

**TOWN OF SCITUATE GENERAL BYLAWS SECTION 32050  
STORMWATER BYLAW  
REVISION, 1/6/15**

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.
2. **Purpose.** The purpose of this Bylaw is to reduce flooding, protect water quality, increase groundwater recharge, reduce erosion and sedimentation, promote environmentally sensitive site design practices such as Low Impact Development that protect vegetation and enhance town character, ensure long-term maintenance of stormwater controls and meet or exceed federal requirements under Phase II of the National Pollutant Discharge Elimination System.
3. **Applicability.** This bylaw shall apply to the following activities:

**A. Regulated Activities**

1. All development and redevelopment projects that will disturb ~~or alter~~ over 1845,000 sq. ft. of land in a Residential zoning district; render 25% or more, any development of anyan undeveloped lot impervious or parcel that will increase stormwater runoff, or a net increase of 25% or more of impervious area of any developed lot by 25% or more, even if that ~~disturbance~~alteration is conducted over separate phases and/or by separate owners.
2. All development and redevelopment projects that will disturb ~~or alter~~ over 1,000 sq. ft. square feet of land on undisturbed or natural slopes greater than 15%, even if that ~~disturbance~~alteration is conducted over separate phases and/or by separate owners.
3. Construction of a new drainage system or alteration of a drainage system, ~~;~~ serving a drainage area of more than 1845,000 sq. ft. of land.
4. Any development or redevelopment involving "land uses with higher potential pollutant loads," as defined in the Massachusetts Stormwater Management Standards, Volume 1, Stormwater Policy, Handbook. Land uses with higher potential pollutant loads include auto salvage yards, auto fueling facilities (gas stations), fleet storage yards, high-intensity commercial parking lots, road salt storage areas, commercial nurseries, outdoor storage and loading areas of hazardous substances, and marinas.

**B. Exempt Activities**

1.
  - a. Construction on an individual lot within a subdivision approved under the Subdivision Rules and Regulations adopted 8/13/10 or later;
  - b. Construction on a lot served by an approved Common Driveway or shown on an approved Site Plan where the proposed stormwater management system and Operation & Maintenance Plan were reviewed by the Town's consulting engineer and approved by the Planning Board, and if applicable, a current Common Driveway Agreement is on file with the Planning Board; or
  - c. Construction on any lot that has previously been issued a stormwater permit, so long as that construction substantiallythe individual lot development conforms to the grading, the limit of work, impervious areabuilding envelopes, and drainage characteristics shown on an approved plan. Any plan changes that would have the effect of altering drainage characteristics must be on file with the Permitting Authority prior to construction commencing. The Planning Board may require that the applicant obtain an engineer's

certification that drainage characteristics will not be altered by proposed changes to a plan, patterns described in the subdivision's stormwater permit.

2. Landscaping for a single-family home that involves the addition or removal of fewer than 100 cubic yards of soil material or alteration of less than two feet of elevation with maintenance of existing drainage characteristics, patterns.
3. Repair and replacement of existing roofs.
4. Construction of walls and fencing that will not alter existing drainage characteristics, patterns.
5. Use, maintenance, and improvement of agricultural land.
6. Construction of utilities, other than drainage, that will not alter existing terrain or drainage characteristics, patterns, including repairs to existing septic systems when required by the Board of Health.
7. Emergency repairs to any existing stormwater management facility.
8. Routine maintenance and improvement of town-owned public ways not resulting in an increase in impervious area.

#### 4. Administration.

A. This bylaw shall be administered by the Planning Board and the Conservation Commission. Any activity regulated under this bylaw subject to regulation by the Wetlands Protection Act or local Wetlands Bylaw shall also require approval of a Stormwater Permit by the Conservation Commission unless the project is required to undergo stormwater review by the Planning Board (i.e. approval of a Subdivision, Common Driveway, Site Plan, etc). In practice, it will mostly apply to single family dwellings falling under the jurisdiction of the Wetland Protection Act.. All other regulated activities shall require a Stormwater Permit from the Planning Board or its designee. The term Permitting Authority shall be used to refer to the board having jurisdiction over land disturbance or alteration under this bylaw.

