



**Special Town Meeting Minutes
November 6, 2023
7:00 pm
Hamilton-Wenham Regional High School**

At the close of registration on November 6, 2023, there were 5725 registered voters. There were 126 registered voters present.

Precinct 1 - 71

Precinct 2 - 55

William Bowler, Town Moderator, stated that the Warrant for this Special Town Meeting had been properly posted, a quorum was present, and the Special Town Meeting of the Town of Hamilton was open.

The Moderator called for the meeting attendees to recite the Pledge of Allegiance.

Mr. Bowler introduced the following officials who were sitting at the front of Town Meeting: Tom McEnaney (KP Law, Town Counsel), Carin Kale (Town Clerk), Joe Domelowicz (Town Manager), Wendy Markiewicz (Finance Director), Shawn Farrell (Select Board, Chair), Caroline Beaulieu (Select Board), Tom Myers (Select Board), Bill Olson (Select Board), John McGrath (FinCom, Chair), Harry Philip (FinCom), Alex Rindels (FinCom), Christina Schenk Hargrove (FinCom), and John Pruellage (FinCom).

Mr. Bowler spoke about Town Meeting procedures: To bring an agenda item before the meeting, he will recognize a member of the sponsoring board, committee, or individual so they can make a motion. If the motion is seconded, he will recognize the proponent to speak. When done, he will open discussion. He asked that voters wishing to speak be standing at a microphone and, when recognized, state their name and street address. He said the rules are those used at every Town Meeting. Voters have three minutes to make comments or ask questions about the motion. If a voter continues to speak once time has elapsed, to maintain a fair and efficient meeting requires that he move on to the next speaker. Comments and questions must be within the 'the four corners of the motion.' He reminded voters that they are in a legislative session for the Town of Hamilton and that while spirited debate is welcome, being cordial and respectful is a priority for the efficiency of the Meeting and every person who rises to debate a motion has an equal right to be heard. As such, he asked people refrain from making remarks of a personal nature about any Town or School official or any person who is in favor of or against the motion and will just comment on the merits of the motion. To ensure that the Meeting is run efficiently, comments or questions must be directed to the Moderator rather than any individual or Town official. He asked that there be no applause, cheering, booing or any other conduct that will

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disrupt or delay the Meeting. All motions to amend must be submitted to the Town Clerk in writing and Town Counsel is available to provide some assistance. No more than one amendment may be pending at the same time. A vote is first taken on the amendment and then on the main motion.

Mr. Bowler spoke about the voting procedures: Votes will be counted using the electronic voting clickers. In the unlikely event that there is trouble with the technology, votes will be counted by raising paper voter cards. He will decide visually whether there is the necessary majority or two-thirds vote. If in doubt, or seven voters question the vote immediately after the outcome is declared he will have the vote counted by tellers.

SECTION 1: ELECTIONS, REPORTS, PROCEDURES

ARTICLE 2023/11 1-1 Reports

To hear reports of Town Officers and selected committees and to take action thereon or relative thereto. Town Moderator recognized Shawn Farrell of the Select Board to provide a report on the Brown's Hill Overlay District (Gordon Conwell Theological Seminary).

Shawn Farrell gave a brief history of the Brown's Hill Overlay District By-law that the Planning Board has been working on regarding rezoning of the area as it pertains to a potential property sale. Representatives have been meeting to identify the highest and best reuse of the property to maximize the social, environmental and economic benefits to the town and the Seminary. The Planning Board will continue to work on the overlay district and will be holding public hearings.

ARTICLE 2023/11 1-2 Consent Agenda

To see if the Town will consolidate in one consent motion containing the motions for those articles that, in the opinion of the Moderator, are not controversial and can be passed without debate, or take any action thereon or relative thereto.

Town Moderator said: "Hearing no motion, we will move on to Article 2-1."

