

# TOWN OF ST. ALBANS

## STORMWATER UTILITY ORDINANCE



May 2, 2022

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## Article I – GENERAL

### Section 1.1 Purpose and Authority

This ordinance is adopted by the Selectboard of the Town of St Albans under authority of 24 V.S.A. Chapter 59 and 24 V.S.A. § 2291 (14).

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 Flow Restoration Plan and 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.

The purpose of this ordinance is to protect the public health, safety and welfare of the Town of St Albans by protecting the MS4 and surface waters in the Town from:

- The adverse effects of erosion and stormwater discharge from new development and redevelopment of a site;
- The unfavorable stormwater discharge from neighboring communities;
- Illicit discharges; and,
- The harmful effects of erosion and sedimentation.

### Section 1.2 - Definitions

For the purposes of this Ordinance, the following words and/or phrases shall apply:

**Agent-** A person authorized to act in the place of another person.

**Applicant-** A property/parcel owner or duly designated representative who files an application for a land disturbance activity.

**Authorized Person-** The Town Manager, Director of the Stormwater Utility, and such persons as they specifically appoint or authorize to perform duties for the Stormwater Utility.

**Best Management Practices (BMPs)-** Methods that have been determined to be the most effective and practical means of preventing or reducing non-point source pollution to help achieve water quality goals. BMPs include both measures to prevent pollution and measures to mitigate pollution. BMP measures may include; schedules of activities, prohibitions of practices, pollution prevention and educational practices, natural resource protection, maintenance and operating procedures, treatment practices, and measures to control site runoff, spillage or leaks.

**Clearing-** Any activity that removes the vegetative surface cover.

**Common Plan of Development-** A development that is completed in phases or stages when such phases or stages share a common state or Town permit related to the regulation of land use, the discharge of wastewater or a discharge to surface waters or groundwater, or a development designed with shared common infrastructure. Common plans of development include, but are not limited to, subdivisions, industrial and commercial parks, and university and other campuses. Construction activities or portions of construction activities that have achieved final stabilization as of the effective date of this Ordinance shall not be considered for purposes of determining what constitutes disturbance under a common plan of development that requires coverage under this Ordinance. Following completion of the common plan components on a parcel of land, any additional development of the parcel shall be considered as separate from the original common plan for the purposes of evaluating whether one or more acres of land will be disturbed.

**Designated Enforcement Officer-** The Director of the Stormwater Utility, the Zoning Administrator, or other Town officers as may be designated by the Town of St Albans Selectboard.

**Development Review Board (DRB)-** The Development Review Board for the Town of St Albans, established pursuant to 24 V.S.A. § 4460.

**Director-** The Director of the Stormwater Utility. The employee of the Town of St. Albans who shall be designated by the Town Selectboard and the Town Manager to oversee the Stormwater Utility.

**Equivalent Residential Unit (ERU)-** The square footage that represents the average of the area of impervious surface for all single-family properties in the Town. The Town Selectboard shall, by resolution, establish the square footage that constitutes one (1) ERU on a periodic basis.

**Erosion and Sediment Control Plan-** A plan indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction. At a minimum, the plan shall follow the guidelines of the Low-Risk Site Handbook for Erosion Prevention and Sediment Control (as amended).

**Illicit Discharge-** Any direct or indirect Non-Stormwater Discharge to the Stormwater System, except as exempted in Section 2.6 of this Ordinance.

**Illicit Connections-** Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4, and any connections to the MS4, from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Director of the Stormwater Utility.

**Impervious Surface-** Man-made surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates. The

only exemption are improvements made in accordance with the Vermont Agency of Agriculture-Required Agricultural Practices Rules (i.e., cow paths).

**Industrial Activity-** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

**Land Development-** The construction or re-construction of impervious surface on a tract or tracts of land.

**Land Disturbance Activities-** Any land disturbance subject to a Zoning Permit or any other approval issued pursuant to any regulation or ordinance of the Town of St Albans that disturbs or breaks the topsoil or results in the movement of earth on land.