~~A.—This bylaw shall be administered by the Planning Board.~~

B. The Planning Board may adopt and amend Stormwater Regulations related to the content of permit applications and the performance standards for development activities, as described in Section 5 below. Failure to promulgate such Regulations shall not have the effect of suspending or invalidating this bylaw.

C. The Planning Board or Conservation Commission as applicable, their and its agents, or their designee, shall review all applications for a Stormwater Permit, issue a Stormwater Permit, conduct necessary inspections and site investigations, issue a final permit, monitor and enforce the permit conditions, issue a Certificate of Completion and shall be responsible for monitoring and enforcement of this bylaw, the permit conditions. This may be combined with or included in the review of drainage undertaken before approval of a Definitive Plan, special permit or Notice of Intent or Special Permit.

D. The Permitting Authority Planning Board may refer any application for a Stormwater Permit to their its consulting engineer for review. It may require the applicant to post a Project Review Fee to cover the cost of this review.

- ~~B. The stormwater permit applications shall be evaluated based on the performance standards of the latest edition of the Massachusetts Stormwater Management Policy (or its successor.) In the event that Scituate should pass more stringent stormwater regulations these shall be the same to which the applications are evaluated.~~
- E. Following receipt of a completed permit application, the Permitting Authority~~Planning Board or its designee~~ shall seek review and comments from the Conservation Commission or Planning Board as applicable, Board of Health, Department of Public Works, Water Resources Committee for projects within the Water Resource Protection District and other town boards or authorities as appropriate.
- ~~F. The Planner~~Planning Board or Conservation and Natural Resources Officer ~~may~~its designee shall not issue at the Stormwater Permit for projects which do not disturb an area greater than 40,000 sq. ft., or disturb any area greater than 1,000 sq. ft. with a slope of 25% or greater, according to procedures outlined in the Stormwater Regulations for an Administrative Stormwater Project Review without a public hearing~~until it has received comments from those boards and authorities to which the application was circulated, or until after 14 days have elapsed since the application was circulated for review, whichever comes first.~~
- G. A Stormwater Permit shall be effective upon the date of issuance and remain in effect until a Certificate of Completion is issued by the Permitting Authority, indicating that all construction activity has been completed, the site has been stabilized, and inspection and approval by the Permitting Authority has occurred, but in no case more than three years from the date of issuance unless extended by vote of the Planning Board or Conservation Commission.
- ~~H. The Planning Board may delegate the authority to issue a Stormwater Permit to its agent or to another town board or authority, in general or under specific conditions, if that board or authority has a substantive role in overall review and permitting of the project, and if that board or authority has adopted by reference the performance standards of this bylaw and accompanying regulations, or the Massachusetts Stormwater Standards, whichever is more restrictive, and has responsibility for their enforcement. Any delegation of authority for review, permitting or enforcement shall be stated in the Stormwater Regulations.~~

## 5. Adoption of Regulations.

- A. The Planning Board may adopt Regulations pursuant to this bylaw after a public hearing and public comment period.
- B. The public hearing shall be advertised in a newspaper of general local circulation at least seven days before the hearing date.
- C. Other boards, commissions, and departments with responsibilities ~~that~~which include or are related to stormwater management are encouraged to adopt those Regulations by reference.

6. **Submittal requirements.** ~~Submittal requirements for subdivisions are defined in the Subdivision Rules and Regulations. Submittal requirements for all other development, and site disturbance and alteration shall include the application form, application fee and plans are as listed below. For applications for a single family home, defined in the Stormwater Regulations. These may be consolidated onto a single site plan. All plans and certifications shall be prepared by a licensed Professional Engineer, include topographic information; the location and area of land proposed to be cleared or disturbed; the location and area of land proposed to be filled including mounded septic systems; the location, height and length of any proposed retaining walls; and natural areas proposed to be permanently protected, including a description of how they will be protected.~~

- A. Application Fee. Each application must be accompanied by the appropriate application fee pursuant to the Stormwater Regulations. This fee shall be sufficient to cover any expenses connected with the public hearing, where required, and review of the Stormwater Permit application. The Permitting Authority is authorized to retain a licensed Professional Engineer or

other professional consultant to advise the Permitting Authority on any or all aspects of the Application.

