

# STORMWATER MANAGEMENT BYLAW TOWN OF ACUSHNET

## Preamble:

It is hereby determined that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition and decreases groundwater recharge

Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;

The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters;

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural and nonstructural measures;

Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution;

Therefore, the Town of Acushnet has established this bylaw to provide reasonable guidance for the regulation of post-development stormwater runoff and for the purpose of protecting local water resources from degradation.

## 1.0 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 and nonpoint source pollution associated with new development and redevelopment. 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, and protect water and aquatic resources. This Bylaw seeks to meet that purpose through the following objectives:
1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water

resources;

2. Require that new development and redevelopment maintain the pre-development hydrologic characteristics in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution, and maintain the integrity of stream channels and aquatic habitats and provide protection from property damage
  3. 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 increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
  4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
  5. Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as reducing impervious cover and the preservation of greenspace and other natural areas. Coordinate site design plans, which include greenspace within the town's Open Space Protection Plan;
  6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities/devices and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
  7. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater plans, and the inspection of approved projects.
- B) Nothing in this Bylaw is intended to replace the requirements of any other Bylaw that may be adopted by the Town of Acushnet. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

## **2.0 DEFINITIONS**

The following definitions shall apply in the interpretation and implementation of this Bylaw:

Alter - Refers to any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns.

Board - Refers to the Town of Acushnet Stormwater Review Board or its agents.

Certificate of Completion (COC) - Refers to a document issued by the Stormwater Review Board, which states that all conditions of a previously issued Stormwater Management Permit (SMP) have been met and that a project has been completed in compliance with the conditions set forth in a SMP.

Development – the modification of land to accommodate a new use or expansion of an existing use, usually involving construction.

General Stormwater Management Permit (GSMP). Refers to a permit issued for an application that meets a set of pre-determined standards outlined in the Rules and Regulations to be adopted by the Stormwater Review Board under Section 4 of this Bylaw. By meeting these pre-determined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw.

Land Disturbing Activity or Land Disturbance - Any action, including clearing, grubbing, and removal of trees and other vegetation, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

Person - Shall include 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, administrative agency, public or quasi-public corporation or body, the Town of Acushnet, and any other legal entity, its legal representatives, agents, or assigns.

Redevelopment – development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on a previously developed site.

Stormwater Management Permit (SMP) - Refers to a permit issued by the Stormwater Review 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.

Town Officer - Refers to the person(s) designated by the Stormwater Review Board to review Stormwater Management Permit Applications and advise the Stormwater Review Board on Stormwater Permit Applications as outlined in this Bylaw.

### **3.0 AUTHORITY**

- A) 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 Acushnet at Town Meeting, dated May 21, 2007.

- B) The town of Acushnet shall establish a Stormwater Review Board. The membership of said Board shall be made up of the duly established members of the Planning Board.

#### **4.0 ADMINISTRATION**

- A) The Stormwater Review Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Stormwater Review Board may be delegated in writing by the Stormwater Review Board to its employees or agents.
- B) Stormwater Regulations - The Stormwater Review Board may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this Stormwater Management Bylaw. Said Regulations may include post-development stormwater management criteria.
- C) Regulations may be adopted by majority vote of Stormwater Review 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 Stormwater Review Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Stormwater Review 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.
- D) Stormwater Management Manual - The Stormwater Review Board may utilize the policy, criteria and information including specifications and standards of latest edition of the Massachusetts Stormwater Management Policy, or approved local equivalent, for execution of the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the 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.

#### **5.0 APPLICABILITY**

This Bylaw shall apply to all Land-Disturbing Activity within the jurisdiction of the Town of Acushnet, as provided in this By-law.

A) Activities Requiring a Permit – No person shall perform any of the following land-disturbing activities without first obtaining a Stormwater Management Permit from the Stormwater Review Board:

1. Any Land Disturbing Activity resulting in a Land Disturbance of 5,000 square feet or more;

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 5,000 square feet or more of land;
3. Paving or other change in surface material over an area of 5,000 square feet or more causing a significant reduction of permeability or increase in runoff;
4. Construction of a new drainage system or alteration of a new drainage system serving a drainage area of more than 5,000 square feet;
5. Any other activity altering the surface of an area exceeding 5,000 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;
6. Construction or reconstruction of structures where more than 5,000 square feet of roof drainage is altered;
7. Construction or reconstruction of stone walls or any other retaining wall over 12 ft. in length;
8. An alteration, redevelopment, or conversion of land use to a hotspot such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, metal rooftops, outdoor storage and loading areas of hazardous substances, or marinas, shall require a Stormwater Management Permit; **or**
9. Any other Land-Disturbing Activity not expressly exempt from this By-law in accordance with the Section 5(B).

