

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending the Code of Ordinances City of Lowell, Massachusetts, with respect to Chapter 272 entitled Water and Sewers by establishing a new Part 6, ARTICLE X entitled "Stormwater Management."

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

The City Council maintains the authority to regulate its municipal sewerage and drainage systems by virtue of its police powers to protect public health and welfare pursuant to M.G.L. c. 40, §21 et. seq. and in accordance with state law governing the management of storm water pollution pursuant to M.G.L. c. 21, §§26-53, 310 CMR 10.00, and 314 CMR 9.00

The City requires a local ordinance to control the quantity and quality of stormwater runoff that is discharged into the City of Lowell's public drainage system.

The City requires a local ordinance to mitigate the impacts of stormwater runoff with regard to local waterways, public and private properties, and the personal safety of the city's residents.

The City requires a local ordinance to support sustainable economic development of property in Lowell as it pertains to stormwater management.

The City requires a local ordinance to comply with applicable state and federal stormwater standards and regulations, including but not limited to the Environmental Protection Agency's general permit, effective May 1, 2003, establishing requirements of operators of small municipal separate storm sewer systems ("MS4") in Massachusetts must follow under the Clean Water Act, as amended, (33 U.S.C. §1251 et. seq.).

The City has implemented a stormwater management program that educates and engages the public, regulates discharges into the public drainage system, and provides a stormwater management framework for municipal public works facilities.

THEREFORE, "The Code of Ordinances City of Lowell, Massachusetts" hereinafter called the "Code", adopted by the City Council on December 23, 2008, is hereby amended with respect to Chapter 272 entitled Waters and Sewers by establishing a new Part 6, ARTICLE X, entitled "Stormwater Management," as follows:

**“Part 6  
The Management of Stormwater**

**ARTICLE X  
Stormwater Management**

**§272-109. Definitions.**

LOWELL STORMWATER MANAGEMENT PLAN (“LSMP”) shall be the most current version of a plan promulgated by the Executive Director of the Lowell Regional Wastewater Utility that establishes the design procedures, submittal standards, minimum requirements for the hydrologic and hydraulic analysis and design of stormwater management systems, design procedures and minimum requirements for the design of stormwater management plans and reports, and any and all other stormwater management issues deemed necessary by the City.

MUNICIPAL STORMWATER SYSTEM shall mean any natural or manmade structures or facilities that are intended for the collection, conveyance, storage, treatment, and discharge of stormwater runoff and are owned, operated, and maintained by the City. Municipal stormwater systems include, but are not limited to, ditches, basins, swales, streams, inlets, curb and gutters, detention/retention facilities, structures, manholes, culverts, bridges, sub-surface drainage courses, pipes, conduits, pumping stations and appurtenances, including tide gates, and catch basins.

PRIVATE STORMWATER SYSTEM shall mean any natural or manmade structures or facilities that are intended for the collection, conveyance, storage, treatment, and discharge of stormwater runoff and are owned, operated, and maintained by a private property owner within the City. Private stormwater systems include, but are not limited to, ditches, basins, swales, streams, inlets, curb and gutters, detention/retention facilities, structures, manholes, culverts, bridges, sub-surface drainage courses, pipes, conduits, pumping stations and appurtenances, including tide gates, and catch basins.

**§272-110 Stormwater management general regulations.**

- A. No person shall develop any land within the corporate limits of the City without having provided for adequate stormwater management measures that control erosion and stormwater runoff quantity and quality, in compliance with this ordinance, the LSMP, and any other applicable local, state, or federal laws, rules, and regulations.

- B. The Executive Director, or his or her designee, shall have the authority to maintain, manage, operate, and regulate the City's Stormwater System.
- C. In furtherance of his or her authority under this ordinance, the Executive Director shall promulgate the LSMP and other regulations or guidance documents governing all activities related to the excavation, alteration, disturbance, uncovering, connection, or other direct or indirect use of the City's Stormwater System.
- D. No unauthorized person shall excavate, alter, disturb, uncover, block access, make any connection with or opening into, or in any way directly or indirectly use the City's Stormwater System without first obtaining a written permit from the Executive Director. The Executive Director, or his or her designee, shall establish permit requirements for all such activities and take necessary and appropriate enforcement action to prohibit or remedy any such unpermitted activity, in accordance with the LSMP and all applicable local, state, and federal laws, regulations, and rules.
- E. In the event a person maliciously, willfully, or negligently breaks, damages, destroys, uncovers, defaces, tampers, or otherwise interferes with any structure, appurtenance, or equipment which is part of the City's Stormwater System and contrary to the LSMP and all applicable local, state, and federal laws, regulations and rules, the Executive Director, his authorized designees, or any other enforcement or regulatory entity in the City shall be authorized to take any enforcement action, remedy, or response so provided under this ordinance, the LSMP, and all applicable local, state, and federal laws, regulations and rules.
- F. The City, by and through its City Council, shall approve of all fees and costs related to the installation, connection, or alteration, to the City's Stormwater System, and any costs of maintenance thereof.
- G. Applicants shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection, or alteration to the City's Stormwater System.

