

PC-2

Chapter V: Stormwater Management

[Adopted _____]

1. Definitions:

The following definitions shall apply in the interpretation and enforcement of this bylaw:

Alter shall mean any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

Approval Not Required (ANR) shall mean a plan of land that does not require approval under the Subdivision Control Law of Massachusetts (M.G.L. - Chapter 41, Sections 81K through 81GG).

Stormwater Best Management Practice (BMP) shall mean a structural or nonstructural technique for managing stormwater to prevent or reduce non-point source pollutants from entering surface waters or ground waters. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, biofilter or other stormwater treatment practice or measure either alone or in combination including without limitation any discharge pipe, overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater. Nonstructural stormwater best management practices include source control and pollution prevention measures.

Common Plan of development shall mean any announcement or piece of documentation (including a contract, public notice or hearing, advertisement, drawing, plan, or permit application, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor marking, etc.) indicating imminent or future plans to disturb earth regardless of how many phases or how long it will take to complete. Under this bylaw, a facility is *no longer considered a common plan* if the following criteria are met:

- a) The original plan, including modifications, was substantially completed with less than one acre of the original common plan remaining (i.e., <1 acre of the common plan was not built out at the time); **and**
- b) There was a clearly identifiable period of time (2 years or more) where there was no ongoing construction, including meeting the criteria for final stabilization.

Land Disturbance shall mean any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See also ALTER.

Land uses with higher potential pollutant loads mean the following land uses: land uses identified in 310 CMR 22.20B(2), 310 CMR 22.20C(2)(a) - (k) and (m), 310 CMR 22.21(2)(a) 1 - 8, and 310 CMR 22.21(2)(b) 1 - 6; areas within a site that are the location of activities that are subject to an individual National Pollutant Discharge Elimination System (NPDES) permit or the NPDES Multi-Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high intensity use; confined disposal facilities and disposal sites. Refer to Massachusetts Stormwater Management Standard 5 for higher potential pollutant loads, or the most current Massachusetts Stormwater Management Handbooks.

Low Impact Development Techniques shall mean stormwater management systems that are modeled after natural hydrologic features. Low impact development techniques manage rainfall at the source using uniformly distributed decentralized micro-scale controls. Low impact development techniques use small cost-effective landscape features located at the lot level.

Massachusetts Stormwater Management Policy shall mean the Policy issued by the Department of Environmental Protection, and as amended from time to time, that coordinates the requirements prescribed by state regulations 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 Storm Sewer System (MS4) or Municipal Storm Drain System or Municipal Storm Sewer System shall mean a conveyance or system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Acton.

Stormwater Authority shall mean the Town of Acton Board of Health. The Board is responsible for coordinating the review, approval and permit process as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in Section 4 of this Bylaw.

Stormwater Management shall mean 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 Permit shall mean a permit issued by the Board of Health, 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. —

Additional terms that apply to issuance of a Stormwater Management Permit established by this Bylaw shall be defined and included as part of the Regulations promulgated and, from time to time, amended under section 4.B of this Bylaw, a copy of which is available at the Board of Health and the office of the Town Clerk. Terms not defined in said Regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

2. Purpose and Authority

A. Purpose. Increased and contaminated stormwater runoff associated with developed land uses and the impacts of soil erosion and sedimentation are known to cause:

- Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
- Contamination of drinking water supplies;
- Erosion of stream channels;
- Alteration and destruction of aquatic and wildlife habitat;
- Flooding; and
- Overloading or clogging of municipal stormdrain systems.

The objectives of this Bylaw are to require practices to control the flow of stormwater from new and redeveloped sites into the Acton storm sewer system in order to:

- Prevent pollutants from entering and discharging from the Acton MS4;
- Control the volume and rate of stormwater runoff resulting from land disturbance activities;
- Ensure that soil erosion and sedimentation control measures and Stormwater runoff control practices are incorporated into the site planning and design process;
- Prevent flooding;
- Promote infiltration and recharge of groundwater;
- Encourage the use of low impact development (LID) practices such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable;
- Protect groundwater and surface water from degradation;
- Control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at a construction site;
- Ensure adequate operation and maintenance of structural stormwater best management practices so they work as designed, both long-term and during construction;
- Comply with state and federal statutes and regulations relating to Stormwater discharges; and

- Establish Acton’s legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.
- B. **Authority.** The Stormwater Management Bylaw is hereby established in the Town of Acton, Massachusetts. 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.

This Bylaw shall take effect upon its approval by the Attorney General and publications as provided by M.G.L. Ch. 40 § 32, provided however, that any continuous legally permitted activities in operation on that day may continue.