B) Exemptions – The following Land-Disturbing Activities may be performed without a Stormwater Management Permit:

1. Any activity that will disturb an area less than 5000 square feet. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners.
2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
4. Repair or replacement of an existing roof of a single-family dwelling.
5. The construction of any fence that will not alter existing terrain or drainage patterns.
6. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns.
7. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Stormwater Review Board.
8. Construction or reconstruction of stone walls and all other retaining walls less than 12 ft. in length;
9. Any work or projects for which all necessary approvals and permits have been issued prior to the effective date of this Bylaw.

C) Administrative Review of Certain Exempt Projects – Any Land-disturbing activity which is exempt from the permitting requirements of this By-law, and which is performed in connection with a project for which a building permit is required shall be reviewed by the Stormwater Review Board to ensure that the design, testing, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in this bylaw. Applicants for a building permit will submit to the building inspector the documents required in Section 9 of the Acushnet Zoning Bylaw to obtain a building permit. The building inspector will distribute the application to the Conservation Commission. Projects shall be reviewed by the conservation agent concurrently with the building permit process. During the review, the agent will provide guidance materials and conditions to bring the project into conformance with the objectives of this bylaw. If the Agent finds that the project fails to meet these conditions, project proponent may be required to submit a full land disturbance permit application, in accordance with this By-law and the Regulations enacted by the Stormwater Review Board.

D) Redevelopment Projects

1. Redevelopment projects, defined as any construction, alteration, or improvement exceeding land disturbance of 5,000 square feet, where the existing land use is commercial, industrial, institutional, or multi-family residential, is presumed to meet the specified stormwater management requirements described in the Rules and Regulations if the total impervious cover is reduced by 40% from existing conditions. Where site conditions prevent the reduction in impervious cover, stormwater management practices shall be implemented to provide stormwater controls for at least 40% of the site's impervious area. When a combination of impervious area reduction and stormwater management practice implementation is used for redevelopment projects, the combination of impervious area reduction and the area controlled by a stormwater management practice shall equal or exceed 40%.

E) General Permits

1. The Stormwater Review Board shall have the authority to develop a General Stormwater Management Permit (GSMP) for specific types of projects, such as Construction of a Deck, Patio, Retaining Wall, Existing Driveway Expansion, Shed, and Swimming Pool. Any such General Stormwater Management Permit Requirements shall be defined and included as part of any Stormwater Regulations promulgated as permitted under Section 4 of this Bylaw. Nothing in this section shall be construed so as to limit the authority of the Stormwater Review Board with respect to any particular Land-Disturbing Activity.

**6.0 PROCEDURES**

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 4 of this Bylaw.

**7.0 ENFORCEMENT**

The Stormwater Review Board, or an authorized agent of the Stormwater Review 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 as permitted under Section 4 of this Bylaw.

**8.0 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.

**9.0 FEES**

The fees for any permit, approval or review by the Stormwater Review Board shall be determined by said Board.

**10.0 VARIANCES**

A variance may be granted if, in the opinion of the Stormwater Review Board, the request will not adversely affect public safety, public and private property, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters. All variance applications shall be in writing and shall describe how the interests protected by this By-law will be alternatively addressed by the applicant. No variance request will granted unless the applicant shows that: (1) enforcement of this Regulation would be manifestly unjust; and (2) the applicant has established that a level of protection for public health and the environment at least equivalent to that provided under this By-law can be achieved without strict application of the By-law or Regulation.

Any variance granted by the Stormwater Review Board shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the clerk of the city or town, or in the office of the conservation commission. Copies of all variances shall be provided to the Director upon request.

Any variance may be subject to such qualification, revocation, suspension, or expiration as the Stormwater Review Board expresses in its grant. A variance may otherwise be revoked, modified, or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard.