to administer the Town's Stormwater management program, including Stormwater infrastructure maintenance and repair, permitting, and capital improvements..

The Utility provides a stable and adequate source of revenue for the Town's Stormwater management program that allocates the costs of Stormwater services across every Stormwater "user" in the Town through a Stormwater utility fee (or user fee). Impervious surface area on individual properties is the basis for the fee charged to property owners in the Town. The Stormwater fee that a property owner pays is directly proportional to the impervious surface found on the property.

The Shelburne Stormwater Utility offers Credits against the Stormwater fee for Stormwater service customers who undertake specific, approved actions that reduce the impact of Stormwater runoff on the public Stormwater system, or provide an ongoing public benefit related to Stormwater management. The Credit system exists to incentivize Stormwater Best Management Practices by providing Credits for practices that address Stormwater runoff on properties within the Town. The Credits will serve to equitably reduce the fee assessed to owners of such properties. A Credit is an ongoing reduction in the fee. This manual details the policies and procedures for Stormwater Utility Credits.

Four different stormwater fee Credits are offered by the Stormwater Utility to Non-Single Family Residential Properties. Individual Single-Family Residential Properties are not eligible to receive Credits. To qualify for any of the user fee Credits, the Stormwater Utility Customer must completely fill out a Credit application form and submit it to the Stormwater Superintendent with the applicable fee. The application will be evaluated to determine the amount of Credit that an individual parcel will be given. Eligibility for user fee Credits is independent of the State stormwater permitting process. Property both with and without valid State stormwater permits are equally eligible for user fee Credits. These Credits are discussed in the following pages.

2. Definitions

The following words, terms and phrases, when used in this Manual, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best Management Practices or BMPs Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the Stormwater system or waters of the State of Vermont or the United States. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Credit An ongoing reduction in a property's normally calculated stormwater user fee given for certain identified and approved qualifying activities that reduce the impact of increased Stormwater runoff resulting from development, or provide an ongoing public benefit related to Stormwater management.

Customer or Stormwater Customer The person responsible for payment of the Stormwater fee for a property. Typically this is the property owner, but can also be a tenant or leaseholder.

Educational Institutions This includes public and private schools of all grade levels as well as museums, and other entities that provide public education.

Equivalent Residential Unit (ERU) The base billing unit for stormwater fees that is established for the purpose of standardizing stormwater fees and allocating costs, based on impervious surface, to different property types. One ERU is equal to the median of the area of impervious surface that can be found on all single-family residential properties in the Town.

ERU Rate The stormwater fee applied to each ERU.

Impervious Surface Those manmade surfaces, including, but not limited to, paved and unpaved roads, parking areas, roofs, driveways, walkways, compacted gravel and soil surfaces, and awnings and other permanent fabric or plastic coverings, from which precipitation runs off rather than infiltrates.

MS4 Permit The Vermont Agency of Natural Resources' General Permit #3-9014, as amended or re-issued, pursuant to which the Town obtained coverage for Stormwater discharges from its municipal separate storm sewer system.

National Pollutant Discharge Elimination System or NPDES A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Notice of Intent or NOI Form typically required as part of a permit coverage application.

Non-Single-Family Residential Property (NSFR) Individual developed properties that have impervious surfaces and are not used as a Single-Family Residential Property (as defined herein). This can include, but is not limited to, multiple dwelling unit residential properties (e.g., apartments, condominiums, townhomes) that have greater than three units per building, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, and water and wastewater treatment plants. For Non-Single-Family Residential Properties, the impervious surface on the property is measured and converted into a whole number of ERUs. The number of ERUs is used to determine the stormwater fee for that particular property.

Required Agricultural Practices or RAPs Practices and management strategies to which all types of farms must be managed to reduce the impact of agricultural activities on water quality. RAPs are defined by regulations adopted by the Vermont Agency of Agriculture (<http://agriculture.vermont.gov/water-quality/regulations/rap>).

Stormwater Treatment Practice (STP) A specific device or technique, including a non-structural practice, designed to provide Stormwater quality treatment and/or quantity control as defined in the Vermont Stormwater Management Manual, as amended (VSMM).

Single-Family Residential Property (SFR) Developed land containing a detached single family home, duplexes, and triplexes. These may include houses, duplexes, and triplexes, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. For purposes of the Stormwater Utility, properties that are designed as a Single-Family Residence but are used for

commercial purposes are considered Single-Family Residential so long as the property does not have additional impervious surfaces, such as parking spaces, impervious surfaced playgrounds, structures or additions to the building that are associated with the commercial use of the property.

Stormwater Excess water from rainfall and snow melt that does not evaporate or penetrate into the ground, which flows overland and is collected and transported to waters of the State of Vermont or the United States by the Stormwater System, together with any material that becomes dissolved or suspended in such water during its overland flow before entering surface waters of the State or a Stormwater System.

Vermont Stormwater Management Manual or VSMM The Vermont Stormwater Management Manual, as amended from time to time by the Vermont Agency of Natural Resources, which shall be incorporated by reference herein.