**Limits of Disturbance-** The boundary within which all construction, materials and equipment storage, grading, landscaping and related activities shall occur.

**Maintenance Agreement-** A legally recorded document that acts as a property/parcel deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Municipal Separate Storm Sewer System (MS4)-** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- owned or operated by the Town of St Albans that discharges to surface waters or ground water;
- designed or used for collecting or conveying stormwater;
- which is not a combined sewer; and
- which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR, Section 122.2.

**MS4 Permit-** The Vermont Agency of Natural Resources' General Permit #3-9014, as amended or reissued, 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 the State of Vermont 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-point Source Pollution-** Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from mining, construction, subsurface disposal and urban runoff sources.

**Non-Single-Family Residence (NSFR)-** All types of developed property in the Town except Single Family Residences. This includes but is not limited to professional condominium developments, residential properties with more than 3 units such as four-plexes and apartment

buildings, not-for-profit properties, commercial sites, industrial properties, mobile home parks, educational institution sites, farms and agricultural properties, parking lots, storage sites, hospitals, and nursing homes.

**Non-Stormwater Discharge-** Any discharge to the MS4 that is not composed entirely of stormwater. It shall also include placing or depositing any hazardous material or pollutant in a stormwater system.

**Parcel-** Any lot, subdivided piece of land, unit of land, any subset of land, land owned in common, or a condominium unit or condominium association in the Town of St Albans that could legally be sold as a separate entity as of April 1 of the year the fee is based on, and has a separate parcel identification number, map identification number, or is identified as a separate parcel on the Town of St Albans Parcel Maps. Property and parcel are synonymous in this document unless where either is used for a specific reference or by use in common parlance.

**Person-** Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner, the owner's agent, or the operator of a premises.

**Pollutant-** Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure, and noxious or offensive matter of any kind.

**Premises-** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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

**Property-** And parcel are synonymous in this document unless where either is used for a specific reference or by use in common parlance.

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

**Sediment-** Soil, sand, and minerals washed from land into surface waters or onto other lands.

**Sediment Control-** Measures that prevent eroded sediment from leaving the Site.

**Shall-** A mandatory directive; “may” is permissive

**Single Family Residence (SFR)**- A detached single-family home, duplex, triplex, or residential condominium units complex/development where each unit receives a separate tax bill and has a defined foot print of land area.

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

**Soil Erosion**- When land or soil is diminished or worn due to wind or water.

**Stabilization**- The use of accepted erosion control practices that prevent exposed soil from eroding.

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

**Stormwater**- Precipitation, snow melt, and the material dissolved or suspended in precipitation and snow melt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

**Stormwater Coordinator**- The person appointed by the Director of the Stormwater Utility to help manage the Utility.

**Stormwater Management**- The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge and detrimental changes in stream temperature that affect water quality and habitat.

**Stormwater Treatment Practices (STPs)**- Measures, either structural or nonstructural, that are determined to be effective and practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

**Vermont Stormwater Management Manual Rule and Design Guidance (VSMM)**- Manual first published in 2002 (revised 2017) with the intention of achieving effective stormwater management using advances in best management practices (BMPs) and site design approaches available to meet water quality goals.

**Vermont Statutes Annotated (V.S.A.)**- Statutory laws of Vermont– cited as V.S.A. §.

**Wastewater**- Any water or other liquid, other than uncontaminated stormwater, discharged from premises.

**Watercourse**- Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the Town of St Albans.



**Waterway-** A channel that directs surface runoff to a watercourse or to the public storm drain.

**Wetland-** Those areas of land that are inundated by surface or ground water with a frequency sufficient to support plants and animals that depend on saturated or seasonally saturated soil conditions for growth and reproduction.

**Zoning Permit-** A permit approved by the Zoning Administrator which authorizes any land disturbance activities in the Town of St Albans.

## **ARTICLE II – Stormwater System Use**

### **2.1 Purpose**

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the Town of St. Albans 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 Director.