SECTION 2: FINANCIAL ACTIONS

ARTICLE 2023/13 2-1 Prior Year Bills

To see if the Town will raise and appropriate, transfer from available funds, or borrow pursuant to any applicable statute, a sum of money to pay any unpaid bills incurred in prior years, or take any action thereon or relative thereto. (Expected request \$13,248.78) Town Moderator recognized John McGrath.

Motion of John McGrath: "I move that the Town transfer \$13,248.78 from Free Cash to pay unpaid bills from FY 2022 for Quadrant Health Strategies (\$593.00) and Greenbacker (\$12,655.78, respectively." Seconded.

Town Moderator noted the article required a 9/10ths vote.

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Electronic Vote: 90 in favor; 3 opposed. A 9/10ths majority was declared. Motion carries.

ARTICLE 2023/11 2-2 Community Preservation – Town Hall Building Project.

To see if the Town will vote, pursuant to G.L. c.44B, to appropriate \$232,675.00 from the Community Preservation Fund Historic Reserves Account and \$267,325.00 from the Community Preservation Fund Undesignated Reserve Fund Account, for a total appropriation of \$500,000.00, which sum shall supplement the funds appropriated under Article 2020/11 2-7 and Article 2021/5 2-14, as amended by Article 2022/10 3-2, for the restoration, rehabilitation and preservation of the historic Town Hall located at 577 Bay Road, including but not limited to design, project management costs, construction and all incidental and related costs; provided, however, that the expenditure of these funds shall not be authorized if Town Meeting fails to approve Article 2023/11 2-3, or if construction of the Town Hall project fails to commence by November 15, 2024; if construction has not commenced by November 15, 2024, any funds from this appropriation will be returned to the Community Preservation fund only after a vote by the Community Preservation Committee determining that it is unlikely the remaining appropriated funds will need to be spent to this effect; and further, to amend the votes previously approved by Town Meeting on Article 2020/11 2-7 and Article 2021/5 2-14 to delete the condition that expenditure of the funds appropriated pursuant to said Articles shall not be authorized if Town Meeting fails to approve Article 2020/11 2-8 and Article 2021/5 2-15, respectively; or take any action thereon or relative thereto.

Town Moderator noted that the next two articles (2-2 and 2-3) were related to the proposed Town Hall project, so a short presentation about that project would be shown. Town Moderator recognized Jay Butler.

Motion of Jay Butler: "I move that the Town approve Article 2-2 as printed in the Warrant." Seconded. [See warrant language above]

Jay Butler said that upon approval, the Town could move into the construction phase of the Town Hall project and allow funding from CPA funds previously approved to be used for that use.

Town Moderator recognized Joe Domelowicz. Joe Domelowicz explained that the town has been working on the renovation project since 2017 and that while Town Meeting has twice voted for use of CPC funds, debt exclusion votes did not pass. This request relies upon CPC funds previously approved and supplements it with available cash on hand and CPC reserves. The renovations will focus on accessibility, structure, second floor meeting space, storage, bathroom facilities, septic, and fire suppression. The second phase would be decarbonization, which could utilize available energy efficiency grants. Landscaping and parking would be improved. The ask today is \$500,000 CPC funds and \$2,000,000 free cash for a total project cost of \$6.5M including previously approved funding. All Boards had unanimously approved the plan.

Town Moderator recognized John McGrath.

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John McGrath said the Finance and Advisory Committee was comfortable supporting the project because the town listened to the voters about not taking on debt and the town will pursue grant funding therefore lessening the burden on taxpayers.

Electronic Vote: 93 in favor; 7 opposed. Majority in favor. Motion carries.

ARTICLE 2023/11 2-3 Town Hall Project.

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow pursuant to any applicable statute, a sum of money for the purpose of funding the Town Hall Renovation Project, including all incidental and related costs, or take any action thereon or relative thereto. (*Expected request \$2,000,000 from Free Cash*) Town Moderator recognized Shawn Farrell.

Motion of Shawn Farrell: "I move that the Town transfer \$2,000,000 from Free Cash for the purpose of funding the Town Hall Renovation Project, including all incidental and related costs." Seconded.