3. Credit Policies and Instructions

(A) General Policies

- (1) Credit is given to eligible NSFR Properties only, as described in the Credit policies presented in this Manual.
- (2) Multiple Credits can be given to eligible properties. The total Credit given to any property cannot exceed seventy percent (70%) of the Stormwater fee for that property.
- (3) It is the responsibility of the Stormwater customer to apply for Stormwater Credits, and to provide the necessary substantiating information with the Credit application, as described herein.
- (4) Credit applications are available. Questions relating to Credits and Credit applications should be directed to the Stormwater Superintendent. Town staff is not responsible for initiating, performing engineering calculations, or otherwise assisting with the preparation of Credit applications.
- (5) Credit applications will only be reviewed if they are filled-out completely. The review will be performed within four (4) weeks after the complete application is submitted.
- (6) If a Credit application is approved at least two weeks before an applicant's next regularly scheduled bill, the Credit will be applied to that upcoming bill. The Credit will be applied to all three months assessed on the next regularly scheduled utility bill. If the Credit application is not approved, the Credit applicant will be notified by U.S. mail.
- (7) Credits will not be applied retroactively and the Stormwater Utility will not refund any portion of the Stormwater fees paid prior to the approval of the applicant's Credit application.
- (8) The Credit will remain effective as long as the property is eligible to receive the Credit, as per the Credit policies defined herein.

4. Credit Application and Approval Process

- (A) Credit applications must include calculations and an associated narrative demonstrating the Stormwater Treatment Practice meets the technical criteria, design requirements and/or applicable restrictions set forth as specified within the VSMM.

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- (B) All engineering calculations and drawings shall be prepared, sealed and stamped by a professional engineer registered in the State of Vermont.
- (C) Credit applications for new construction may be submitted to the Town Stormwater Superintendent at any time during the construction process. However, the Credit will not be approved based on site plans alone. The Credit application requires that the STP must be constructed and working in proper operating condition. Credit applications for new developments can occur as part of the normal development plan review procedures. The completed Credit application should accompany the final plat for the site.
- (D) A Right-of-Entry or easement, as applicable, must be granted to the Town in order for the Town to review and approve the Credit application, and to perform occasional inspections. Right-of-entry is granted via the applicant's or property owner's signature on the Credit application.
- (E) If all requirements and conditions of this section are met, the Credit will be granted upon successful completion of the Credit application process and favorable Town-site inspection.

5. Stormwater Treatment Practice Credit

(A) The Town of Shelburne Stormwater Utility offers a credit to Non-Single Family Residential Properties that design, construct and maintain Stormwater Treatment Practices (STPs) as defined in the VSMM. This Credit is offered under the premise that properties that properly utilize STPs can reduce impacts on downstream water quality, channel erosion, and flooding. However, when constructed improperly or not maintained, these facilities can become ineffective in such impact reduction, and can even aggravate problems caused by Stormwater drainage. Conditions and policies relating to the applicability of the STP credit are listed below:

- (1) A STP credit will be available to NSFR Properties that design, construct and maintain Stormwater Treatment Practices that meet the treatment standards, sizing criteria, and/or non-structural criteria and restrictions that are set forth in the VSMM.
 - (2) The STP credit is a graduated Credit that is based on the treatment standards that are implemented on a NSFR Property. A property can implement one or more of the treatment standards, adding credit percentages up to 70% of the total Stormwater fee for that property. The total credit given to any property cannot exceed 70% of the Stormwater fee for that property.
- (B) Credits for Control of Stormwater from Off-Site Properties. NSFR Property owners that construct and maintain STPs that control Stormwater from other NSFR and SFR Properties (i.e., "off-site" from the property on which the STP is located) are eligible to receive STP Credits for the control of Stormwater from the off-site NSFR and SFR Properties up to a maximum of 70% of the total Stormwater fees for those properties. The credits for off-site properties will ONLY be applied to the Stormwater fee assessed for the NSFR Property on which the STP is located. The maximum Credit that a property owner can receive for the control of Stormwater from off-site properties shall never exceed 100% of the Stormwater fee assessed for the property on which the STP is located. The Stormwater Utility will never under any circumstance provide a fee refund for unused STP Credits for off-site properties. Additional Credit will not be given for the control of Stormwater runoff from off-site properties that are publicly owned.

- (1) A NSFR Property can apply for Credit for treating the Stormwater from off-site SFR Property(s) or off-site NSFR Property(s). However, per Section 3(A)(1), above, SFR Properties are not eligible for STP Credit.
- (2) STP Credit for off-site property will be immediately discontinued if Stormwater from off-site property is no longer treated by the STP that had previously been granted Credit for treating this Stormwater. Off-site properties are under no obligation to continue discharging Stormwater in the same manner that they were at the time Credit was awarded. If Stormwater is later treated by the STP after a Credit has been discontinued, a new Credit application must be submitted for review and approval.
- (3) If off-site conditions change and additional Stormwater is treated by a credited STP, the property owner must provide a new Credit application to receive Credit for treatment of this additional Stormwater. Additional Credits must be requested and applied for and will not automatically be applied to the original STP Credit.
- (4) Multiple STP Credits will not be awarded for the control and treatment of Stormwater for the same impervious surface.
- i. Credit for treating off-site Stormwater will not be awarded if that Stormwater is already part of an approved STP Credit application.
 - ii. If STP Credit is granted for treatment of Stormwater from off-site property and the off-site property is later granted STP Credit for providing treatment of this Stormwater, the Credit will be removed from the total that was awarded to the downstream property owner.
 - iii. Credit for treating Stormwater from off-site property is awarded on a “first come, first served” basis. If two property owners have STPs that provide treatment for the same Stormwater from off-site property, the property that first applies for and receives Credit is awarded the Credit. There will be no splitting or sharing of Credit for off-site properties. The property owner is always given priority for awarding STP Credit for treatment on their own property.