### **2.3 Administration**

Except where specifically noted in this Ordinance, the Director shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to persons or entities acting in the beneficial interest of or in the employ of the Town of St Albans.

### **2.4 Technical Review.**

In the event the Director or Zoning Administrator finds, in the discharge of their duties under this Ordinance, that they require the assistance of qualified professionals in stormwater management, erosion control, engineering or related fields to determine compliance with the provisions of this Ordinance, the Director or Zoning Administrator, as applicable, may require an independent

review of one or more aspects of a permit, plan or application, with the cost of the review to be paid by the applicant or permittee.

### **2.5 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.

### **2.6 Use of the Public Stormwater System.**

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

- A. Stormwater;
- B. 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;
- C. Discharges specified in writing by an Authorized Person as being necessary to protect public health and safety;
- D. Dye testing is an allowable discharge, but requires a verbal notification to an Authorized Person prior to the time of the test;
- E. 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.

### **2.7 Permits**

No person shall be granted a Zoning Permit or other approval by the Town for any land disturbance activities regulated under this Ordinance without compliance with the following provisions:

- A. All projects involving land disturbance within the Town of St. Albans for which a Zoning Permit or other approval has been issued shall require the permittee to demarcate physically the limits of land disturbance on the site; using measures as described in the 2017 Vermont Stormwater Management Manual, Rule, and Design Guidance document, and; shall advise the permittee to take reasonable steps as outlined in the 2017 Vermont Stormwater Management Manual, Rule, and Design Guidance document to ensure that

sediment and eroded materials are not transported via overland flow to surface waters or the MS4.

- B. Projects disturbing more than one acre of land, either individually or as part of a Common Plan of Development, shall require evidence of application and submission of an Erosion and Sediment Control Plan to the Vermont Department of Environmental Conservation for coverage under the Vermont Construction General Permit 3-9020 (2020) for Stormwater Runoff from Construction Sites, as amended, or an Individual Construction Stormwater Discharge Permit, whichever is applicable.
- C. Projects disturbing less than one acre of land, whether individually or as part of a common plan of development, that are **not** subject to the requirements of the Vermont Construction General Permit 3-9020, but meeting any of the criteria enumerated in 1 through 4, below, shall require approval of an Erosion and Sediment Control Plan, as defined in this Ordinance, by the Director:
  - i. Any project disturbing more than 1,000 square feet (SF) of land area within a stream corridors and tributaries of Rugg Brook, Jewett Brook or Stevens Brook as depicted on Map A.
  - ii. Any project disturbing more than 5,000 SF of land area located within the boundaries of a Stormwater Impaired Watershed, as defined in this Ordinance and as depicted on Map A.
  - iii. Projects disturbing more than 10,000 SF of land area outside a Stormwater Impaired Watershed and as depicted on Map A.
  - iv. Any project that, in the opinion of the Zoning Administrator and or the Director, has the potential to cause significant erosion, result in the transport of sediment to surface waters or the MS4, or endanger property or public safety if not properly mitigated and controlled.

The following activities shall be exempt from the provisions of Section 2.7:

- A. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- B. Any nursery and or agricultural operations as a permitted principal or accessory use.

## 2.8 Prohibitions

- A. Solid waste disposal- No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any premise, public or private property/parcel, driveway, parking area, street, alley, sidewalk, component of the MS4, or any surface water of the Town of St Albans, any object or material, including but not limited to: Refuse, rubbish, garbage, animal waste, litter, yard waste, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution, or interfere with the operation, maintenance and access to the

- MS4. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.
- B. No person required to obtain a Zoning Permit, or any other form of Town approval for land disturbance activities, shall cause, allow or permit the release of any sediment created by soil erosion resulting from these activities, to any other property/parcel, the MS4 and or surface waters.
- C. Illicit connections- The construction, use, maintenance, or continued existence of illicit connections to the MS4 are prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- D. Illegal discharges- No person shall discharge or cause to be discharged into the MS4, any materials, including but not limited to pollutants or waters containing any pollutants, other than stormwater, or any materials that may impede the natural flow of stormwater or the functionality of the MS4.
- E. Any person conducting activity involving the outdoor generation or storage of construction waste or debris shall be required by this Ordinance to observe the following:
- i. Piles of uncontained wastes, and wastes stored in open containers, shall be covered during windy conditions that would result in the mobilization of debris into the MS4 or waterways, and shall be covered prior to significant forecasted rain (0.25 inches in a 24-hour period).
  - ii. No dumpsters shall be hosed out onto the construction site.
- F. 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.