**B. Erosion and Sedimentation Control.** All applicants must include a plan for properly stabilizing the site before construction begins. This plan shall show the Best Management Practices (BMP's) that will be used during construction to minimize erosion of the soil, sedimentation of stormwater and flow of stormwater onto neighboring properties, roads or drainage systems. These BMPs should include both stabilization practices such as: seeding, mulching, preserving trees and vegetative buffer strips, contouring and structural practices such as: earth dikes, silt socks, silt fences, stabilized construction entrances, drainage swales, sediment traps, check dams, and subsurface or pipe slope drains.

**C. Site Plan and Narrative Showing Proposed Stormwater Measures.** The application for a Stormwater Permit shall include a Site Plan showing BMP's proposed to manage stormwater after construction. This Plan shall contain sufficient information to evaluate existing and proposed drainage characteristics, environmental impact, effectiveness, and acceptability of the measures for reducing adverse impacts from stormwater. All plans shall meet the Performance Standards described in the Stormwater Regulations. With the exception of plans for construction of single- and two-family homes, all plans shall be designed to meet the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, as revised, where these are otherwise applicable. A brief narrative shall be included describing the BMP's with references to their location and function.

**D. Pre- and Post-Construction Operations and Maintenance Plans.** Pre- and Post-Construction Operation and Maintenance Plans (O&M Plans) are required at the time of application for all projects. The required contents of these plans is described in the Stormwater Regulations. The O&M plans may address maintenance of proposed drainage characteristics; protection of vegetation needed to absorb and take up stormwater; operation of equipment during construction; inspections required during construction; amendment compliance with the current Massachusetts Stormwater Standards. They shall be designed to ensure compliance with this bylaw and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 in all seasons and throughout the life of the system. The Town shall make the final decision on what maintenance is appropriate in a given situation with consideration for natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and the need for ongoing maintenance activities. The O&M Plans shall remain on file with the Planning Board or Conservation Commission as applicable and shall be an ongoing requirement.

## **7. Performance Standards.**

**A. Performance standards for site design, erosion control, stormwater management, operation & maintenance guidelines, materials, vegetation, and other aspects of developments shall be described in the Stormwater Regulations with compliance required to the extent practicable in the opinion of the Permitting Authority. Separate performance standards may be adopted for single family homes and all other types of development. Performance standards shall reflect all requirements for stormwater in the Water Resource Protection District found in the Zoning Bylaw for properties in that district.**

There shall be no adverse impact from work proposed in Land Subject to Coastal Storm Flowage. Increases in impervious surface, elevation and/or construction of foundations, grading, fencing, screening, storage or foreshore protection may channelize stormwater, reduce on-site stormwater absorption, increase stormwater impacts on neighboring properties, increase wave heights, reduce the dissipation of wave energy, increase the velocity of flood water and/or increase the extent of flooding. These impacts shall be reduced or mitigated to the greatest extent practicable in the opinion of the Permitting Authority. The Permitting Authority may seek the services of a consultant to assess these potential impacts.

**B. Performance standards outlined in the Rules and Regulations. Performance standards will include (but not be limited to) standards for the following:**

1. Peak discharge rates (flooding protection and channel protection)
2. Peak discharge volume
3. Recharge volume
4. Pretreatment and water quality
5. Erosion control
6. Vegetation, site design, and site restoration
7. Standards for land subject to coastal storm flowage.