3. Scope and Applicability

- A. This Bylaw shall be applicable to the following activities:
1. Any Subdivision as defined in the Massachusetts Subdivision Control Law (MGL, Chapter 41, Sections 81K – 81GG) requiring a Definitive Plan;
 2. Any activities that result in a land disturbance greater than one acre within the Town of Acton. Land disturbance shall mean any action that causes vegetation clearing; or a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material; and
 3. Any activities that result in a land disturbance less than one acre if the project is part of a larger common plan of development which will disturb one acre or more within the Town of Acton. Plans that do not require approval under the Subdivision Control Law, hereafter referred to as “ANR lots”, and meet one or more of the applicability criteria described herein are subject to the provisions of this Bylaw and shall obtain a Stormwater Management Permit.
 4. Any alteration, redevelopment, or conversion of land use to a Land Use with Higher Potential Pollutant Loads, defined in Section 1, shall require a Stormwater Management Permit.
- B. Exemptions: No person who meets the applicability of this bylaw shall alter land within the Town of Acton without having obtained a **Stormwater Management Permit (SMP)** with the following exceptions:
1. In the course of customary cemetery management,
 2. Maintenance of landscaping, gardens or lawn areas,
 3. 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,
 4. Any work or projects for which all required permits from the Conservation Commission, Planning Board and the Board of Health have been issued before the effective date of this Bylaw, or
 5. 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 Board of Health or its authorized agent.
 6. Municipal roadway maintenance when conducted in accordance with an approved Erosion Control Plan, prepared in accordance with the Stormwater

Regulations promulgated under Section 4B of this Bylaw, on file with the Board of Health.

C. Coordination with Other Town Permits.

1. No Town Earth Removal Permit, Order of Conditions from the Conservation Commission, Building Permit, Subdivision approval, Special Permit, variance or finding shall constitute compliance with this Bylaw. For a project or activity that meets the Scope and Applicability of this Bylaw, no work may commence until the developer submits a complete Stormwater Management Permit application, the Board of Health issues a Stormwater Management Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved Plans and Permit.
2. 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 take precedence.
3. In case of conflicting requirements between the Acton Stormwater Management Bylaw and the following documents, not limited to: the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, or the BMP design and selection criteria given in the most current Massachusetts Stormwater Management Policy, as amended, the requirements of these shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Acton Stormwater Management Bylaw.

Administration

- A. **Stormwater Authority.** The Board of Health is hereby designated as the Stormwater Authority. The Board of Health, or its agent, shall administer, implement and enforce this Bylaw. The Board of Health may appoint another Town Department, Commission, or Board to act as its authorized agent for site inspections and enforcement of this Bylaw.
- B. **Stormwater Regulations.** The Board of Health may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, and/or consultant fees), procedures and administration of this Stormwater Management 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 fourteen (14) days prior to the hearing date. After public notice and public hearing, the Board of health may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure of the Board of Health 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 Board of Health will utilize the Massachusetts Stormwater Management Policy and Handbooks, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this Bylaw. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically altered in this Stormwater Management Bylaw and Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with the MA Stormwater Management Handbooks' design and sizing criteria shall be presumed by the Board of Health to be protective of Massachusetts water quality standards.
- D. **Actions by the Stormwater Authority.** The Board of Health 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 the Regulations promulgated as part of this Bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- E. **Appeals of Action by the Board of Health.** The decisions or orders of the Board of Health shall be final. Further relief shall be to a court of competent jurisdiction.

5. Permit Procedures

Permit procedures and requirements, including permit submittals, right-of-entry, fee schedule, and public hearing process, shall be defined and included as part of the Regulations promulgated under section 4.B of this Bylaw.

6. Performance Standards

Criteria for erosion and sediment control and post-construction stormwater management, including stormwater performance standards, shall be defined and included as part of the Regulations promulgated under section 4.B of this Bylaw.

7. Waivers

- A. The Board of Health may in its discretion and after due consideration decide to waive and exempt strict compliance with any requirement of the Town of Acton Stormwater Management Bylaw or the Regulations promulgated hereunder, where it makes a written finding that such action is:
 - 1. Allowed by federal, state and local statutes and/or regulations;
 - 2. In the public interest; and
 - 3. Consistent with the purpose and intent of the Town of Acton Stormwater Management Bylaw and its Regulations.
- B. Criteria for granting a waiver shall be defined and included as part of the Regulations promulgated under section 4.B of this Bylaw.

8. Enforcement

The Board of Health or its authorized agent shall enforce this Bylaw and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the Board of Health. As an alternative to criminal

prosecution or civil action, the Board of Health may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the Town of Acton General Bylaws Chapter E 45 in which case the Board of Health shall be the enforcing person. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Health's agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary to determine compliance with a permit issued under this Bylaw. Enforcement shall be further defined and included as part of the Regulations promulgated under section 4.B of this Bylaw.

9. 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.