## 2.9 Best Management Practices

- A. The Director 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.
  
- C. 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 Director 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 Director 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.
  
- D. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, steps taken to remediate said illicit discharge, and the actions taken to prevent its recurrence. Such records shall be retained on site by the owner or operator for at least three years.

#### **2.10 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.

#### **2.11 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 all properties or parcels. An ERU shall equal that square footage that represents the average of the area of impervious surface for all single-family properties in the Town. The Selectboard shall, by resolution, establish the square footage that constitutes one (1) ERU on a periodic basis.
- B. The Town Selectboard shall have the authority to set and modify the user fee rates, so that the total revenue generated by said charges, and any other sources of revenue, shall be sufficient to fund the Town's stormwater program.
- C. The Town Selectboard shall establish by resolution the annual rate for each ERU. The annual user fee for a specific property or parcel is determined by multiplying the rate per ERU times the number of ERUs allocated to the property or parcel.
- D. All properties or parcels will be attributed at least one (1) ERU and receive a stormwater bill, including tax-exempt parcels, and those properties having less impervious surface than one (1) ERU. The only exempt properties are undeveloped parcels or commonly owned parcels within residential developments whereby the impervious surfaces have been accounted for in the overall calculation of an ERU, mobile home owners within an established mobile home park as impervious surfaces within mobile home parks are to be directly assessed to the park owner, and those properties whereby the owner cannot be easily determined and that the efforts to do so create an unreasonable and disproportionate burden to the Utility and its rate payers in relationship to the overall public benefit.

### 3.2 Establishment of ERUs

- A. Single-family residence (SFR) properties or parcels shall be billed one (1.0) ERU, as defined in Section 3.1. Property or parcel owners that own contiguous parcels that are combined for property tax billing purposes will receive one stormwater bill representing the aggregate stormwater charges for all contiguous parcels under the same ownership.
- B. Non-single-family residence, (NSFR) properties or parcels shall be billed the ERUs that are determined by dividing the total impervious surface on the property or parcel by one (1.0) ERU as defined in Section 3.1. One (1.0) ERU as defined in Section 3.1 is the minimum annual billable amount for NSFR properties or parcels. The resulting value shall be rounded up to the nearest quarter (0.25). In those instances when the calculations produce a value exactly halfway between two numbers, the number is to be rounded up to the next quarter.

### 3.3 User Fee Credits

- A. The "Stormwater User Fee Credit Manual" shall specify the design and performance standards of on-site stormwater systems, facilities, activities and services which qualify for application of a user fee credit and the method of calculating credits. The

Town Selectboard, by resolution, shall have the authority to approve, modify and approve or disapprove the Credit Manual. Credits are only available to non-single family residential properties (NSFR).

- B. Any property owner may appeal the determination regarding an award of a credit. The appeal process is outlined under Section 7.1- Appeals.
- C. Credits may be awarded retroactively for one (1) year from the date of initiation of the stormwater user fee. Thereafter, 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 "Stormwater User Fee Credit Manual" 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 Director may revoke a credit at any time for non-compliance by providing thirty (30) days written notice of a non-complying condition and intent to revoke the credit to the property owner. If the non-compliance is not cured within the thirty (30) day period, the Director shall eliminate the credit for user fee bills issued to the property owner after such period.
- E. A property owner may appeal the Director's determination regarding credit revocation in the same manner set forth starting with Step 2 of the appeals process outlined in Section 7.1- Appeals.