(C) Table 1 presents the available Credit allocation for each treatment standard.

Table 1. STP Credit Percentages

Treatment Standard or Criteria	Credit Amount
Water Quality (WQ _v)	15%
Groundwater Recharge (Re _v)	15%
Channel Protection (CP _v)	15%
Overbank Flood (Q _{p10}) or Extreme Storm (Q _{p100})	10%

(D) STP Credits will only be applied to that portion of property or properties served by a Stormwater Treatment Practice.

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- (E) STP Waivers. Properties that qualify for waivers of the Groundwater Recharge, the Channel Protection, the Overbank Flood, or the Extreme Flood treatment standards are not eligible for the STP Credit for the treatment standard that has been waived.
- (F) Overbank Flood (Qp10) and Extreme Storm (Qp100). A property cannot get an additional credit for providing both Overbank Flood and Extreme Storm STPs. Properties that implement controls for both the Qp10 and Qp100 treatment standards will receive a maximum 10% credit for flood control STPs.
- (G) Runoff Reduction. The Runoff Reduction Framework as outlined in the VSMM may be used to wholly or partially meet the treatment Credits through runoff reduction. The methods for meeting each treatment standard through runoff reduction are described in the VSMM.
- (H) Sufficient information must be supplied to the Town Stormwater Superintendent to verify that STPs, as designed and constructed, meet the treatment standards and criteria and/or restrictions as specified within the VSMM.
- (I) A STP submitted for Credit must treat the Stormwater to the full extent of the treatment standard as specified in the VSMM.
- (J) In order for an STP to receive Credit it does not have to treat all the Stormwater on a property. Credit can be prorated for STPs that treat a portion of the impervious area on a property as long as the STP meets the requirements of the VSMM. For example, if a property contains 4 acres of impervious surface and installs an STP that treats Stormwater from 2 acres of impervious surface to the full extent of the Water Quality Volume standard as specified in the VSMM, then that site is eligible for 50% of the WQv Credit. The site would receive a 7.5% reduction (i.e. the WQv credit is worth a 15% credit, $50\% \times 15\% = 7.5\%$) to its Stormwater fee.
- (K) STPs utilized at State permitted redevelopment sites that are designed to treat 50% of the Water Quality Volume (WQv) are only eligible to receive 50% of the WQv credit amount ($50\% \times 15\% = 7.5\%$).
- (L) A STP is only eligible to receive Credit for the treatment standards for which it meets in the VSMM. If a pond is designed to meet all CPv criteria, but does not meet all WQv criteria, only the CPv Credit will be applied to the Stormwater treated.
- (M) STPs must be operated and maintained in proper condition at all times to control Stormwater runoff to the treatment standards and criteria and/or restrictions, as specified within the VSMM. If the applicant does not operate and maintain the STPs as required, the Credit will be discontinued. Thirty (30) days' notice of a non-complying condition and intent to revoke a Credit shall be provided to the Stormwater Customer receiving a Credit before the Credit is revoked thereby allowing the Customer the opportunity to attain compliance. The Stormwater Superintendent or the Town Manager may extend this notice period if deemed appropriate. STPs that receive permit coverage through the Town's MS4 Permit are eligible to receive Credit as long as the applicant operates and maintains the STPs. Inspection and reporting conducted by Town staff does not preclude these STPs from receiving Credit.
- (N) A homeowner's association may receive a Credit for eligible STPs that are operated and maintained by the homeowner's association. Credits issued to incorporated homeowner's associations for STPs will be applied only to that portion of property or properties served by the STP.
- (O) An STP owned by an incorporated homeowner's association, but operated and maintained by the Town is not eligible for Credit.

(P) The Town will not maintain, repair, permit or do any work on any private Stormwater system infrastructure except for residential Stormwater systems that have been formally acquired by the Town.

(Q) In the event that an STP for a given property is not located on the property, the applicant must provide a copy of an agreement between the applicant and the owner of the off-site STP establishing that the applicant has authority to and is responsible for maintaining all or a portion of the facility. In addition, the owner of the off-site parcel must provide a letter to the Shelburne Stormwater Superintendent indicating that they are in agreement with the information contained in the application for Credit.

6. NPDES Permit Credit

(A) The Town of Shelburne Stormwater Utility offers a Credit to NSFR Properties that, due to other federal requirements, perform best management practices (BMPs) specifically intended to reduce the impacts of non-point source Stormwater runoff and/or provide an on-going public benefit related to Stormwater management. In order to be eligible for this Credit, a NSFR Property owner must have a valid National Pollution Discharge Elimination System (NPDES) permit. There are different types of NPDES permits that may be eligible for Credit. More information on the specific NPDES permits is provided below.

(1) Municipal Separate Storm Sewer Systems (MS4) Permits. Credit will be available to NSFR Properties that are required by the State of Vermont to comply with General Permit 3-9014, as amended (also called the MS4 Permit). The MS4 Permit requires permittees to develop, implement, and enforce a Stormwater management program that is designed to reduce the discharge of pollutants from the MS4 and satisfy applicable water quality requirements of the Federal Clean Water Act. At the time of MS4 Permit issuance or renewal regulated entities are required to present the Vermont Department of Environmental Conservation (VT DEC) with a list of best management practices (BMPs) that will be performed to comply with permit requirements. The MS4 Credit is offered in recognition of the permit compliance activities performed by the MS4 permittee that may reduce impacts on non-point source Stormwater runoff and/or provide an on-going public benefit related to Stormwater management.

