

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 storm water runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition, and decrease 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 storm water runoff quantity and quality can adversely affect public safety, public and private property, surface water drinking water supplies, groundwater resources, 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 storm water runoff quantity and quality from new development and redevelopment, by the use of both structural and nonstructural Best Management Practices;

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 storm water runoff quality and nonpoint source pollution.

Therefore, the Town of Berkley has established this storm water management bylaw to provide reasonable guidance for the regulation of post-development storm water runoff for the purpose of protecting local water resources from degradation. This bylaw regulates the post construction storm water controls for both new and re-development projects.

It has been determined that it is in the public interest to regulate post-development storm water runoff discharges in order to control and minimize increases in storm water runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development storm water runoff.

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 storm water runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development storm water 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. 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, redevelopment and all land conversion activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;

3. Establish minimum post-development storm water management standards and design criteria for the regulation and control of storm water 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 storm water runoff which would otherwise degrade water quality;

4. Establish design and application criteria for the construction and use of structural storm water control facilities that can be used to meet the minimum post-development storm water management standards;

5. Encourage the use of nonstructural storm water management, storm water better site design practices or "low-impact development practices", such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable; Coordinate site design plans, which include green space, with the Town's green space protection plan;

6. Establish provisions for the long-term responsibility for and maintenance of structural storm water control facilities and nonstructural storm water management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;

7. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of storm water facilities implemented as part of this Bylaw;

8. Establish administrative procedures for the submission, review, approval or disapproval of storm water management plans, and, for the inspection of approved active projects, and long-term follow up; Establish certain administrative procedures and fees for the submission, review, approval, or disapproval of storm water plans, and the inspection of approved projects.

B) Nothing in this Bylaw is intended to replace the requirements of the Town of Berkley Zoning Bylaws, the Town of Berkley General Wetlands Protection Bylaw, or any other Bylaw that may be adopted by the Town of Berkley. 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. Additional definitions may be adopted by separate regulation:

ALTER: Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as "alteration of drainage characteristics," and conducting land disturbance activities."

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in storm water volumes and flows reduce point source and nonpoint source pollution, and promote storm water quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of storm water runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN: Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural storm water management

practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, and using natural features for storm water management.

GENERAL STORMWATER MANAGEMENT PERMIT (GSMP): A permit issued for an application that meets a set of pre-determined standards outlined in the Regulations to be adopted by the Planning Board under Section 4 of this Bylaw. By meeting these predetermined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw.

HOTSPOT: Land uses or activities with higher potential pollutant loadings, 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, outdoor storage and loading areas of hazardous substances, or marinas.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, 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, §. 2~ 56. The Policy addresses storm water impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

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, finally depositing them into water resource areas.

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

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Planning Board. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Any construction, alteration, or improvement exceeding land disturbance of Five Thousand (5,000) square feet, where the existing land use is commercial, industrial, institutional, or multi-family residential.

BOARD OF HEALTH: The Board of Health for the Town of Berkley or its authorized agent(s) 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 the 'Storm Water Regulations adopted by the Town of Berkley.

STORMWATER CREDITS: A form of incentive for developers to promote conservation of natural and open space areas. Projects that comply with prescribed requirements are allowed reductions in storm water management requirements when they use techniques to reduce storm water runoff at the site.

STORMWATER MANAGEMENT PERMIT (SMP): 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 affects of uncontrolled and untreated storm water runoff.

3.0 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 regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Berkley at Town Meeting, dated June 2, 2008.

4.0 ADMINISTRATION

A) The Board of Health shall administer, implement and enforce this Bylaw. The Board of Health may delegate any powers granted to or duties imposed upon the Board of Health in writing to its employees or agents.

B) Storm water Regulations. The Board of Health may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Storm Water Management Bylaw by majority vote of the Board of Health, after conducting a public meeting to receive comments on any proposed revisions. Public notice of the meeting date will meet the requirements of the Massachusetts General Laws and any relevant town bylaws. After public notice and a public meeting, the Board of Health may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by 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) Storm Water Management Manual. The Board of Health will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Storm Water Management Policy, or approved local equivalent, for execution of the provisions of this Bylaw. This Policy includes a list of acceptable storm water treatment practices, including the specific design criteria for each storm water 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 storm water regulations, storm water management practices that are designed, constructed, and maintained in accordance with these designs and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

D) General Permit. The Board of Health shall have the authority to develop a General Storm Water Management Permit (GSMP) for specific types of projects, such as, without limitation Construction of a Deck, Patio, Retaining Wall, Existing Driveway Expansion, Shed, Swimming Pool, Tennis or Basketball Court. Any such General Storm Water Management Permit Requirements shall be defined and included as part of any Storm Water Regulations promulgated as a result of this Bylaw.

E) Actions by the Board of Health. The Board of Health may take any of the following actions as a result of an application for a Storm Water Management Permit as more specifically defined as part of Storm Water Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

F) Appeals of Action by the Board of Health. A decision of the Board of Health shall be final.

G) Storm Water Credit System. The Board of Health may adopt, through the Regulations authorized by this Storm Water Management Bylaw, a Storm Water Credit System. This credit system will allow applicants the option, if approved by the Board of Health to take credit for the use of storm water better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Board of Health to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

5.0 APPLICABILITY

A) This Bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of storm water runoff or pollutants flowing from the a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 5.B) of this Bylaw. All new

development and redevelopment under the jurisdiction of this Bylaw as prescribed in this Bylaw shall be required to obtain a Storm Water Management Permit.

B) Exemptions

Discharge or flow resulting from fire fighting activities.

The following non-storm water discharges or flows are exempt from the prohibition of non storm waters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

1. Waterline flushing;
2. Flow from potable water sources;
3. Springs;
4. Natural flow from riparian habitats and wetlands;
5. Diverted stream flow;
6. Rising groundwater;
7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
9. Discharge from landscape irrigation or lawn watering;
10. Water from individual residential car washing;
11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
12. Discharge from street sweeping;

13. Non-toxic dye testing, provided verbal notification is given to the Board of Health prior to the time of the test;
14. Non-storm water discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
15. Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, welfare or the environment.

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 Board of Health or an authorized agent of the Board of Health 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 Storm water regulations promulgated as permitted under Section 4 of this Bylaw

8.0 NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm water, the storm drainage system, or waters of the Commonwealth and United States, said person shall take all necessary steps to ensure containment and cleanup of such release. In the event of such a release of oil or hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall immediately notify the Board of Health, as the authorized enforcement agency, in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Board of Health within three (3) business days of the in person or telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

9.0 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.