### 3.4 Billing and Collection

- A. Stormwater user fees shall be billed annually and shall be reflected on the stormwater bill for each property or parcel owner. Parcels owning twenty ERUs or more shall be allowed to make quarterly payments. The bill shall also state the ERUs allocated to each property or parcel. The property or parcel owner is responsible for payment of stormwater user fees regardless of whether a property/parcel is rented or leased to a tenant.
- B. The property or parcel owner may appeal an allocation of ERUs to the Director in the event that there have been physical changes made to the property or parcel that would affect the property's or parcel's ERU calculation from the time aerial imagery was most recently analyzed. The property or parcel owner shall bear the burden of proof in providing evidence to support their claim in a manner that is satisfactory to the Director. The filing of an appeal shall not relieve a property or parcel owner of the obligation to pay the user fee when due.
- C. In the event that any stormwater user fee is not paid within thirty (30) days from the billing due date, interest charges will be added to the fee. The amount of the interest rate on the overdue accounts shall be the same as those applied to delinquent property taxes.

If such payment is not paid, such stormwater user fee plus any accrued interest shall be a lien upon such real estate in the same manner and as to the same effect as taxes are a lien upon real estate pursuant to 32 V.S.A. § 5061 and 24 V.S.A. § 3612.

### **3.5 Expenditures from the Stormwater Reserve Fund**

- 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. Revenues will be placed into a Stormwater Reserve Fund and may be retained and expended in the manner set forth herein.
- C. The Selectboard shall establish a dedicated Stormwater Reserve Fund in the Town budget and accounting system for the purpose of managing all funds collected for the purposes and obligations of the stormwater program. All revenues and receipts of the stormwater program shall be placed in the Stormwater Reserve Fund, which shall be separate from all other funds. Fees will be set at a rate that covers the costs associated with stormwater management, planning, staffing, engineering, maintenance and repair, public education, capital improvements, technical support, and other services approved by the Selectboard to implement the purposes of the stormwater program as set forth herein. The Selectboard may consider both stormwater quality and quantity management needs in determining whether to expend any funds from the Stormwater Reserve Fund, and the use of the fund is limited to operating expenses, non-operating expenses such as equipment, payment of principal and interest on debt obligations, capital improvement projects, reserve expenses, and other drainage costs as deemed necessary and appropriate by the Selectboard.
- D. The Selectboard holding office shall have the authority to withdraw fund amounts only for the purposes of paying acceptable expenditures as outlined in Section 11.4 (c), above.

## **ARTICLE IV – INSPECTION AND ENFORCEMENT**

### **4.1 Power of Authority of Inspectors**

- A. Any Authorized Person bearing proper credentials and identification, shall be permitted to enter and inspect all properties subject to regulation under this Article for the purposes of inspection, observation, measurement, sampling and testing as often as needed to determine compliance with this Article. Authorized Persons shall have the right to set up 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 that must be kept under the conditions of a NPDES permit to discharge stormwater. If a



person has security measures in force that require proper identification and clearance before entry into its premise, the person shall make the necessary arrangements to allow access to representatives of the Stormwater Utility.

- B. Upon request, a person shall provide the Director all records that must be kept under the conditions of a NPDES permit to discharge stormwater. to include records that impose additional duties as defined by State and Federal law, records that document stormwater best management practices constructed and submitted for receiving stormwater credits, and records pertaining to any and all other stormwater infrastructure or conditions that are subject to regulation under this Ordinance. A person shall allow duly authorized representatives of the Stormwater Utility ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- C. Duly authorized representatives of the Stormwater Utility shall have the right to set up on any permitted premises such devices as are necessary in the opinion of the Director to conduct monitoring and/or sampling of the premise's stormwater discharge.
- D. The Director shall have the authority to require a person to install monitoring equipment as necessary. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator of the premise at their own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. The owner or operator of the premise shall demonstrate calibration techniques and satisfactory operation of the devices to the Director upon request.
- E. Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner or operator of the premise at the written or oral request of the Director, and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator of the premise.
- F. Unreasonable delays in allowing the Stormwater Utility access to permitted premises are a violation of this Article. A person who is the operator of a premise with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Stormwater Utility reasonable access to the permitted premises for the purpose of conducting any activity authorized or required by this Article.
- G. If the Stormwater Utility has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, 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 Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

## 4.2 Inspection Requirements

For all such projects for which an Erosion and Sediment Control Plan has been approved, the Director or his/her designee shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee via mail, telephone or email of any instance wherein the work fails to comply with the Erosion and Sediment Control Plan as approved.

