

FINAL WAKEFIELD STORMWATER MANAGEMENT AND EROSION CONTROL BYLAW

June 13, 2007

1.0 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 rules and regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Wakefield at Town Meeting, dated [_____].

2.0 DEFINITIONS

The definitions contained herein apply to the interpretation and implementation of this Bylaw. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. Additional definitions may be adopted by separate regulation.

ALLOWABLE STORM DRAIN DISCHARGES TO THE MUNICIPAL SEPARATE STORMWATER SYSTEM (MS4): The following discharges non-stormwater discharges are allowed provided it has been determined by the permittee that they are not significant contributors of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharge from potable water sources, foundation drains, air conditioning condensation, irrigation water and springs, water from crawl space pumps, footing drains, lawn watering, individual resident car washing, lows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, residential building wash waters, without detergents.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any **activity** on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include but are not limited to: change from distributed runoff to confined, discrete discharge(s); change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, regulation or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

BETTER SITE DESIGN: Site design approaches and techniques 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 greenspace, reducing impervious cover, and using natural features for Stormwater Management.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) , which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction related land disturbance activities.

HOTSPOT: Land uses or activities with higher potential pollutant loadings, such as vehicle salvage yards, vehicle fueling areas, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage

and loading areas of hazardous substances, or marinas. Refer to Massachusetts Stormwater Management Manual Standard 5 for higher potential pollutant loads, or the most current Massachusetts *Stormwater Management Handbook*.

ILLICIT DISCHARGE: The discharge of any pollutant or non-stormwater discharge into the Municipal Separate Stormwater System (MS4), into a watercourse or into the Water Resources of the Commonwealth of Massachusetts.

IMPERVIOUS SURFACE: Any material or structure on or above 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, patios, and paved, gravel and compacted dirt surfaced roads.

LAND DISTURBANCE: Any action, including clearing and grubbing, that causes a change in the position of or location of soil, sand, rock, gravel, or similar earth material.

LOW IMPACT DEVELOPMENT: A set of strategies that seek to maintain natural hydrologic systems both during and after the development process. This approach implemented by engineering a site so that the post-development hydrologic functions remain close to pre-development conditions by using design techniques that infiltrate, filter, store, evaporate, and detain stormwater runoff close to its source.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state Bylaws promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORMWATER SYSTEM (MS4) means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems. Small MS4s are those located in an incorporated place with a population of less than 100,000 people.

NPDES: The Clean Water Act prohibits anybody from discharging "pollutants" through a "point source" into a "water body of the United States" unless they have a National Pollutant Discharge Elimination System (NPDES) permit. The permit will contain limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health. In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to the operations of each person discharging pollutants.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

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

OWNER: A person with a legal or equitable interest in a property.

PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, codes, administrative agency, public or quasi-public corporation

or body, the Town of Wakefield, and any other legal entity, its legal representatives, agents, or assigns.

REDEVELOPMENT: Any construction, alteration, or improvement, where the existing land use zoning is commercial, industrial (including transportation), institutional, or multi-family residential.

RUNOFF: Rainfall or snowmelt water flowing over the ground surface.

SITE: The parcel of land being developed, or a designated planning area in which the land development project is located.

STORMWATER AUTHORITY: Stormwater Authority or authorized agent(s). The Stormwater Authority or his/her authorized agent(s) is responsible for coordinating the Permit Procedures and Enforcement as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in the Stormwater & Erosion Control Regulations promulgated under this Bylaw.

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

STORMWATER & EROSION CONTROL PERMIT: A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

3.0 PURPOSE

- A. The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, nonpoint source pollution associated with new development and redevelopment, and erosion and sedimentation associated with construction. It has been determined that better site design and proper management of post-development 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, and promote groundwater recharge to protect surface and groundwater drinking supplies.
- B. The purpose of this Bylaw is as follows:
 - (1) To protect the quality and quantity of surface waters, reservoirs, and ground water, maintain the integrity of aquatic living resources and ecosystems, and to preserve the physical integrity of receiving streams and water bodies;
 - (2) To require that NEW DEVELOPMENT, REDEVELOPMENT and all land conversion activities maintain the natural hydrologic characteristics of the land to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
 - (3) To detect and prevent illicit discharges into, connections to, and obstructions of the Town's Municipal Separate Stormwater System (MS4);
 - (4) To establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources; and
 - (5) To minimize the total amount of LAND DISTURBANCE.

