

ARTICLE V (F)

STORMWATER MANAGEMENT

1.0 PURPOSE

A. The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of stormwater runoff will minimize damage to public and private

property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:

1. Establish a mechanism by which the municipality can monitor and ensure compliance with requirements of its National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems and other applicable State and Federal mandates.
2. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.
3. Require that new development, redevelopment and other land alteration activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics where appropriate in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
4. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to alterations in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; Establish minimum design criteria for measures to eliminate or minimize to the extent feasible nonpoint source pollution from stormwater runoff which would otherwise degrade water quality.
5. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet or exceed the minimum post-development stormwater management standards.
6. Encourage the use of nonstructural stormwater management, better site design practices or “low-impact development practices”, such as reducing impervious cover, increasing site-wide infiltration, and preserving open space and other natural areas, to the maximum extent practicable.

7. Promote water conservation through the re-use of stormwater for irrigation.
 8. Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.
 9. Establish provisions to 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.
 10. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment.
 11. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this Bylaw.
 12. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, erosion and sediment controls, and for the inspection of approved active projects, and long-term follow up; Establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, inspection of construction sites, and the inspection of approved projects.
- B. Nothing in this Bylaw is intended to replace the requirements of the Town of Sudbury Zoning Bylaw, the Town of Sudbury Wetlands Administration Bylaw, the Town of Sudbury General Bylaw, any other Bylaw that may be adopted by the Town of Sudbury, or any Rules and Regulations adopted there under. Any activity subject to the provisions of the above-cited Bylaws or Rules and Regulations must comply with the specifications of each. In case of conflict, this Bylaw and any promulgated Rules and Regulations shall supersede.

2.0 DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this Bylaw. Additional definitions may be adopted by separate regulation:

ALTER: Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN: Site design approaches and techniques, including low-impact development (LID) that can reduce a site’s impact on the watershed through the use of nonstructural stormwater management

practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, using natural features for stormwater management, and providing site-wide infiltration.

DEVELOPMENT: Any construction that disturbs or alters a parcel of land.

DISTURBANCE OF LAND: Any action, including removal of vegetation, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

EXEMPT USE: Any use subject to the provisions of M.G.L. chapter 40A, section 3.

GENERAL STORMWATER MANAGEMENT PERMIT (GSMP): A permit issued for an application that meets a set of pre-determined standards outlined in the Regulations adopted by the Planning Board under Section 4.0 of this Bylaw. By meeting these pre-determined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw.

IMPERVIOUS SURFACE: Any material or structure on, above or below the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved surfaces (parking lots, sidewalks, driveways), roof tops, swimming pools, and paved, gravel and compacted dirt surfaced roads.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LOW IMPACT DEVELOPMENT (LID): An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The latest version as may be amended from time to time of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

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 Sudbury.

NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall, snowmelt, or other method of pollutant transport moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

PRE-DEVELOPMENT: The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Any construction, alteration, improvement, repaving, or resurfacing on a previously-developed site.

RUNOFF: Rainfall or snowmelt water flowing over the ground surface or other source which may result in transport of pollutants.

SITE: The entire parcel of land being developed.

STORMWATER MANAGEMENT: The use of structural or non-structural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Planning Board, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

3.0 AUTHORITY

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 122.34, and as authorized by the residents of the Town of Sudbury at the 2009 Annual Town Meeting.

4.0 ADMINISTRATION

A. The Planning Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to any Town employee, board or agent, hereby known as the "Reviewing Agent".

B. Stormwater Regulations

The Planning Board may adopt, and periodically amend, Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Failure by the

Planning Board to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

C. Stormwater Management Standards and Handbook

The Planning Board will utilize the policy, criteria and information including specifications and standards of the most recent edition of the Massachusetts Stormwater Management Standards and Handbook for execution of the provisions of this Bylaw. Unless otherwise specified in the Town of Sudbury Stormwater Regulations, stormwater management 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.

D. General Stormwater Management Permit

The Planning Board shall have the authority to develop a General Stormwater Management Permit (GSMP) for specific types of projects and thresholds as defined in Section 5.B. of this Bylaw. Requirements of the GSMP shall be defined and included as part of any Stormwater Regulations promulgated as a result of this Bylaw. By meeting these pre-determined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw. If the proposed project does not meet the criteria set forth in the GSMP, the applicant must apply for a Stormwater Management Permit (SMP).

E. Actions by the Planning Board or its Reviewing Agent

The Planning Board or its Reviewing Agent shall take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval

F. Appeals of Action by the Planning Board or its Reviewing Agent

A decision of the Planning Board or its Reviewing Agent shall be final. Further relief of a decision by the Planning Board or its Reviewing Agent made under this Bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.

