

## COMPREHENSIVE STORMWATER MANAGEMENT BYLAW

### SECTION 48.1 AUTHORITY, PURPOSE AND DEFINITIONS

#### 48.1.1 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 Wilmington at Town Meeting, dated May 2, 2009.

#### 48.1.2 PURPOSE

The purpose of this Bylaw is to regulate discharges to the Municipal Separate Storm Sewer System (MS4) to protect the Town of Wilmington's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with construction sites, developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater. This is accomplished through the following:

- 1.2.1 Institute water resource protection measures identified in the Supplemental Final Comprehensive Water Resource Management Plan / Environmental Impact Report - Commonwealth of Massachusetts EOE File Number 8844 (CWRMP);
- 1.2.2 Protect groundwater and surface water from degradation
- 1.2.3 Promote groundwater recharge
- 1.2.4 Require practices to control the flow of stormwater from new and redeveloped sites into the Town storm drainage system in order to prevent flooding and erosion
- 1.2.5 Require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities
- 1.2.6 Prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and minimize discharge of pollutants from the MS4
- 1.2.7 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;
- 1.2.8 Ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed
- 1.2.9 Comply with state and federal statutes and regulations relating to stormwater discharges; and
- 1.2.10 Establish the Town's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

Nothing in this Bylaw is intended to replace the requirements of either, the Town of Wilmington Zoning Bylaw, General Bylaw, or any other Bylaw that may be adopted by the Town of Wilmington. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

#### 48.1.3 DEFINITIONS

Definitions that apply in the interpretation and implementation of this Bylaw shall be included as part of any Stormwater Regulations promulgated as permitted under Section 3.2 of this Bylaw.

### SECTION 48.2 APPLICABILITY

**48.2.1** No person undertaking construction activity that requires a Planning Board review (including new residential subdivisions and multi-family development, new commercial/industrial development or commercial/industrial redevelopment), a Building Permit (such as new single family residential development or redevelopment), utility line work, or any other threshold set forth in sections 2.2, 2.3, or 2.4 of this Bylaw may proceed without obtaining a Stormwater Management Permit (SMP) or a Simple Stormwater Management Permit (SSMP) from the Planning Board.

#### 48.2.2 Stormwater Management (SMP)

A Stormwater Management Permit (SMP) is required for the following:

- 2.2.1 Any activity that will disturb or alter 20,000 square feet or more of land, or which is part of a common plan for development that will disturb or alter 20,000 square feet or more of land.

- 2.2.2 Any activity that must undergo Site Plan Review per the Wilmington Planning Board Site Plan Review Rules and Regulations.

#### **48.2.3 Simple Stormwater Management Permit (SSMP)**

A Simple Stormwater Management Permit (SSMP) is required for the following:

- 2.3.1 Any activity, except as exempted under Section 2.4, that will disturb or alter less than 20,000 square feet of land, or which is part of a common plan for development that will disturb or alter less than 20,000 square feet of land.
- 2.3.2 Construction or maintenance and repair of utility lines or systems (gas, water, electric, telephone, fire alarms, drainage, etc.) that will disturb or alter less than 20,000 square feet of land and that will temporarily or permanently alter terrain, ground cover, or drainage patterns.

#### **48.2.4 Exemptions**

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

- 2.4.1 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.
- 2.4.2 Maintenance of existing landscaping, gardens or lawn areas.
- 2.4.3 Creating impervious area consisting of a previously existing unpaved driveway for a single family dwelling, or expansion of an existing paved driveway for a single family dwelling.
- 2.4.4 The construction of fencing that will not alter existing terrain or drainage patterns.
- 2.4.5 Construction or maintenance and repair of utility service lines (gas, water, electric, telephone, fire alarms, etc.) other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns.
- 2.4.6 Emergency repairs to any stormwater management facility or situation that poses a threat to public health or safety, or as deemed necessary by the Planning Board.
- 2.4.7 Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.
- 2.4.8 Construction of decks, patios, walkways, driveways, sheds, swimming pools, tennis or basketball courts, or replacement of septic systems on lots having an existing dwelling.
- 2.4.9 An increase in the footprint of a house by less than 600 square feet.
- 2.4.10 Repair or upgrade of septic systems when required by the Board of Health for the protection of public health.

### **SECTION 48.3 ADMINISTRATION**

- 48.3.1 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 its employees or agents.
- 48.3.2 **RULES AND 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 Comprehensive Stormwater Management Bylaw by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates

shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. After public notice and public hearing, the Planning Board may promulgate Rules and Regulations to effectuate the purposes of this Bylaw. 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.

- 48.3.3 **STORMWATER MANAGEMENT HANDBOOK** - The Planning Board will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Standards and Handbook for execution of the provisions of this Bylaw. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The standards and handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Town of Wilmington 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.
- 48.3.4 **SIMPLE STORMWATER MANAGEMENT PERMIT (SSMP)** - The Planning Board shall have the authority to develop a Simple Stormwater Management Permit (SSMP) for specific types of projects and thresholds as defined in Section 2.3 of this Bylaw. Requirements of the SSMP shall be defined and included as part of any Stormwater Regulations promulgated as a result of this Bylaw.
- 48.3.5 **ACTIONS** - The Planning Board may 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.
- 48.3.6 **APPEALS OF ACTIONS** - A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this Bylaw shall be reviewable in the Superior Court in and action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.
- 48.3.7 **PERMITS AND PROCEDURES** - Permit Procedures and Requirements shall be defined and included as part of any Rules and Regulations promulgated as permitted under Section 3.2 of this Bylaw.
- 48.3.8 **WATER RESOURCES MITIGATION FUND** - The Planning Board may allow the applicant to contribute to the Town of Wilmington Water Resources Mitigation Fund in lieu of an onsite stormwater facility where it has been demonstrated that there are not sufficient conditions for onsite stormwater best management practices in order to meet the Performance Standards as described in the Regulations promulgated under this Bylaw. Funds may be used to design and construct storm water projects that will improve the quality and quantity of surface waters in Wilmington by treating and recharging storm water from existing impervious surfaces that is now discharged to said waters with inadequate treatment or recharge. The fee for contribution to the fund shall be determined by the Planning Board.

## **SECTION 48.4 ENFORCEMENT**

- 48.4.1 Any person who violates any provision of this By-law shall be punished by a fine of \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 48.4.2 The Planning Board or an authorized agent of the Planning Board, shall enforce this Bylaw and Regulation promulgated hereunder by means including without limitation, 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 Stormwater Regulations promulgated as permitted under Section 3.2 of this Bylaw.
- 48.4.3 As an alternative to criminal prosecution or civil action, the Planning Board may elect to use the non-criminal disposition procedure set forth in M.G.L. C. 40, S. 21D, in which case the authorized agent of the Planning Board shall be the enforcing person. The penalty for violation shall be

\$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**SECTION 48.5 SEVERABILITY**

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