(2) MS4 Credit applicants must provide the following documents at the time that the Credit application is submitted, and annually thereafter:

- i. The MS4 permittee's most recent Notice of Intent (NOI) for coverage under Vermont General Permit 3-9014. The NOI must be valid for the current permit period at the time the credit application is submitted.
- ii. A copy of the MS4's most recent Annual Report.

(B) Multi-Sector General Permit (MSGP) - Credit will be available to property owners who must comply with State of Vermont General Permit 3-9003 (also called the MSGP). The MSGP requires industrial facilities to identify potential sources of Stormwater pollution, implement measures to reduce the risk of Stormwater contamination, and test Stormwater discharges for sources of pollution. Compliance can be achieved by obtaining a No Exposure Conditional Exclusion or creating and implementing a Stormwater Pollution Prevention Plan (SWPPP).

(1) MSGP Credit applicants must provide the documents listed below at the time that the Credit application is submitted, and annually thereafter:

- i. The facility's most recent Notice of Intent (NOI) or Notice of No Exposure Certification (NOX) for coverage under Vermont General Permit 3-9003. The NOI must be valid for the current permit period at the time the credit application is submitted.
- ii. A copy of the MSGP facility's most recent Annual Report including the results of any monitoring conducted in that year or a copy of the No Exposure certification letter the facility received from VT DEC.
- iii. All facilities will be required to pass an inspection conducted by the Stormwater Superintendent. The purpose of the inspection is to ensure compliance with the terms of Vermont General Permit 3-9003 and ensure that all appropriate steps are being taken to prevent Stormwater pollution.

(C) Other NPDES Permits. NSFR properties that due to federal requirements have a valid NPDES permit and perform BMPs specifically intended to reduce impacts on non-point source Stormwater runoff and/or provide an on-going public benefit related to Stormwater management may also be eligible to receive this Credit. A final determination regarding whether or not the terms of a particular NPDES permit makes a NSFR property eligible for NPDES permit Credit will be made by the Stormwater Superintendent.

(1) NPDES Credit applicants must provide the documents listed below at the time that the Credit application is submitted, and annually thereafter:

- i. A copy of the applicable federal regulation or permit that requires the entity to perform Stormwater related BMPs.
- ii. A detailed description of the BMPs that are performed by the eligible entity, including the date(s) of BMP activities, person(s) involved, and BMP cost(s).
- iii. A copy of the most recent Notice of Intent (NOI) for coverage under the NPDES permit. The NOI must be valid for the current permit period at the time the Credit application is submitted.
- iv. A copy of the most recent Annual Report for the NPDES permit.
- v. Additional materials required as part of the application will be determined by the Stormwater Superintendent.
- vi. Facilities may be required to pass an inspection conducted by the Stormwater Superintendent to ensure compliance with the terms of the NPDES permit and ensure all appropriate steps are being taken to prevent Stormwater pollution.

(D) Conditions and Policies Related to the NPDES Permit Credit are provided below:

- (1) In addition to the submission components specified above, applicants must complete the Stormwater Utility's NPDES Permit Credit Application form when first applying for NPDES Permit Credit.
- (2) Those applying for Credit must be in compliance with their NPDES permit requirements.
- (3) Properties owned by the Town of Shelburne and/or operated/maintained by the Shelburne Stormwater Utility are not eligible for the NPDES Credit if the best management practices that are performed by the Town or the Stormwater Utility to comply with the NPDES Permit are funded using revenue generated by the Utility.

(4) Property owners or organizations can receive a 10% reduction in the total Stormwater fee assessed to their property under the NPDES Permit Credit. If the entity owns multiple properties located within the Town and therefore receives multiple bills, the 10% Credit will be applied to all properties that are subject to the NPDES permit qualifying them for this Credit. The total NPDES Permit Credit for any given property cannot exceed 10% even if it is subject to multiple NPDES permits. The total credit given to any property cannot exceed 70% of the stormwater fee for that property.

(5) NPDES Permit Credits are assessed during the year after applicable permit or regulation compliance has been achieved. Many NPDES permits are issued on a multi-year (typically 5 year) cycle. Therefore, proof of compliance in Year 1 (e.g., the MS4 Permit Annual Report for Year 1) must be submitted and approved by the Stormwater Superintendent in order for the entity to receive a 10% credit in Year 2.

(6) Failure to provide copies of Annual Reports and current NOIs will result in loss of the NPDES Permit Credit. If reports are not received each year the applicant will be notified in writing and given a fifteen (15) day deadline in which to submit information. The NPDES Permit Credit will be revoked if information is not received before the deadline. If a Credit is revoked, the property owner will have to re-apply to receive Credit.

7. Education Credit

(A) The Education Credit is available to Educational Institutions that inform their students about the importance of local surface and groundwater resources and how they can be protected. The rationale behind this Credit is that the information provided by the Educational Institution will translate into appreciation and stewardship of water resources and thereby reduces negative impacts (such as pollutant impacts) on local streams, ponds and lakes that can result from uninformed citizens.

(B) Policies specific to the Education Credit are as follows:

(1) The Education Credit is available to Educational Institutions located in the Town of Shelburne.