To obtain inspections, the applicant or their agent shall request an inspection from the Director via email, mail or telephone at least ten (10) business days before commencement of any of the following, unless an agreement has been executed for the applicant to provide certification in accordance with Section 8.9 of this Ordinance:

- A. For all activities for which Zoning Permits have been issued for a non-residential use, condominium, floodplain modification, new single- or two-family dwelling, or new camp, and to any activity within one-hundred (100) feet of the top of bank of Stevens Brook, Jewett Brook or Rugg Brook as depicted on Map A.
  - i. Start of construction, at which time the inspection shall include inspection of the limits of disturbance to ensure the limits are correctly and fully demarcated on the site;
  - ii. Installation of all sediment and erosion control measures;
  - iii. Completion of final grading; and,
  - iv. Completion of final landscaping.
- B. For all other activities for which an Erosion and Sediment Control Plan has been approved, inspection shall occur at the start of construction, at which time inspection shall include limits of disturbance and installation of all sediment and erosion control measures.
- C. For projects where land disturbance will occur or construction will not be fully completed between October 15<sup>th</sup> and May 15<sup>th</sup> (i.e., winter season), an additional inspection is required before November 15<sup>th</sup> of each year to ensure that winter season stabilization measures are in place.
- D. In the event that, in the judgment of the Director, additional inspections are necessary to ensure conformance with the approved Erosion and Sediment Control Plan, the Director may conduct additional inspections upon twenty-four hours' written, verbal, or email notification to the property/parcel owner. Approval for such inspections shall not be unreasonably withheld by the property/parcel owner.

## 4.3 Inspection Certifications

In lieu of the requirements outlined in Section 4.2 of this Ordinance, the Director may, upon written request of the applicant, allow or require that the applicant or their agent provide a written certification from a professionally licensed engineer, or a Certified Professional in Erosion and Sediment Control (CPESC), certifying compliance with the Erosion and Sediment Control Plan as approved upon completion of the activities enumerated in Section 4.2 above. The applicant or their agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan, and shall provide written certification to the Director or his/her designee upon completion of each inspection, noting any remedial action required to achieve compliance with the Erosion and Sediment Control Plan.

#### **4.4 Enforcement**

The Town of St Albans, by and through its authorized agents, shall have the authority to enforce the provisions of this Ordinance, and any orders, violation notices, or enforcement orders issued hereunder, and may pursue all civil and criminal remedies in connection with any violation hereunder.

#### **4.5 Remedies not Exclusive.**

The remedies set forth herein are not exclusive of any other remedies available, including criminal prosecution, under any applicable federal, state or local law. Election of one remedy shall not preclude pursuing other remedies and nothing herein shall prohibit the Town of St Albans from seeking multiple remedies.

#### **4.6 Judicial Bureau Municipal Civil Complaint Ticket.**

Pursuant to 24 V.S.A. Chapter 59 and 24 V.S.A. § 2291 (14), a Designated Enforcement Officer may commence prosecution in the Judicial Bureau for any violation of this Ordinance by serving two copies of a municipal civil complaint ticket either in person or by first class mail on the alleged offender, and thereafter promptly filing the original with the Judicial Bureau. The issuing officer shall follow the procedure set forth by the Judicial Bureau for municipal complaint tickets.

- A. An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:
  - i. First offense — \$100
  - ii. Second offense — \$200
  - iii. Third and subsequent offenses — \$500
  - iv. Fourth offense— transfer to Superior Court, or other court of competent jurisdiction.
  