Electronic Vote: 95 in favor; 7 opposed. Majority in favor. Motion carries.

SECTION 3: OTHER APPROPRIATIONS AND ACTIONS

ARTICLE 2023/11 3-1 General Bylaws-Amendment to Stormwater Management Bylaw.

To see if the Town will vote to amend Chapter XXIX of the Town's General Bylaws, Stormwater Management, by deleting the current version of Chapter XXIX in its entirety and replacing it with the version shown in Appendix A, or take any other action thereon or relative thereto. Town Moderator recognized Marnie Crouch (Planning Board, Chair).

Motion of Marnie Crouch: "I move that the Town vote to amend Chapter XXIX of the Town's General Bylaws, Stormwater Management, by deleting the current version of Chapter XXIX in its entirety and replacing it with the version shown in Appendix A." Seconded.

Marnie Crouch explained the history of the Stormwater Management Bylaw and outlined the highlights and benefits of the proposed Bylaw.

Electronic Vote: 99 in favor; 12 opposed. Majority in favor. Motion carries.

ARTICLE 2023/11 3-2 Amendment to Income Limitations for Senior Tax Deferral.

To see if the Town will vote to increase the current eligibility limits for senior property tax deferrals under G.L. c.59, §5, Clause 41A, as authorized by Chapter 190 of the Acts of 2008, by setting the maximum qualifying gross receipts beginning in FY2024 at \$64,000.00; and further, to establish the interest rate for deferred taxes in any given fiscal year commencing in FY2024 at 2%; or take any action thereon or relative thereto. Town Moderator recognized Caroline Beaulieu.

Motion of Caroline Beaulieu: "I move that the Town approve Article 3-2 as printed in the Warrant." Seconded.

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Caroline Beaulieu explained the article, which increased the income eligibility level and decreased the interest rate.

Electronic Vote: 102 in favor; 11 opposed. Majority in favor. Motion carries.

ARTICLE 2023/11 3-3 Home Rule Petition Income Limitations for Senior Tax Deferral. **Gl. C 59 Section 5. Clause 41A.**

To see if the Town will vote to authorize the Select Board to petition the General Court for special legislation to increase the eligibility limits for senior property tax deferrals under G.L. c.59, §5, Clause 41A, as set forth in Appendix B; provided, however, that the General Court may make clerical or editorial changes of form only to the bill unless the Select Board approves amendments to the bill before enactment by the General Court, and to authorize the Select Board to approve amendments within the scope of the general objectives of the petition, or take any other action thereon or relative thereto. Town Moderator recognized Bill Wilson.

Motion of Bill Wilson: "I move that the Town approve Article 3-3 as printed in the Warrant."
Seconded. [See warrant language above.]

Town Moderator recognized Jay Burnham who explained the benefits of the change to the existing deferral program. The income standard was equal to other local towns.

Electronic Vote: 98 in favor; 10 opposed: 10. Majority in favor. Motion carries.

Town Moderator noted that State Senator Tarr was present. Senator Tarr thanked those present for approval of the previous article. Representative Kristen Kassner was present and announced several benefits to the town that had recently passed.

ARTICLE 2023/11 3-4 Septic Loan Program.

To see if the Town will vote to appropriate a sum of money for purposes of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements between the Board of Health and residential property owners for repayment of project and financing costs by such property owners; including without limitation, the payment of all costs thereof as defined in Section 1 of Chapter 29C of the Massachusetts General Laws; and to determine whether this amount shall be raised by borrowing, including a borrowing through the Community Septic Management Program offered through the Massachusetts Clean Water Trust, or otherwise; or take any other action thereon or relative thereto. Town Moderator recognized William Olson.