~~C. Applicants shall meet these performance standards or those of the Massachusetts Stormwater Management Policy (and its successors), whichever is more stringent.~~

## 8. Review Process.

- A. Applicants are strongly encouraged to schedule a pre-application meeting with the ~~Town~~ Planner ~~and~~ Conservation ~~and Natural Resources Officer, as applicable.~~ ~~Agent~~ to review the proposed development plans at earliest feasible time.
- B. The stormwater permit review shall not require a special public hearing, but stormwater issues may be discussed as part of other Public Hearings on the projects. If no Public Hearing is required, the Planning Board ~~or its designee~~ may choose to hold a special public hearing to solicit public comment.
- C. After review of the application and comments received from other boards, and following the close of a Public Hearing where this hearing is required, the ~~Permitting Authority~~ Planning Board or its designee shall take one of the following actions:
1. Approve the application and issue a Stormwater Permit if it finds that the proposed plan meets the objectives and requirements of this bylaw.
  2. Approve the application and issue a Stormwater Permit with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this bylaw.
  - ~~2.3.~~ Disapprove the application and deny a permit if it finds the proposed plan will not protect water resources or fails to meet the objectives of this bylaw; or if it finds that the applicant has not submitted information sufficient to make such a determination.
- D. Deadline for Action.
1. For a Stormwater Permit for a single family home or a residential duplex, the Permitting Authority shall file its decision with the Town Clerk and the Building Commissioner within thirty (30) days of the date of filing of a completed application. For all other development, a decision shall be made prior to issuance of a building permit if a Common Driveway Special Permit or Definitive Plan is not required. Upon certification by the Town Clerk that the allowed time has passed without action, the Stormwater Permit shall be issued by the Permitting Authority.
- ~~For a Stormwater Permit for a single family home or a residential duplex, the Planning Board or its designee shall file its decision with the Town Clerk and the Building Commissioner within twenty-one (21) days of the receipt of a completed application. For all other development, a decision shall be made prior to approval of a Special Permit or Definitive Plan, if required, or prior to issuance of a building permit if a Special Permit or Definitive Plan is not required. Upon certification by the Town Clerk that the allowed time has passed without action by the Planning Board or its designee, the Stormwater Permit shall be issued by the Planning Board.~~
2. The review period may be extended by mutual consent of the ~~Permitting Authority~~ Planning Board or its designee and the applicant. Failure to extend the review period or take action on

the application before the deadline for action shall be deemed to be approval of such application.

E. **Appeals.** Decisions ~~by the Planning Board~~ under this bylaw may be appealed to Superior Court or Land Court ~~in an action filed within 20 days of the date the decision is filed with the Town Clerk.~~

9. **Site Visits, Inspections, Notification, inspections** Submittal of the stormwater permit application is construed to grant the ~~Permitting Authority~~ Planning Board, its agent, or its designee with permission to enter the site for inspection.

The Permitting Authority may make unscheduled site visits to insure construction complies with the Operation & Maintenance Plan. If it does not comply, the Permitting Authority shall review whether to pursue remedies for enforcement of the Stormwater Permit as described in Section 12 of this bylaw.

10. **Submittal of as-built plans.** ~~The Permitting Authority shall~~ The Planning Board or its designee may require the submittal of as-built plans depicting the construction conditions of the stormwater management system and grading on the site. Specifications for these as-built plans are outlined in the Regulations accompanying this bylaw.

11. **Surety.** The ~~Permitting Authority~~ Planning Board may require the posting of a surety bond until work is completed and satisfactorily inspected, or to ensure maintenance of the system.

12. **Enforcement.** The ~~Permitting Authority~~ Planning Board, its agent, or its designee shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations, including remedies available under non-criminal disposition. Mechanisms and procedures for enforcement ~~may~~ shall be further detailed in Regulations adopted by the Planning Board pursuant to this Bylaw.

#### A. Orders.

1. The Permitting Authority may issue a written order to enforce the provisions of this Section or the regulations thereunder, which may include:

- a. a requirement to cease and desist the construction activity until there is compliance with the provisions of the Stormwater Permit;
- b. maintenance, installation or performance of additional erosion and sediment control measures;
- c. monitoring, analyses, and reporting;
- d. remediation of erosion and sedimentation resulting directly or indirectly from land-disturbing activity.

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

B. Any person that violates any provision of this Section may be punished, under G.L c.40 §21D as a noncriminal offense, by fines of:

- 1. First offense: \$100
- 2. Second offense: \$200
- 3. Each additional offense: \$300

C. Remedies Not Exclusive. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law.

13. **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.