- C. **Compatibility with Other Permit and Bylaw Requirements:** This Bylaw is not intended to interfere with, abrogate, or annul any other Bylaw, rule or regulation, statute, or other provision of law. The requirements of this Bylaw should be considered minimum requirements, and where any provision of this Bylaw imposes restrictions different from those imposed by any other Bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

4.0 ADMINISTRATION

- A. **Stormwater Authority.** The Stormwater Authority shall consist of (5) five members, one of who shall permanently be the Town Engineer, and the additional (4) four members shall be appointed by the Board of Selectmen each serving a (3) year term. The Stormwater Authority shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by the Stormwater Authority to its employees or agents.
- B. **Stormwater & Erosion Control Regulations.** The Stormwater Authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fines, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater & Erosion Control Bylaw 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 Stormwater Authority may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure of the Stormwater Authority 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 Manual.** The Stormwater Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of Massachusetts *Stormwater Management* This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Massachusetts Stormwater Management Policy and accompanying *Stormwater Management Handbooks* may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater & Erosion Control 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. **Actions by the Stormwater Authority.** The Stormwater Authority may take any of the following actions as a result of an application for a Stormwater & Erosion Control Permit as more specifically defined as part of the Stormwater & Erosion Control Regulations promulgated as part of this Bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice. If the Wakefield Stormwater Authority finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Wakefield Stormwater Authority may disapprove the application and deny the permit.
- E. **Low Impact Development (LID) Credit System.** This credit system will allow applicants the option, if approved by the Stormwater Authority, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the Stormwater Management Plan Standards section of the Regulations.
- F. **Appeals of Action by the Stormwater Authority.** A decision of the Stormwater Authority shall

be final. Further relief of a decision by the Stormwater Authority made under this Bylaw shall be reviewable in the Superior Court in an action filed within (60) sixty days thereof, in accordance with M.G.L. Ch 49 § 4.

5.0 SCOPE AND APPLICABILITY

All construction activities (1) acre or larger must obtain permit coverage under the NPDES Stormwater Program through their NPDES permitting authority. Construction activities less than 1 acre must also obtain coverage if they are part of a larger common plan of development or sale that totals at least (1) one acre. A copy of all NPDES permits shall be provided to the Town of Wakefield through the Stormwater Authority.

This Bylaw shall apply to all LAND-DISTURBING activities within the jurisdiction of the Town of Wakefield. Except as permitted by the Stormwater Authority in a STORMWATER & EROSION CONTROL PERMIT or as otherwise provided in this Bylaw, no person shall perform any activity that results in LAND DISTURBANCE as described below.

A. Regulated Activities

Regulated activities shall include, but not be limited to:

1. LAND DISTURBANCE of greater than 12,000 square feet, associated with construction or reconstruction of structures;
2. DEVELOPMENT or REDEVELOPMENT involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs (We do not understand this sentence) 12,000 square feet or more of land. REDEVELOPMENT projects are presumed to meet the specified Stormwater & Erosion Control requirements described in the Stormwater & Erosion Control Regulations of the Town of Wakefield if one of the following criteria are met:
 - a) The total impervious cover is reduced by 40% from existing conditions;
 - b) Where site conditions prevent the reduction in impervious cover; stormwater best management practices are implemented to provide stormwater controls for at least 40% of the site's impervious area;
 - c) When a combination of impervious area reduction and implementation of stormwater management practices is used for redevelopment projects, the combination of impervious area reduction and the area controlled by a stormwater best management practice is equal to or exceeds 40 %.
3. Paving or other change in surface material over an area of 12,000 square feet or more causing a significant reduction of permeability or increase in runoff;
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 12,000 square feet;
5. Any other activity resulting in an ALTERATION OF DRAINAGE CHARACTERISTICS of an area exceeding 12,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR
6. LAND DISTURBANCE where there is a 33% or greater slope where the land disturbance is greater than or equal to 5,000 square feet within the sloped area as shown on the Wakefield Digital Base map or otherwise documented by a Professional Land Surveyor (PLS).

B. Exempt Activities:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A Section 3;
2. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw;
3. The reconstruction or resurfacing of any public way; the construction and associated grading of a street that that has been approved by the Planning Board.
4. Repair of septic systems when required by the Board of Health for the protection of public health.
5. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or ALTERATION OF EXISTING DRAINAGE CHARACTERISTICS.
6. The construction of fencing that will not result in the ALTERATION OF EXISTING DRAINAGE CHARACTERISTICS.
7. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not result in the ALTERATION OF EXISTING DRAINAGE CHARACTERISTICS.
8. Emergency repairs to any Stormwater Management facility or practice, such that the original design location, size, and technology remain the same, that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority; & Erosion Control Regulations

6.0 PERMIT PROCEDURES

Permit Procedures and Requirements, including right-of-entry, fee schedule, shall be defined and included as part of the Regulations promulgated under Section 4 of this Bylaw.

7.0 PERFORMANCE STANDARDS

Criteria for Stormwater and Erosion Control Performance Standards shall be defined and included as part of the Regulations promulgated under Section 4 of this Bylaw.

8.0 ENFORCEMENT

The Stormwater Authority or an authorized agent of the Stormwater Authority shall enforce this Bylaw and resulting regulations, orders, violation notices, enforcement orders and fines, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of the Stormwater & Erosion Control Regulations promulgated under Section 4 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, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.