Motion of William Olson: "I move that the Town vote to appropriate \$500,000 to pay the costs of the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements between the Board of Health and residential property owners for repayment of project and financing costs by such property owners; including without limitation, the payment of all costs thereof as defined in Section 1 of Chapter 29C of the Massachusetts General Laws; and to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under G.L. c.111, §127B½, or any other

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enabling authority, all or any portion of which amount may be borrowed through the Community Septic Management Program offered through the Massachusetts Clean Water Trust; and further, that the Select Board is authorized to take any other action necessary to carry out this project.”

Town Moderator announced that a 2/3 vote was required. Seconded.

Town Moderator recognized David Smith (Board of Health, Chairman) who spoke about the establishment of a loan program, which would be funded from the Clean Water Trust and would not affect taxes. Town Government would develop details such as eligibility of the loans. Dr. Ramsey (Board of Health) spoke about the many neighboring communities who had the program.

Electronic Vote: 91 in favor; 4 opposed. A 2/3 vote was declared. Motion carries.

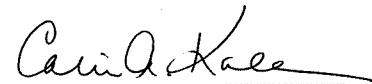
ADJOURNMENT

The Moderator said: “I will now accept a Motion to dissolve.” So Moved. Seconded.

Vote: Unanimous in favor. Motion carries.

The Special Town Meeting was dissolved at 8:00 pm. on November 6, 2023.

A True Copy Attest:



Carin A. Kale
Town Clerk

APPENDIX A
CHAPTER XXIX
STORMWATER MANAGEMENT

1. PURPOSE AND INTENT:

The purpose and intent of this bylaw are to:

- A. Protect water resources;
- B. Require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
- C. Promote infiltration and the recharge of groundwater;
- D. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
- E. Encourage the use of Low-Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
- F. Comply with state and federal statutes and regulations relating to stormwater discharges;
- G. Establish the Town of Hamilton as the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

2. DEFINITIONS

ABUTTER: The owner(s) of land abutting the legal boundaries of the land on which the land-disturbing activity is proposed.

ADMINISTRATIVE LAND DISTURBANCE APPROVAL: A determination by the Permit Authority that land disturbance activity does not require a Stormwater Management Permit.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and its implementing regulations.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing, or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined or discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Stormwater Management Permit and/or Administrative Land Disturbance Review for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Planning Board, the Zoning Board of Appeals, and/or their respective employees or agents designated to enforce this bylaw.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEARING: Any activity that removes the vegetative surface cover.

COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct development or redevelopment activities have occurred, are occurring, or are proposed to occur under one plan. The “plan” in a “common plan of development or sale” is broadly defined as any announcement or piece of documentation (including, but not limited to, a sign, public notice or hearing, advertisement, drawing, permit application) or physical demarcation (including, but not limited to, boundary signs, lot stakes, surveyor markings).

If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements. Examples include: 1) phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g. a development where lots are sold to separate builders); 2) a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and 3) projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material, including tree cutting, grubbing, clearing, grading or excavation.

LOW IMPACT DEVELOPMENT: A set of strategies that seek to maintain natural systems during the development process. The idea is to create homes and businesses that are integrated into the landscape, not imposed on it. Natural areas and important features are protected, and stormwater is managed with a distributed network of swales and rain gardens, rather than a centralized system of pipes and ponds.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act, M.G.L. c. 21, §26-53. The Policy addresses, among other things, stormwater impacts through

implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MASSACHUSETTS WATER QUALITY STANDARDS: Massachusetts Water Quality Standards: The surface water quality standards promulgated by the Massachusetts Department of Environmental Protection in 314 CMR 4.00, *et seq.*

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Hamilton.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a point source discernible, confined, and discrete conveyance into waters of the Commonwealth.

OWNER: A person with a legal or equitable interest in property.

PERMIT AUTHORITY: The Planning Board or the Zoning Board of Appeals, as outlined in Section 5.

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

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The slope of land at any point, stated as a percentage, shall be defined as the change in elevation over a horizontal distance measured perpendicular to the contours divided by the distance over which the change occurs multiplied by 100. The slope of land at any point, may be stated as a ratio (e.g., 2:1, 3:1, 4:1). The first number of the ratio indicates the horizontal

distance and the second number indicates the vertical rise.