(2) To be eligible for the Credit, the Educational Institution must provide educational experiences based upon or equivalent to the Urban Stream Awareness in the Lake Champlain Basin curriculum guide (targeted for high school students), or an equivalent, age-appropriate, water resources-based curriculum approved by the Stormwater Superintendent or its representative.

(3) For a curriculum to be eligible for Credit it must be self-sustaining and not require the continued involvement of the Stormwater Superintendent.

(4) The Stormwater Superintendent will base approval of the Education Credit on the sufficiency of the educational program to meet requirements stated in the NPDES Phase II MS4 Permit (Permit 3-9014), Section 4.2.1.1, as follows:

“develop elementary, middle school, or high school education curricula regarding local stormwater concerns based on new or existing material; conduct teacher training... and in each subsequent year maintain program information and hold at least one refresher teacher training course.”

(5) Approval of the Education Credit application will result in a 10% Credit to the assessed Stormwater fee. The Credit will be applied only to the property(s) where the curriculum is

taught. The total Credit given to any property cannot exceed 70% of the Stormwater fee for that property.

(6) Educational Institutions that are interested in obtaining the Education Credit must submit a completed application form to the Stormwater Superintendent. The form will require a description of the educational program, list of educational tools used, estimated number of students that will/have receive the education, the length of the educational program and the schedule for providing refresher teacher training courses.

8. Agricultural Credit

(A) The Agricultural Credit is available to all NSFR Properties assessed as agricultural according to Town records. This credit is intended to recognize the efforts of the agricultural community and their implementation of Vermont's Required Agricultural Practices (RAPs). When in place and properly maintained, the RAPs will reduce the amount of polluted runoff discharging from agricultural operations and enhance the overall quality of receiving waters.

(B) In order to obtain the Agricultural Credit, a property must:

(1) Submit a completed Agricultural Credit Form to the Stormwater Superintendent;

(2) Submit a copy of the property's most recent certification received from the Agency of Agriculture;

(3) Schedule and pass an inspection by the Stormwater Superintendent or his/her designee. This inspection can occur at the same time as an inspection conducted by a State Agricultural Resource Management Specialist.

(C) Approval of the application will result in a 25% Credit to the Stormwater fee assessed to a property. The credit will be applied only to the property(s) that are inspected and deemed to be in compliance by the Agency of Agriculture.

(D) Properties that receive the Agricultural Credit may also obtain other Credits (e.g. the STP Credit) as described in this Manual. However, the total Credit given to any property cannot exceed 70% of the Stormwater fee for that property.

(E) A property that obtains the Agricultural Credit but fails to continuously implement the RAPs will lose the Credit. Once a Credit is lost the applicant must reapply.

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Adopted at Shelburne, Vermont this _____ day of _____, 2018, and to be effective upon adoption.

SHELBURNE SELECTBOARD

____name_____, Chair

____name_____

____name_____, Vice Chair

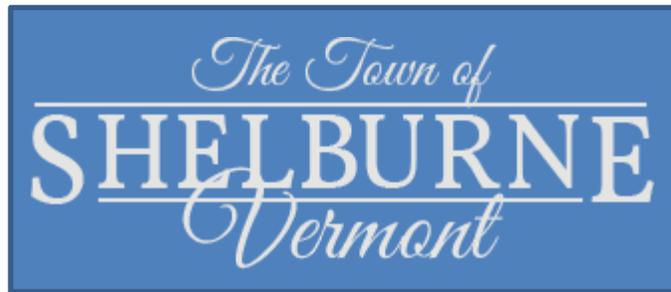
____name_____

____name_____, Clerk

Received and recorded this _____ day of _____, 2018.

____name_____, Town Clerk

Technical Standards for Stormwater Upgrades



Approved by the Selectboard on __/__/__

DRAFT August 21, 2018 – Attorney Reviewed

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The Selectboard of the Town of Shelburne hereby ordains:

1. Introduction and Purpose

The Town of Shelburne is subject to stormwater Total Maximum Daily Load (TMDL) requirements established by the Vermont Agency of Natural Resources (ANR). Compliance with these TMDLs is required by the Town's Municipal Separate Storm Sewer System (MS4) permit, which is also promulgated by ANR. The MS4 permit requires that the Town develop a Flow Restoration Plan (FRP) for each of the stormwater impaired watersheds located in the Town. In addition, the Town's MS4 permit requires that the Town develop a plan to deal with properties covered by expired State of Vermont Stormwater permits. In addition to these requirements, all of Shelburne ultimately drains to Lake Champlain and the Vermont ANR and United States Environmental Protection Agency (EPA) have developed a phosphorus TMDL for Lake Champlain. Therefore the Shelburne MS4 permit contains a requirement that the Town develop a Phosphorus Control Plan (PCP) to reduce phosphorus loading to the Lake from stormwater discharges.

In order to meet the requirements of these State and Federal regulations, it is necessary for the Town of Shelburne and the properties located within its boundaries to install Stormwater Treatment Practices (STPs) capable of addressing the uncontrolled stormwater runoff that contributes to these water quality impairments. The Town's "Ordinance Regulating the Use of Public and Private Stormwater Systems" (Ordinance), which shall be incorporated by reference herein, provides the opportunity for properties with existing or expired State stormwater permits to obtain valid State stormwater permit coverage under the Town's MS4 permit.