G. Alternate Stormwater Mitigation

Under certain circumstances where onsite options for stormwater mitigation are limited, or where offsite options provide better protection, the Planning Board or its Reviewing Agent may allow the applicant to contribute to the implementation of offsite stormwater mitigation. This may be allowed at the discretion of the Planning Board or its Reviewing Agent only where a net public benefit is clearly demonstrated and documented by meeting or exceeding the purpose and intent of this bylaw.

5.0 APPLICABILITY

- A. This Bylaw shall be applicable to all new development and redevelopment, including, but not limited to, building permit applications, site plan applications, subdivision applications, wetland permit applications,

grading applications, septic permits, Earth Removal permits, any activity that will result in a change in rate, volume, timing, or quality of stormwater runoff flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 5.D of this Bylaw, and no such activity shall commence until a permit under this Bylaw has been issued.

B. General Stormwater Management Permit (GSMP) Thresholds

A General Stormwater Management Permit (GSMP) shall be required from the Planning Board for the following:

1. Any residential development or associated activity and accessory structures that will disturb or alter from 5,000 square feet to 40,000 square feet of land or which is part of a common plan for development that will disturb or alter from 5,000 square feet to 40,000 square feet of land.
2. Disturbance or alteration, including paving or resurfacing of any pervious surface, of from 500 square feet to 5,000 square feet of land in a commercial, industrial, institutional or exempt use provided there is no net increase in impervious surface; unless such use is an existing non-conforming use prohibited under Section 4242 of the Town of Sudbury Zoning Bylaw (Water Resource Protection District).
3. Construction or maintenance and repair of utility lines (gas, water, sewer or septic, electric, telephone, etc.) other than drainage lines or systems, which will alter terrain, ground cover, or drainage patterns.
4. Septic system construction or modification which will alter the existing grade by two or more feet over an area of 500 or more contiguous square feet.
5. Increased discharge of groundwater or surface water directly or indirectly into the Town of Sudbury's Municipal Separate Storm Sewer System (MS4), including but not limited to discharge of sump pumps or perimeter drains.

C. Stormwater Management Permit (SMP) Thresholds

A Stormwater Management Permit (SMP) shall be required from the Planning Board, or its designee, for the following:

1. Any activity, including clearing or removal of vegetation, that will disturb or alter greater than 40,000 square feet of land, or which is part of a common plan for development that will disturb or alter greater than 40,000 square feet of land.
2. Any activity, including clearing or removal of vegetation, that will disturb or alter 5,000 square feet or more of land in areas with 10% or greater slopes.
3. Any activity, including clearing or removal of vegetation, that will disturb or alter 2,500 square feet or more of land in areas with 15% or greater slopes.

4. Any activity, including clearing or removal of vegetation, that will disturb or alter 1,000 square feet or more of land in areas with 20% or greater slopes.
5. Any activity, including paving or resurfacing of any pervious surface, on any parcel of land in a commercial, industrial, institutional or exempt use that will disturb or alter greater than 5,000 square feet of land..
6. Any development or redevelopment on a parcel of land in a commercial, industrial, institutional or exempt use that will result in a net increase in impervious surface of more than 500 square feet.
7. Any disturbance or alteration, including paving, repaving or resurfacing, on a parcel of land in a commercial or industrial use which is an existing non-conforming use prohibited under section 4242 of the Town of Sudbury Zoning Bylaw (Water Resource Protection District).

D. Exemptions

No person shall disturb or alter land within the Town of Sudbury without having obtained a Stormwater Management Permit (SMP) or General Stormwater Management Permit (GSMP) for the property with the following exceptions:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3.
2. Maintenance of existing landscaping, gardens or lawn areas.
3. Construction or maintenance and repair of utility lines (gas, water, electric, telephone, etc.) other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns.
4. Normal maintenance of Town roads, walkways and other infrastructure.
5. Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by the Planning Board, Board of Health, Conservation Commission, or Department of Public Works.
6. Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.
7. Any activity which will disturb or alter land areas below the thresholds stipulated in B and C above.

6.0 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any Rules and Regulations promulgated under Section 4.0 of this Bylaw.

7.0 PERFORMANCE STANDARDS

Criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section 4.0 of this Bylaw.

8.0 ENFORCEMENT

The Planning Board, or an authorized agent of the Planning Board, shall enforce this Bylaw, Regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Rules and Regulations promulgated under Section 4.0 of this Bylaw.

9.0 SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.