SOIL: Any earth, sand, rock, gravel, or similar material.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT (“SMP” and/or “Permit”): A permit issued by the Permit Authority, after review of an application, plans, calculations, and other supporting documents, which shows that the proposed project is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit. *See* Section 6 and Planning Board Rules and Regulations. A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

3. AUTHORITY

- A. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §22.34
- B. Nothing in this bylaw is intended to replace the requirements of any other bylaw that has been made or may be adopted by the Town of Hamilton.

4. APPLICABILITY

- A. This bylaw shall apply to all activities that result in disturbance of one or more acres of land that drains to the Municipal Separate Storm Sewer System. A permit from the Permit Authority shall be required for any construction activity including tree cutting, grubbing, clearing, grading, excavation, and/or alteration of drainage characteristics that results in a land disturbance that will disturb equal to or greater than one acre of land, or will disturb less than one acre of land but which is part of a larger common plan of development or sale which will ultimately disturb equal to or greater than one acre of land, draining to the Town’s Municipal Separate Storm Sewer System.
- B. Administrative Land Disturbance Review is required for projects that result in the disturbance of land between 5,000 sq. ft. and 43,559 sq. ft. The purpose of the Administrative Land Disturbance Review is to determine whether an Administrative Land Disturbance Approval or Stormwater Management Permit is required.
- C. A Stormwater Management Permit from the Permit Authority shall be required for any construction activity including tree cutting, grubbing, clearing, grading and excavation that results in the following:
 - 1) Any land disturbance that will result in a proposed use that would have a higher potential pollutant loads pursuant to the Massachusetts Stormwater Management

Standards; or

- 2) Any land disturbance that is more than 5,000 sq. ft. of land with a slope equal to or greater than 25%, or any land disturbance that is more than 10,000 sq. ft. of land with a slope equal to or greater than 15%, or any disturbance that is more than 21,780 sq. ft. of land with more a slope equal to or greater than 10%; or
- 3) Total cumulative added impervious surface that meets or exceeds 5,000 sq. ft.; or
- 4) Disturbance of volume greater than 1,500 cubic yards; or
- 5) Any land disturbance on a lot of any size which has caused or can reasonably be expected to cause or contribute to a violation of Massachusetts water quality standards or as deemed necessary by the Permit Authority for a project that would otherwise require Administrative Land Disturbance Review.

D. Construction activities that are exempt are:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations, 310 CMR 10.04 and M.G.L. c. 40A, §3;
- 2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, or alteration of drainage patterns;
- 3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- 4) Normal maintenance of Town owned public land, ways, and appurtenances;
- 5) Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, provided that the post-repair condition drainage is equal to the pre-repair condition.
- 6) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw section.
- 7) Maintenance, reconstruction or resurfacing of any public or private way; and the installation of drainage structures or utilities within or associated with such ways that have been approved by the appropriate authorities provided that written notice be filed with the Permit Authority fourteen (14) days prior to commencement of activity.

5. RESPONSIBILITY FOR ADMINISTRATION

- A. For the purpose of this bylaw section, as noted in subsection B below, the term Permit Authority shall indicate the Planning Board or the Zoning Board of Appeals, as appropriate. Any powers granted to or duties imposed upon the Permit Authority may be delegated in writing by the Permit Authority to its employees or agents.
- B. To the extent that the Zoning Board of Appeals is the Permit Authority under M.G.L. c. 40B and for certain activity, development, construction, or reconstruction under the Zoning Bylaw for which the Applicant also must seek a Stormwater Management Permit, then the Zoning Board of Appeals shall also be the Permit Authority in that instance.
- C. For all other applications which fall under the purview of this bylaw, the Planning

Board shall be the Permit Authority.