In order for a property to obtain coverage under the Town's MS4 permit, it must provide a level of stormwater treatment that will demonstrate compliance with the State and Federal regulatory requirements (MS4 permit and TMDLs) to which the Town is subject. The goal of this document is to establish a procedure by which an existing site can be evaluated for best practicable on-site treatment of stormwater. The standard is intended to be met through installation of on-site STPs. Alternatively, a site may elect to pay a stormwater mitigation fee in lieu of installing STPs on their site. These funds will be utilized by the Town to construct the STPs necessary for the Town to implement requirements of the MS4 permit. These funds may also be used to gain access to the land necessary for the construction of large scale or regional STPs.

2. Installation of Stormwater Treatment Practices

(A) The goal of this document is: (1) to reduce the volume of stormwater runoff and associated pollutants leaving the site via pipe or overland flow, and (2) to ensure that a site complies with any FRP and PCP developed for the watershed in which it is located. At a minimum, the site must install STPs capable of infiltrating the volume of stormwater runoff generated on site during the Water Quality Volume (WQv) rain event as described in the Vermont Stormwater Management Manual (VSMM), as amended from time to time by the Vermont Agency of Natural Resources, which shall be incorporated by reference herein. This volume of water must be infiltrated using Tier 1 practices as defined in the VSMM.

(B) It is understood that some sites may contain constraints that make the site unsuitable for infiltration of stormwater runoff. A list of acceptable site constraints is included below (Table 1).

Table 1. Constraints on Use of Infiltration Practices

1. Seasonally high or shallow groundwater (as defined in the VSMM).
2. Shallow bedrock (as defined in the VSMM).
3. Soil infiltration rates of less than 0.2 inches per hour (as demonstrated by infiltration testing conducted in accordance with the procedure in Section 4.3.3.2 of the VSMM).
4. Contaminated soils subject to review and approval of the Stormwater Superintendent.
5. The presence of a “stormwater hotspot” (as defined in the VSMM).
6. Other site constraints subject to the review and approval of the Stormwater Superintendent.

(C) If it is not possible to infiltrate the volume of stormwater runoff generated by the site during a WQv storm event due to one or more of the constraints listed above (Table 1), then this volume of water can be detained on-site using Tier 2 practices as defined in the VSMM.

(D) A site with existing retention/detention based STPs is allowed to evaluate retrofitting/expanding these facilities in order to meet the above requirements. Retrofit/expansion of these facilities may be considered prior to evaluation of Tier 1 practices.

(E) FRPs and PCPs for impaired watersheds located in the Town contain a preliminary assessment of the stormwater treatment potential of some sites. If an FRP or PCP identifies an STP on a site, then the site must install either the specified STP or an STP that provides equivalent or greater treatment. In addition, FRPs and PCPs contain a schedule indicating when various retrofits must occur. Properties that choose to construct STPs must do so based on the Town’s implementation schedule.

(F) All proposed STPs must be submitted to the Stormwater Superintendent for review. Standards for these submissions are included in Appendix A.

3. Payment of Stormwater Mitigation Fee

(A) In lieu of installation of STPs as described above, the property owner may elect to pay a stormwater mitigation fee. The mitigation fee for a property can be determined utilizing the following equation (where IA is the impervious area on the site in acres):

$$\text{Stormwater Mitigation Fee} = \text{IA} \times \$70,000$$

(B) Impervious Area (IA) is calculated by measuring the impervious surfaces located on the property at the time of application. Applicants shall not include any publicly owned impervious area (e.g. public roads within a Town-owned ROW) in their calculation of IA.

(C) Payment of a stormwater mitigation fee does not prevent or exclude a site from being used for stormwater treatment. If the site contains a project identified in a FRP as a regional stormwater treatment facility then some of the land on the site may be used for stormwater treatment.

(F) Full payment of stormwater mitigation fees can occur at the time of application, but in any event no later than November 15, 2023. Alternatively, the property owner can elect to pay the fee over a 5- or 10-year term. If a 5-year term is selected, the total value will be assessed at 3.5% interest for over that period. If a 10-year term is selected, the total value will be assessed at 5.5% interest over that period. Fees paid over a 5- or 10-year term will be included in the property’s stormwater fee for developed properties as established in the Ordinance.

4. Combination STP/Fee Method

(A) Some sites may install STPs for a portion of the site and pay a stormwater mitigation fee for the remaining portion of the site. When this method is used, impervious area flowing to a STP are removed from the IA value used in the stormwater mitigation fee equation.

(B) If the combination method is utilized, STPs shall provide treatment for the entire drainage area flowing to them. Credit will not be given if an STP is sized to only infiltrate a portion of the runoff associated with the WQv treatment standard. The STP must meet the full WQv for its upstream drainage area.

5. Penalties/Enforcement

(A) This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59. Any person who violates a provision of this ordinance, including but not limited to failure to install a STP by November 15, 2023 or to pay the stormwater mitigation fee when due, shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues. Any law enforcement officer or the Town Manager, Town Engineer, Public Works Coordinator, or Stormwater Superintendent may act as an Issuing Municipal Official and issue and pursue before the Judicial Bureau a municipal complaint for any violation of any provision of this Ordinance.

(B) In addition to the enforcement procedures available before the Judicial Bureau, the Town Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. Nothing herein shall be construed to limit other rights, remedies or penalties available by law.

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

First offense	\$160
Second offense	\$320
Third offense	\$480
Fourth offense	\$640
Fifth and subsequent offenses	\$800

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

First offense	\$100
Second offense	\$250
Third offense	\$400
Fourth offense	\$550
Fifth and subsequent offenses	\$700

(E) Each day the violation continues shall constitute a separate violation.