**§272-111 City of Lowell stormwater management plan.**

- A. The LSMP shall describe design procedures, submittal standards, and minimum requirements for the hydrologic and hydraulic analysis and design of stormwater drainage systems. The LSMP shall describe the procedures and minimum requirements for the design of stormwater management plans and reports. The LSMP shall also address any and all other stormwater management issues that are deemed necessary by the City.
- B. The City may approve engineering procedures not contained in the LSMP if an applicant can demonstrate that the procedures produce a similar or superior result to those recommended in the LSMP and in accordance with all applicable local, state, and federal laws.

**§272-112 Submittal of stormwater system plans.**

- A. Any plans pertaining to private stormwater systems submitted by an applicant seeking a permit from the City shall make and file accurate and certified plans of the Private Stormwater System, at their own expense, with the Executive Director and the City Engineer's Office. These plans shall show all connections to the Municipal Stormwater System when made as provided in the LSMP, regulations, and guidance documents promulgated by the Executive Director pursuant to this ordinance and the authority granted to the Director by this ordinance and in accordance with all applicable local, state, and federal laws.

**§272-113 Interference and obstruction during construction.**

- A. Whenever any street is opened for the laying of pipes, installing of structures, for water, gas or other purposes, or for any work of construction, such work connected therewith, or for any other such work of construction, shall be so executed as not to obstruct, in any way, the course, capacity or construction of any part of the City's Stormwater Drainage System.
- B. Whenever pipes for any purpose, or any work of construction, are found to exist at such a depth or in such location as to interfere with any existing part of the City's Municipal Stormwater System, the person maintaining the same, shall upon notice thereof, at once remove, change, or alter such pipes or pipes or other works, in such a manner as the Executive Director, his designee, the City Engineer, or the City Engineer's designee may direct. If such person neglects to comply immediately with the terms of such notification, the City may make such removal, change, or alteration, and the cost thereof shall be paid by such person; provided, that whenever any drain is to be constructed, or any water pipe to be laid, in any street or way, the City Engineer and Director shall consult each other in regard to the location of any existing pipes.

**§272-114 Inspectors – powers and authority.**

- A. The Executive Director, or his or her authorized employees, agents, assistants, or designees, may enter the premises of any property in the City for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance, and testing of stormwater and stormwater systems in accordance with the provisions of this ordinance, the LSMP, and any other applicable local, state, and federal laws.

**§272-115 Violations and penalties.**

- A. Any person found to be violating any of the provisions of this ordinance, the LSMP, or any other regulations or rules promulgated by the Executive Director pursuant to the authority granted by this ordinance and by any and all applicable federal, state or local laws, regulations, or rules, may be subject to a civil penalty and, if found liable for the violation, shall be subject to a civil penalty and upon conviction shall be fined up to

\$5,000 a day for each violation back to the first day of the violation in accordance with MGL c. 83, §10, as amended by Chapter 174, Section 7, of the Acts of 1987.

- B. Any person found to be violating any of the provisions of this ordinance, the LSMP, or any other regulations or rules promulgated by the Executive Director pursuant to the authority granted by this ordinance and by any and all applicable federal, state or local laws, regulations, or rules, shall be liable for the maximum penalty provided under the Massachusetts General Laws for each violation back to the first day of said violation.
- C. Any person violating any of the provisions this ordinance, the LSMP, or any other regulations or rules promulgated by the Executive Director pursuant to the authority granted by this ordinance and by any and all applicable federal, state or local laws, regulations, or rules shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.
- D. A penalty provided for under this section may be imposed in conjunction with any other charges or penalties that can be imposed for violation of any other local, state, or federal criminal or civil offenses committed.

**§272-116 Severability.**

If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.”

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:



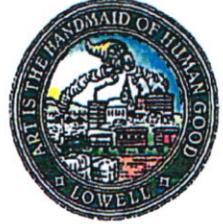
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Elliott J. Veloso  
Assistant City Solicitor



**MARK A. YOUNG**  
EXECUTIVE DIRECTOR

## LOWELL REGIONAL WASTEWATER UTILITY

WASTEWATER COLLECTION AND TREATMENT



SERVING  
LOWELL  
CHELMSFORD  
DRACUT  
TEWKSBURY  
TYNGSBORO

# MEMORANDUM

TO: Eileen Donoghue, City Manager  
FROM: Mark A. Young, Executive Director  
DATE: June 6, 2018  
SUBJ: Stormwater Ordinance

A handwritten signature in blue ink, appearing to read "M. Young", is written over the "FROM:" line of the memorandum.

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In order to meet the requirements of the Massachusetts general stormwater (MS4) permit and an EPA administrative order (September 2017), the City of Lowell is obligated to adopt a stormwater ordinance that gives the city the legal authority to implement the provisions of the 2003 stormwater permit. The enclosed stormwater ordinance provides the city with this authority.