- D. Applications, plans and accompanying data under this bylaw may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.
- E. Planning Board Rules and Regulations. The Planning Board shall adopt and may periodically amend Rules and Regulations to effectuate the purposes of this bylaw section. Failure by the Planning Board to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this bylaw. The Rules and Regulations shall include but shall not be limited to: the size, quantity, and distribution of plans; filing fee; required details for Stormwater Management Plan; Operation and Maintenance Plan; and Inspection and Site Supervision. The Planning Board Rules and Regulations shall be used to effectuate the purposes of this bylaw by the Zoning Board of Appeals when it is acting as the Permitting Authority.
- F. Stormwater Management Standards.
 - 1) The Permit Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Handbook to execute the provisions of this bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Regulations, stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
 - 2) The Permit Authority will apply the Stormwater Management Standards as outlined in the Massachusetts Stormwater Handbook Vol 2, Chapter 1, which prioritize Site Planning and use of environmentally sensitive site design and low impact development techniques.
 - 3) Stormwater Credit System. The Permit Authority may adopt a Stormwater Credit System as part of the regulations authorized by this bylaw section. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure of the Permit Authority to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this bylaw.

6. PERMITS AND PROCEDURES

A. Application – Administrative Land Disturbance Review.

An Administrative Land Review requires the submission of an application and, upon review of the application, the Permit Authority shall issue a written determination approving the proposed land disturbance activities or requiring a Stormwater Management Permit Application. Subsections D. and F. below are inapplicable to Administrative Land Disturbance Review.

The Administrative Land Disturbance Approval Application package shall include:

- 1) A completed Application Form with signatures of all owners;
- 2) An instrument survey with a proposed site plan which includes all information required by Section 4;
- 3) A list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);
- 4) A project description;
- 5) Payment of the application and review fees;
- 6) One (1) complete copy filed with the Town Clerk by the Applicant which shall serve to establish the filing date; and
- 7) A full electronic copy.

See Stormwater Management Permit Rules and Regulations for additional filing requirements.

B. Application -Stormwater Management Permit.

A completed application for a Stormwater Management Permit (SMP) shall be filed with the Permit Authority. The Stormwater Management Permit Application package shall include:

- 1) A completed Application Form with original signatures of all owners;
- 2) An instrument survey with a proposed site plan which includes all information required by Section 4;
- 3) A list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);
- 4) Stormwater Management Plan and project description;
- 5) Operation and Maintenance Plan;
- 6) Payment of the application and review fees;
- 7) One (1) complete copy filed with the Town Clerk by the Applicant which shall serve to establish the filing date; and
- 8) A full electronic copy.

See Stormwater Management Permit Rules and Regulations for additional filing requirements.

C. Entry. When obtaining an Administrative Land Disturbance Review or when filing an application for a permit, the Applicant shall grant the Permit Authority or its agent, permission to enter the site to verify the information in the application and to inspect for

compliance with permit conditions, after proper notification to the Applicant at least 24 hours in advance. Refusal to grant voluntary access may result in denial of a permit or the Administrative Land Disturbance Review application.

D. Public Hearing.

- 1) If an application is filed concurrently for a Definitive Subdivision Plan approval, for a project under the Zoning bylaw, or for a M.G.L. c. 40B filing, the public hearing and decision requirements shall follow the requirements of the particular application.
- 2) To the extent possible, required hearings of the Permit Authority shall run concurrently with the Stormwater Management Permit hearing, and every effort shall be made to handle the permitting process expeditiously.
- 3) If an application is filed independently of other filings, the Permit Authority shall hold a public hearing within sixty (60) days of the receipt of a complete application and shall take final action within sixty (60) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Permit Authority. Notice of the public hearing shall be given by publication in a newspaper of local circulation, public posting, and by certified mail at the Applicant's expense to abutters at least fourteen (14) days prior to the hearing date. The Permit Authority shall make the application available for inspection by the public during business hours at the Hamilton Town Hall.

E. Information Requests. The applicant shall submit all additional information requested by the Permit Authority to issue a decision on the application.