- 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:
  - i. First offense— \$50
  - ii. Second offense — \$100

- iii. Third and subsequent offenses — \$250

#### 4.7 Other Enforcement Remedies Generally; Fines, Injunctive Relief.

- A. Any person violating any of the provisions of this ordinance shall be subject to fines as outlined in Section 4.6. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Ordinance shall be required to bear the expense of such restoration.
- B. An action, injunction, or other enforcement proceeding may be instituted by the Town of St Albans to prevent, restrain, correct, or abate any violation or activity causing a violation. The relief sought may include the right to enter onto private property to abate or correct the violation, to restrain any activity that would create further violations, or to compel a person or persons to perform abatement or remediation of the violation; and to seek damages for all costs, including reasonable attorney's fees, incurred by the Town of St Albans in pursuing and obtaining such relief. In addition to any other remedies authorized in law or equity, the Town of St Albans may seek an order specifically requiring:
  - i. The elimination of illicit connections and/or non-stormwater discharges to the MS4;
  - ii. The discontinuance of practices, activities, or operations that lead to violations of this Ordinance;
  - iii. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property/parcel;
  - iv. The implementation of source control or treatment through the use of best management practices;
  - v. The performance of monitoring, analysis, and reporting.
- C. In the event that any person holding a Zoning Permit approved by the Zoning Administrator, or any other Town-issued approval for land development or land disturbance activities, violates the terms of this Ordinance or alters a site in such a manner as to adversely affect the public health, safety, or welfare, the Director or his/her designee may issue a Stop Work Order and or suspend or revoke the permit.

## ARTICLE V— ACCEPTANCE OF REGULATED PRIVATE SYSTEMS

### 5.1 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:
  - i. 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;
- ii. 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;
  - iii. 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;
  - iv. 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
  - v. 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:
- i. Applying to the Director, using forms developed by the Director;
  - ii. Paying the applicable fee as determined by resolution of the St. Albans Selectboard; and
  - iii. 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 Director 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 Director, 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 Director, 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 Director, 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 Director 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:
- i. Remedying damage caused by the Former Owner of the Regulated Private System; or
  - ii. 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 Section 3 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)(i) and (F)(ii) above.
- H. For purposes of this Article V, 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 5.1. 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.

## 5.2 Regulated Private Systems That Are Not Exclusively Residential

Subject to the terms and conditions of this Ordinance, the Town may, at the discretion of the Director, 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:

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

- B. 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:
- i. 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
  - ii. To maintain the Regulated Private System only in the event the Director 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.
- C. The Director 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.
- D. The Owner of a Regulated Private System meeting the requirements of paragraph (A), above, may request coverage under the Town's MS4 Permit by:
- i. Applying to the Director, using forms developed by the Director;
  - ii. Paying the applicable fee as determined by the St. Albans Selectboard;
  - iii. 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
  - iv. 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.
- E. Upon receipt of a complete application as described in paragraph (B) above, the Director 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 Director's determination shall be final.

- F. 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 Director, 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 Director, 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 Director, Town Attorney or the Town Attorney's designee shall review such documents to determine their accuracy and completeness.
- G. 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 Director 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.
- H. 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:
- i. 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;
  - ii. Remedying damage caused by the Owner of the Regulated Private System; and
  - iii. 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.
- I. 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:
- i. The Town imposes a similar assessment or surcharge on Owners of other similar Regulated Private Systems;
  - ii. In the event of a need to remedy damage caused by negligence or malfeasance on the part of the Owner;
  - iii. In the event that an extreme unforeseen circumstance requires extraordinary repair



and reconstruction measures unique to the Regulated Private System; or

- iv. 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 Director's sole discretion, to ensure compliance with the Town's MS4 Permit.
- J. For purposes of this Section 5.2, 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.
- K. 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 Director in his sole discretion and at any time may terminate the agreement described in Section 5.2(A)(iii), above, provided the Director mailed a notice of termination to the Owner thirty (30) days in advance of such termination.