6. Severability

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

Appendix A. Submission Standards

- (A) The following information must be included with a submission:
- (1) Complete application form and include applicable fee.
 - (2) A brief written narrative describing the proposed Stormwater Treatment Practice (STP) and how it meets the standards of this ordinance and the VSMM. This includes a description of how the proposed STP matches or differs from what is indicated in any approved Flow Restoration Plan (FRP).
 - (3) A written description of the ongoing maintenance needs for the drainage system and proposed STP.
 - (4) A map delineating the drainage area flowing to each STP. This must include any off-site areas flowing to the STP.
 - (5) Site plan and construction details for all proposed STPs. The site plan must include:
 - i. Location, type, and size of all impervious surfaces.
 - ii. Location, type, size, elevations, and specifications for all proposed STPs.
 - iii. Stormwater collection and conveyance systems including swales, culverts, and piping.
 - iv. Length, diameter, and material for all piping and culverts.
 - v. Topography (minimum 2 foot contours)
 - vi. Soil type and/or hydrologic soil group.
 - vii. The location and results of any infiltration testing conducted.
 - viii. Tree canopy and changes to landscaping.
 - (6) Modeling results that show the existing and post-development hydrographs for the storm events indicated below. Any TR-55 based model shall be suitable for this purpose. Modeling methods utilized shall be in accordance with the best practices utilized by the State of Vermont Stormwater Management Section and described in the VSMM.
 - i. The Water Quality Volume (WQv) storm event as described in the VSMM.
 - ii. The one year, twenty-four hour rainfall event as described in the VSMM.
 - iii. The twenty-five year, twenty-four hour rainfall event as described in the VSMM.
 - (7) Applications submitted under the Combined Method must include a stormwater mitigation fee calculation. The site plan, listed under item 5 above, must indicate the portion of Impervious Area (IA) being utilized in the stormwater mitigation fee calculation.

Selectboard Signatures

Adopted at Shelburne, Vermont this _____ day of _____, 2018, and to be effective upon adoption.

SHELBURNE SELECTBOARD

_____, Chair

_____, Vice Chair

_____, Clerk

Received and recorded this _____ day of _____, 2018.

_____, Town Clerk

Stormwater Fees for Single Family Residential Properties

Flat Fee vs. Multiple Categories for Residential Property

Finalized August 22, 2018

Prepared by Ann Janda, Shelburne Director of Administration, and Tom DiPietro, S. Burlington Deputy PW Director

A common method for assessing municipal stormwater fees is to charge Single Family Residential (SFR) property a flat rate and charge Non-Single Family Residential (NSFR) property based on the amount of impervious surface contained on the parcel. The typical square footage of impervious surface on a SFR property is used as the base billing unit for NSFR property. If the typical SFR property contains 4,000 s.f. of impervious surface, this value becomes the Equivalent Residential Unit (ERU). If a NSFR property then contains 8,000 s.f. of impervious surface, it would be charged for 2 ERUs. The cost per ERU is set annually by the Town's governing body (e.g. Selectboard).

One of the main reasons for charging SFR properties a flat rate is to reduce the administrative costs associated with the stormwater billing program. There are currently 2,042 SFR properties in Shelburne. Evaluating each individual SFR property based on its measured impervious surface, whether as a total amount or percent of coverage, would require a significant amount of work to set up and maintain and would require staff to track changes in impervious surface and adjust invoices for each property in Town. This has not been done in Vermont. The administrative cost of such an effort is unknown at this time and would require substantial research.

When instituting a flat rate billing system on SFR properties it is common for residents to raise concerns about equity between these properties. It's a given that some SFR properties contain significantly more impervious surface than others. Some property owners may feel that charging the same amount for a property with 2,700 s.f. of impervious surface vs. a property with 45,000 s.f. of impervious surface is not equitable. In response to comments of this type, two Vermont towns, Williston and Colchester, created a second tier for SFR properties. Williston quickly abandoned their second tier because the administrative burden of calculating the exact percentages of impervious surfaces due to shared roads and ROW issues was not worth the additional revenue of \$12,036/year.

