

Recommended Additions to Enhance Stormwater Ordinances/Bylaws to Comply with the Charles River Watershed Phosphorus TMDL Requirements in Appendix F of the MS4 General Permit

Charles River Watershed Association has developed the following recommended additions to stormwater ordinances/bylaws to assist Charles River watershed communities in complying with the Charles River Watershed Phosphorus TMDL Requirements in Appendix F of the MS4 General Permit. We include examples of how this language can be used with the model stormwater bylaws developed by the Northern Middlesex Stormwater Collaborative and the Neponset Stormwater Partnership, both of which are available from the EPA: <https://www.epa.gov/npdes-permits/stormwater-tools-new-england>.

Note that enhanced language should consider all TMDLs and impairments a community must address under Appendices F and H of the MS4 General Permit. Communities may wish to expand upon the language provided below as appropriate to address other pollutants of concern.

ADD TO: Purpose/Objective/Goals/Intent Section

[City/Town] is required to reduce phosphorus loading from its MS4 system in accordance with the applicable municipal phosphorus reduction requirement in the MS4 General Permit, Appendix F. As required by the MS4 General Permit, [City/Town] must develop a Phosphorus Control Plan (“PCP”) designed to reduce the amount of phosphorus in stormwater discharges from its MS4 to the Charles River and its tributaries. [City/Town] must complete the PCP in phases as set forth in the MS4 General Permit, Appendix F, and must develop and fully implement the PCP as soon as possible but no later than 2038. Upon completion of the PCP, [City/Town] must add it as an attachment to its written Stormwater Management Plan. [City/Town] must report in its annual reports required under the MS4 General Permit on its progress toward achieving its phosphorus reduction requirement. In order to ensure that [City/Town] is able to comply with its municipal phosphorus reduction requirement under the MS4 General Permit, Applicants shall be required to reduce phosphorus loading in stormwater runoff in accordance with the PCP, Charles River TMDL for Nutrients in the [Upper/Middle Charles River (May 2011) or Lower Basin (2007)], and the MS4 General Permit.

ADD TO: Definitions Section

- MUNICIPAL PHOSPHORUS REDUCTION REQUIREMENT: The amount by which [City/Town] must reduce its annual phosphorus load from land area within its jurisdiction that drains to the Charles River and its tributaries, as set forth in the MS4 General Permit, Appendix F, Table F-2 or F-3, as applicable.

- PHOSPHORUS CONTROL PLAN (“PCP”): A plan developed in accordance with the requirements in the MS4 General Permit that is designed to reduce the amount of phosphorus in stormwater discharges from [City/Town]’s MS4 to the Charles River and its tributaries.

ADD TO: Section related to Stormwater Management and Land Disturbance/Construction Site and Post-Construction Stormwater Control Performance Standards or Submittal Requirements

Note: If emphasis on phosphorus reduction is desired, consider adding language to these sections as applicable. In adding language, make sure to confirm definitions of: “Applicants”, “TMDL” (or spell out “Total Maximum Daily Load”), and “MS4 General Permit” in Definitions section of local code.

Applicants [*if only a portion of the community is located within the Charles River watershed, include: located within the Charles River watershed within the [City/Town]] shall be required to reduce phosphorus loading in stormwater runoff in accordance with the [City/Town’s] PCP, Charles River TMDL for Nutrients in the [Upper/Middle Charles River (May 2011) or Lower Basin (2007)], and the MS4 General Permit. Documentation consistent with the MS4 General Permit Appendix F including Attachments 1, 2, and 3 of the MS4 General Permit, and any Regulations adopted under this bylaw shall be provided.*

For example:

In the Northern Middlesex Stormwater Collaborative Model Stormwater Bylaw (Aug. 2020), this language could be added under “Article III: Section 2. Review or Permit, Part C” following:

Required submittals to obtain a Land Disturbance Permit shall include (without limitation) an Erosion and Sedimentation Control Plan, a Stormwater Management Plan, and an Operation and Maintenance Plan. To obtain a Land Disturbance Permit, the applicant must show that site design, construction site stormwater runoff control and post-construction stormwater management will meet the standards set by the Stormwater Authority in its regulations, rules and/or guidance, which shall be at least as stringent as the relevant requirements of the MS4 Permit and may also address relevant environmental considerations including (without limitation) protection of aquifers and sensitive water bodies, climate resilience, and prevention of flooding.

In the Neponset River Model Annotated Stormwater Bylaw (May 2019), this language could be added under Article III: “Compliance with the provisions of EPA’s General Permit for MS4s in Massachusetts” following:

This bylaw and its related Stormwater Management Regulations shall be implemented in accordance with the requirements of United States Environmental Protection Agency’s most recent Massachusetts Small Municipal

Separate Storm Sewer System (MS4s) General Permit relating to illicit connections and discharges, construction site runoff, and post-construction stormwater management, as well as the Massachusetts Wetlands Management Act. The Stormwater Authority may establish additional requirements by regulation to further the purposes and objectives of this bylaw so long as they are not less stringent than those in the MS4 General Permit for Massachusetts.

By better managing stormwater, we can make our communities more resilient to climate change. For more information or questions about stormwater bylaws/ordinances, contact Charles River Watershed Association at (781) 788-0007 or charles@crwa.org. Also check out the resources available on CRWA's website at www.crwa.org/climate-resilience-toolkit.html.