

## **Stormwater Management**

### **1. Purpose.**

- A. 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 storm drain systems.
- B. The objectives of this bylaw are to require practices to control the flow of stormwater from new and redeveloped sites into the Swansea stormwater system in order to:
- Prevent pollutants from entering and discharging from the Swansea municipal stormwater system;
  - 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 techniques such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable and allowable under Swansea's Subdivision Rules and Regulations;
  - 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 Swansea's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

## 2. 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 (Massachusetts General Laws, chapter 41, sections 81K through 81GG).

**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.

**Low Impact Development Techniques** shall mean stormwater management practices 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 Standards** shall mean the requirements described in the Massachusetts Stormwater Handbook, as they may be amended from time to time, that address water quality (pollutants) and water quantity (flooding, low base flow and recharge) by establishing standards that require the implementation of a wide variety of stormwater management strategies. These strategies include environmentally sensitive site design and LID techniques to minimize impervious surface and land disturbance, source control and pollution prevention, structural Best Management Practices, construction period erosion and sedimentation control, and the long-term operation and maintenance of stormwater management systems. The Stormwater Management Standards have been 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 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 Swansea.

**Nonpoint Source** shall mean any source from which pollution is discharged which is not identified as a point source, including, but not limited to urban, agricultural, or silvicultural runoff.

**Owner** shall mean a person with a legal or equitable interest in a property.

**Point Source** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

**Redevelopment** shall mean the development, replacement, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Standards for Redevelopment only apply to those portions of the parcel that currently contain alteration by human activities. Redevelopment is further defined by Massachusetts Stormwater Management Standard 7.

**Stormwater Authority** shall mean the Town of Swansea Planning Board. The Planning 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 Best Management Practice (BMP)** shall mean a structural or nonstructural technique for managing stormwater to prevent or reduce nonpoint 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.

**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 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 affects 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 5B of this bylaw, a copy of which is available at the Planning Board 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.

### **3. Authority.**

The Stormwater Management bylaw is hereby established in the Town of Swansea, 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 Massachusetts General Laws chapter 40, section 32, provided however, that any continuous legally permitted activities in operation on that day may continue.

### **4. Scope and Applicability.**

A. This bylaw shall be applicable to the following activities:

1. Any Subdivision as defined in the Massachusetts Subdivision Control Law (Massachusetts General Laws, chapter 41, sections 81K - 81GG) requiring a Definitive Plan;
2. Any activities that result in a land disturbance of one acre or greater within the Town of Swansea. Land disturbance shall mean any action that causes vegetation clearing (including tree cutting); or a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material;
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 Swansea. Plans that do not require approval under the Subdivision Control Law, hereafter referred to as "Approval Not Required or 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.

B. Exemptions: No person who meets the applicability of this bylaw shall alter land within the Town of Swansea without having obtained a **Stormwater Management Permit (SMP)** with the following exceptions:

1. Ground disturbances in the course of customary cemetery use and regular maintenance.

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 Massachusetts General Laws chapter 40A, section 3.
4. Any work or projects for which the required permit applications have been submitted to the Planning Board, Zoning Board of Appeals, and Conservation Commission before the effective date of this bylaw. For proposed Subdivisions, a Definitive Plan must have been submitted to be considered exempt from this bylaw.
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 Planning Board or its authorized agent.
6. Municipal roadway maintenance when conducted in accordance with an approved Stormwater Pollution Prevention Plan, prepared in accordance with the Stormwater Management regulations promulgated under Section 5B of this bylaw, on file with the Planning Board.

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 site owner or his agent submits a complete Stormwater Management Permit application, the Planning Board issues a Stormwater Management Permit, and the site owner and responsible parties sign and certify 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, applicable state statutes and regulations shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Swansea Stormwater Management bylaw and the regulations promulgated thereunder. These state statutes and regulations include, but are not limited to, the following documents: the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, and the Massachusetts Stormwater Management Standards, as amended.

## **5. Administration.**

- A. **Stormwater Authority.** The Planning Board is hereby designated as the Stormwater Authority. The Planning Board, or its agent, shall administer, implement and enforce this bylaw. The Planning Board may appoint the Conservation Agent, Town Engineer, or qualified professional to act as its authorized agent for site inspections and to advise the Planning Board.
- B. **Stormwater Regulations.** The Planning Board 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 Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of 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 Manual.** The Planning Board will utilize the Massachusetts Stormwater Management Handbook, 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 Massachusetts Stormwater Management Standards and design and sizing criteria in the Stormwater Management Handbook shall be presumed by the Planning Board to be protective of Massachusetts water quality standards.
- D. **Actions by the Planning Board.** 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 the regulations promulgated as part of this bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- E. **Appeals of Action by the Planning Board.** The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.

## **6. 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 5.B of this bylaw.

## **7. 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 5.B of this bylaw.

## **8. Waivers.**

- A. The Planning Board may, in its discretion and after due consideration, decide to waive and exempt strict compliance with any requirement of the Town of Swansea 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; and
  - 2. In the public interest; and
  - 3. Consistent with the purpose and intent of the Town of Swansea 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 5.B of this bylaw.

## **9. Enforcement.**

The Planning Board 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 Planning Board. As an alternative to criminal prosecution or civil action, the Planning Board may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Laws chapter 40, section 21D, and the Town of Swansea General Bylaws Non-Criminal Disposition of By-law Violations/ Adopted June 29, 2009 – Art. #2/Amended: May 17, 2010 –Art. #26 in which case the Planning Board 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 Planning Board'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 Planning Board 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 5.B of this bylaw.

## **10. 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.