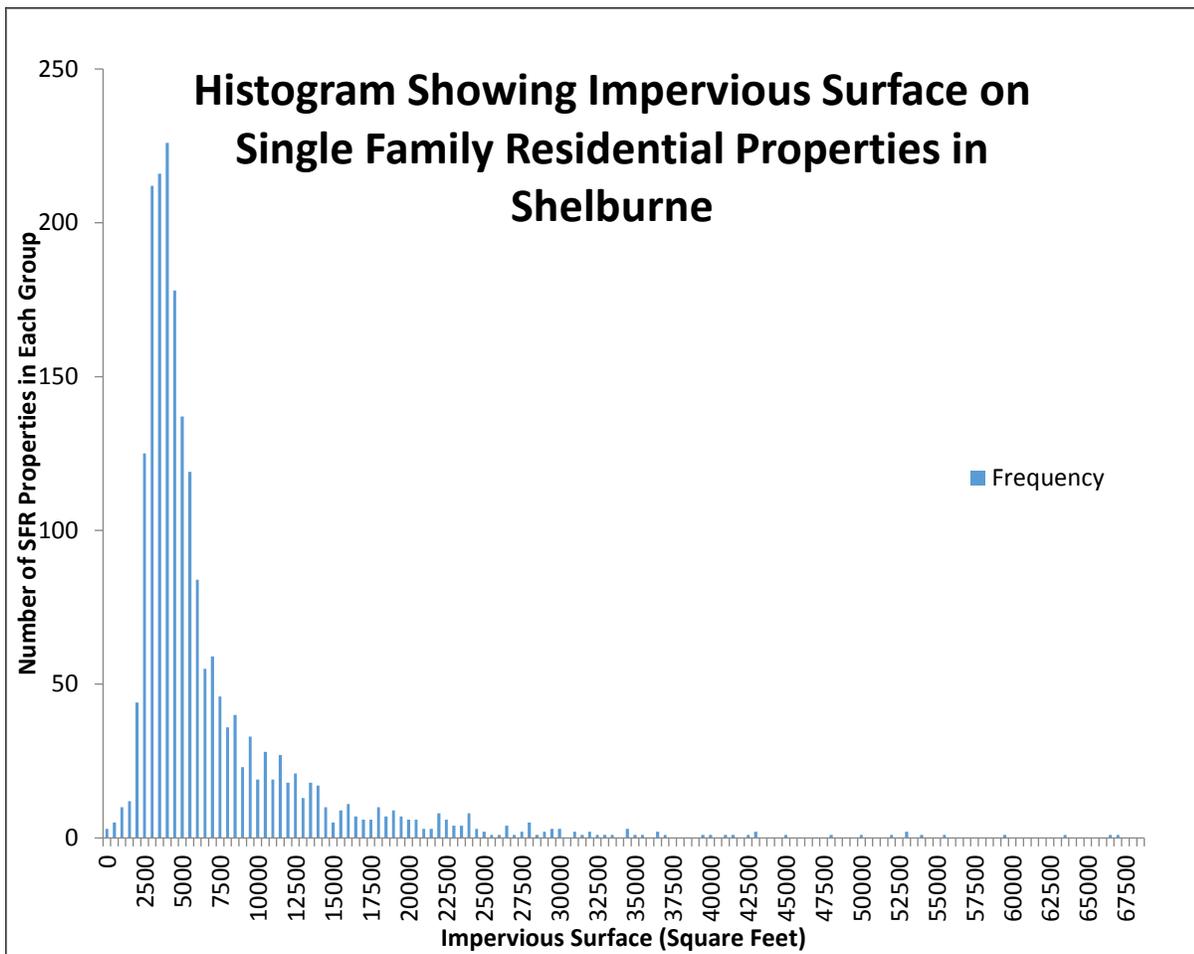
The town of Colchester's second tier is still in place. When Colchester calculated the amount of impervious on a typical SFR property, it was determined to be 4,356 s.f. or 1/10th of an acre. Colchester Staff noticed that 28 SFR properties had 20x or 30x the average amount of impervious when compared to other SFR properties. In response to this, Colchester staff recommended to the Selectboard at the time of utility adoption that they create a second tier for SFR property billing and place any SFR property with more than 1 full acre (~10x the average) of impervious surface into this new category. Staff also recommended assigning properties in this new category 10 ERUs, which is 10x the charge for typical SFR properties, but a lower number of ERUs than would be assigned to these properties if they were treated as NSFR (which would be 20-30 ERUs). After one billing cycle, this system has not caused undue administrative work in Colchester. However, at their current rate, this new billing category only adds additional revenue of \$14,040/year. No other Vermont stormwater utilities currently have SFR tiers.

In Shelburne, there are 12 SFR properties containing greater than 1 acre of impervious surface. This is 0.6% of the total number of SFR properties in Town. If each of these properties were billed 10 ERUs instead of 1 ERU, similar to Colchester's model, at an estimated ERU rate of \$4.30 a month, the added revenue would be \$5,572.80/year. See data prepared by Shelburne's consultant, Tom DiPietro, South Burlington Deputy Public Works Director, on the following page.

Summary of Impervious Surface on SFR Properties in Shelburne

- Number of SFR Properties in Shelburne: 2,042
- Minimum Amount of Impervious Surface on an SFR Property: 0 square feet
- Maximum Amount of Impervious Surface on an SFR Property: 66,797 square feet (1.5 acres)
- Average Impervious Surface on SFR Properties: 6,894.5 square feet
- Median Impervious Surface on SFR Properties: 4,475.8 square feet
- Number of SFR Properties Containing Greater Than 1 Acre* of Impervious: 12 (0.6%)
- Number of SFR Properties Containing Less Than 1 Acre of Impervious: 2,029 (99.4%)
- Number of SFR Properties Containing Greater Than 0.5 Acres of Impervious: 89 (4.4%)
- Number of SFR Properties Containing Less Than 0.5 Acre of Impervious: 1,952 (95.6%)

*One acre = 43,560 square feet



Methods: In order to evaluate the amount of impervious surface on SFR properties an analysis was completed in ArcGIS using Shelburne parcel line data (last updated in 2016) and impervious surface data (collected in 2016). The first step was to combine these datasets to calculate the amount of impervious surface per parcel. Once this was completed, the parcel data was joined with Shelburne Grand List Data (2017) based on the SPAN numbers. Parcels were then separated into two categories (SFR or NSFR) using zoning classifications contained in the grand list and visual interpretation of parcels using satellite imagery. All parcels classified as SFR were then used to analyze impervious surface measurements on SFR properties in Shelburne.