F. Waivers.

- 1) The Permit Authority may waive strict compliance with any requirement of this bylaw or the Rules and Regulations adopted hereunder, where:
 - (a) Such action is allowed by federal, state, and local statutes and/or regulations;
 - (b) It is in the public interest; and
 - (c) It is not inconsistent with the purpose and intent of this bylaw.
- 2) Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purpose or objectives of this bylaw.
- 3) All waiver requests shall be discussed and voted on at the Public Hearing for the project.
- 4) If in the Permit Authority's opinion, additional time or information is required for review of a waiver request, the Permit Authority may continue the hearing to a date certain announced at the meeting. In the event the Applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

G. Actions by the Permit Authority may include:

- 1) Approve the Stormwater Management Permit Application and issue a permit if it

finds that the proposed plan will protect water resources and meets the objectives and requirements of this bylaw;

- 2) Approve the Stormwater Management Permit Application and issue a permit with conditions, modifications, or restrictions that the Permit Authority determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this bylaw; or
- 3) Disapprove the Stormwater Management Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this bylaw.

H. Vote required. A simple majority of the Permit Authority shall be required to grant a Stormwater Management Permit.

I. The Permit Authority shall enforce all violations of the Stormwater Management Permit approval and conditions. *See* Section 12 below for enforcement of violations of this bylaw which do not fall under a valid Stormwater Management Permit.

J. Appeals. A decision of the Permit Authority shall be final. Further relief of a decision by the Permit Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days of the final action taken by the Permit Authority, in accordance with M.G.L. c. 249, §4.

7. FINAL REPORT

Upon completion of the work, the Applicant shall submit a report (including certified as-built construction plans, as outlined in Subdivision Regulations, Section IV.B.8.a), from a Registered Professional Engineer (P.E.), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

8. CERTIFICATE OF COMPLETION

The Permit Authority will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work allowed by the permit has been satisfactorily completed in conformance with the permit and this bylaw.

9. EMPLOYMENT OF OUTSIDE CONSULTANTS

The Permit Authority may employ outside consultants, at the Applicant's expense, under the terms of the Zoning Bylaw and/or the Planning Board Rules and Regulations, to assist in its permit decision, including but not limited to plan review, drainage, and stormwater analysis; to determine conformance with this bylaw and other requirements; and for construction inspection.

10. PERFORMANCE GUARANTEE

- A. The Permit Authority may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until

the Permit Authority has received the Final Report as required by Section 7 of this bylaw and issued a Certificate of Completion.

- B. The Planning Board Rules and Regulations shall establish reasonable criteria for assessing the Performance Guarantee.

11. DURATION OF STORMWATER MANAGEMENT PERMIT

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

12. ENFORCEMENT

- A. Land disturbance activities in excess of the thresholds established in Section 4 of this bylaw conducted without a Stormwater Management Permit or Administrative Land Disturbance Approval shall constitute a violation of this bylaw. The Permit Authority, or an authorized agent of the Permit Authority, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders:
- 1) The Permit Authority or an authorized agent of the Permit Authority may issue a written order to enforce the provisions of this bylaw or any regulations adopted hereunder, which may include:
 - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the (a) Stormwater Management Permit or Administrative Land Disturbance Approval;
 - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) Monitoring, analyses, and reporting; and/or
 - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
 - 2) If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, pursue a Court Order allowing the Town to undertake such work, and requiring the property owner to reimburse the Town for all costs incurred.
 - 3) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Hamilton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Permit Authority within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest, or within thirty (30) days following a decision of the Permit Authority affirming or reducing the costs, or from a final

decision of a court of competent jurisdiction, the costs shall constitute a municipal charge for purposes of M.G.L. c. 40, §58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to M.G.L. c. 40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59, §57 on the 31st day after the costs first become due.

- C. Criminal Penalties. Any person who violates any provision of this bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.
- D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, §21D and General Bylaw Chapter XIII, *Penalties for Violation*, in which case the Permit Authority or its agent shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state, or local law.

13. SEVERABILITY

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