## ARTICLE VI – MUNICIPAL COST SHARING

### 6.1 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.

### 6.2 Applicability

This section shall apply to stormwater system upgrades or improvements as required by Section 13 of this document.

### 6.3 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:
- B. 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;
  - i. 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.

- C. 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.
- D. 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.
- E. 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 Director's sole and complete discretion.
- F. The Town shall not contribute funds for engineering or design services incurred as part of upgrades or improvements to STPs unless:
  - i. 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;
  - ii. 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.
- G. The Town will provide its pro rata share of STP upgrade or improvement costs only after the Director 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.
- H. 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 Director based on staff availability and other factors.

- I. 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 Director.
- J. 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.
  - i. 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:
    - a. Submit engineering and design plans for STP upgrade or improvement to the Director and obtain written approval of these plans prior to incurring any costs that would be eligible for cost sharing; and
    - b. Sign a Stormwater system improvement agreement with the Town that establishes pro rata cost sharing for all parties involved; and
    - c. Obtain the Director's written confirmation that the STP upgrade or improvement was constructed in conformance with the approved plans once construction is complete.

## ARTICLE VII- APPEALS AND SEVERIBILITY

### 7.1 Appeals

The following process shall be followed for appeals to decisions pertaining to this Ordinance:

- A. Step 1: Any aggrieved property owner shall have the right of appeal by filing a written notice of appeal within 30 calendar days of said decision to the Director, who shall issue a written decision within 30 calendar days. The notice of appeal shall specify the legal basis for the appeal.
- B. Step 2: If said appeal is denied by the Director, the said aggrieved party shall have the right to appeal by filing a written notice of appeal to the Town Manager, provided that said appeal is entered within 30 calendar days from the issue of the decision of the Director.
- C. Step 3: If said appeal is denied by the Town Manager, then said aggrieved party shall have the right to appeal to the Selectboard by filing a written notice of appeal with

the Town Clerk, provided that said appeal is entered within 30 calendar days from the issuance of the decision of the Town Manager.

- D. The Selectboard shall issue its decision on the appeal in writing, which decision shall be final.
- E. The filing of an appeal shall not relieve a property owner of the obligations of this Ordinance.

## 7.2 - Severability

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, it shall not affect the validity or application of other provisions of this Ordinance.

## ARTICLE VIII - MISCELLANEOUS PROVISIONS

### 8.1– Relationship to Other Town Ordinances

If the provisions of these regulations conflict with the provisions of any other valid and enforceable Ordinance(s), the stricter provisions shall prevail.

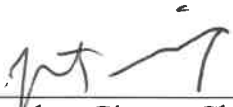
### 8.2 – Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge or discharge of pollutants.

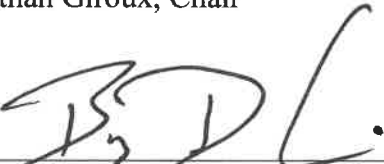
### 8.3 - Effective Date

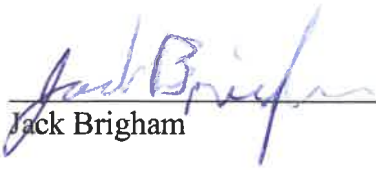
This Ordinance shall become effective sixty (60) days after its adoption by the Town of St Albans Selectboard, or at such time following the expiration of sixty (60) days from the date of its adoption as is determined by the Selectboard per 24 V.S.A. 1973. If a petition is filed under 24 V.S.A. 1973, that statute shall govern the taking effect of this Ordinance.


**TOWN OF ST. ALBANS SELECTBOARD**

  
\_\_\_\_\_  
Jonathan Giroux, Chair

  
\_\_\_\_\_  
Brendan Deso

  
\_\_\_\_\_  
Bryan DesLauriers

  
\_\_\_\_\_  
Jack Brigham

  
\_\_\_\_\_  
Jeff Sanders

5-2-22  
\_\_\_\_\_  
Date

ATTEST BY:   
Anna Bourdon, Town Clerk

May 2, 22  
\_\_\_\_\_  
Date