

## **ARTICLE 19**

That the Town amend its General Bylaws, Chapter 230 Stormwater Management, Article II Construction Activity Discharges exactly as printed on pages 46 to 55 of the warrant for this Annual Town Meeting.

To see if the Town will vote to amend its General Bylaws, Chapter 230 Stormwater Management, Article II Construction Activity Discharges by deleting Article II in its entirety and replacing it with the following:

**Article II of Stormwater Management and Land Disturbance  
Bylaw (Chapter 230 of Town Municipal Code)  
to replace existing Article II of Chapter 230**

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### **Article II. Construction Activity Discharge**

**§230-11. Authority**

This bylaw is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution and MGL c. 43B, § 13.

**§230-12. Administration**

The Stormwater Authority shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by the Stormwater Authority to its employees or agents.

**§230-13. Purpose and Objectives.**

1. The purpose of this bylaw is to protect public health, safety, general welfare, and environment by regulating illicit connections and discharges to the storm drain system or, directly or indirectly, to a watercourse or into the waters of the Commonwealth, as well as to control the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:
  - a. Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;
  - b. Contamination of drinking water supplies;
  - c. Contamination of downstream coastal areas;
  - d. Alteration or destruction of aquatic and wildlife habitat;
  - e. Overloading or clogging of municipal stormwater management systems; and
  - f. Flooding.

2. The objectives of this bylaw are to:
  - a. Protect water resources;
  - b. Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;
  - c. Prevent and reduce pollutants from entering the Town's municipal separate storm sewer system (MS4);
  - d. Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
  - e. Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - f. Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
  - g. Recognize the Town's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

#### **§230-14. Applicability**

Article II of this bylaw shall apply to all activities that result in disturbance of land. No person may undertake a construction activity or land disturbance, including clearing, grading, excavation or redevelopment, that will disturb equal to or greater than thresholds outlined in the **Stormwater Management and Land Disturbance Regulations** without an Administrative Land Disturbance Review or a Land Disturbance Permit approved by a majority of the Stormwater Authority members or as otherwise provided in this bylaw.

- (1) Administrative Land Disturbance Review is required for "minor" projects disturbing land.
- (2) A Land Disturbance Permit is required for "major" projects disturbing land, or the proposed use is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards, regardless of the amount of land to be disturbed.

Any person that fails to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, or any Land Disturbance Permit issued under the Stormwater Management Regulations, shall be in violation and subject to enforcement action.

#### **§230-15. Waivers**

The Stormwater Authority, or its authorized agent, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action is:

- (1) allowed by federal, state and local statutes and/or regulations; and
- (2) in the public interest; and
- (3) not inconsistent with the purpose and intent of this bylaw.

Any person seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.

All waiver requests shall require a public hearing.

If in the opinion of the Stormwater Authority or its authorized agent, additional time or information is required for review of a waiver request, the Stormwater Authority may continue a hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

#### **§230-16. Regulations**

1. The Stormwater Authority shall adopt within one (1) year, and may periodically amend, regulations, rules and/or written guidance to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Management Bylaw by majority vote after conducting a public hearing to receive comments. Such

hearing shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.

2. Stormwater Management regulations, rules or guidance shall identify thresholds and requirements for Land Disturbance Review and Land Disturbance Permits required by this bylaw and be consistent with, or more stringent than, the most recent Massachusetts Small Municipal Separate Storm Sewer System (MS4s) General Permit.
3. The Stormwater Management Regulations may identify one or more categories for projects requiring a Land Disturbance Review that, because of their size, scope and common features or characteristics, may be approved by the Stormwater Authority. For such projects, the Stormwater Management Agent(s) will identify minimum stormwater management standards pursuant to this bylaw, compliance with which is required before the project is approved.
4. The Stormwater Management Regulations may identify one or more categories for projects subject to Exemptions, Prohibitions, or Waivers.
5. In addition to **§230-17**, the Stormwater Management Regulations shall provide clarity and guidance to the application process, site plan review process, and site plan requirements.
6. The Stormwater Management Regulations shall identify the thresholds and stipulations for violations, enforcement, and penalties.
7. The Appeals process shall be further identified and outlined within the Stormwater Management Regulations.

#### **§230-17. Permits, Plans, Requirements and Procedures**

An Administrative Land Disturbance Review or Land Disturbance Permit must be obtained prior to the commencement of land disturbing activity or redevelopment based on thresholds established in the Stormwater Management Regulations. An applicant seeking an approval and/or permit shall file an appropriate application with the Stormwater Authority in a form and containing information as specified in this bylaw and in regulations adopted by the Stormwater Authority.

Permit procedures and requirements are outlined in the Regulations. Where appropriate, said Regulations will require an Erosion and Sedimentation Control Plan and/or an Operation and Maintenance Plan.

#### **§230-18. Inspection**

Filing an application for an approval or permit grants the Stormwater Authority and its employees or agents permission to enter the site to verify the information in the application and to inspect for compliance with approval or permit conditions.

The Stormwater Authority or its designated agent (s) shall make inspections as outlined in the Stormwater Management Regulations to verify and document compliance with the Land Disturbance Review and/or Permit.

#### **§230-19. Compliance with the provisions of EPA's General Permit for MS4s in Massachusetts.**

This bylaw and its related Stormwater Management Regulations shall be implemented in accordance with the requirements of United States Environmental Protection Agency's most recent Massachusetts Small Municipal Separate Storm Sewer System (MS4s) General Permit relating to illicit connections and discharges, construction site runoff, and post-construction stormwater management, as well as the Massachusetts Wetlands Management Act. The Stormwater Authority may establish additional requirements by regulation to further the purposes and objectives of this bylaw so long as they are not less stringent than those in the MS4 General Permit for Massachusetts.

#### **§230-20. Surety**

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be

completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit.

#### **§230-21. Final Reports**

Upon completion of the work, the applicant shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all BMPs, erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved Erosion and Sediment Control Plan and Stormwater Management Plan. The Stormwater Authority may, by regulation, require ongoing reporting to ensure long-term compliance, including, but not limited to, appropriate operation and maintenance of stormwater BMPs. Any discrepancies shall be noted in the cover letter.

#### **§230-22. Severability**

If any clause, section or part of this bylaw shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this bylaw shall not be affected thereby but shall remain in full force and effect.

#### **§230-23. When Effective.**

This bylaw shall take effect upon approval by the Office of the Attorney General and as otherwise required by MGL c. 40, § 32.

#### **§230-24. Definitions**

**ADMINISTRATIVE LAND DISTURBANCE REVIEW** - Approval by the Stormwater Authority of a land disturbance activity that does not require a Land Disturbance Permit because of its size and/or scope.

**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.”

**ALTERATION OF DRAINAGE CHARACTERISTICS** - Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the areas. Such changes include change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area, change in the peak rate of runoff from the area, and change in the recharge-to-groundwater on the area.

**APPLICANT** - Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the commonwealth or the federal government, to the extent permitted by law, requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

**AS-BUILT DRAWING** - Drawings that completely record and document applicable aspects and features of conditions of a project following construction using Stormwater Management Plans derived from a Land Disturbance Permit.

**BEST MANAGEMENT PRACTICE (BMP)** - An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater discharges.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)** - A certified specialist in soil erosion and sediment control.

**CLEAN WATER ACT** - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**CLEARING** - Any activity that removes the vegetative surface cover.

**COMMON PLAN OF DEVELOPMENT** - A contiguous or noncontiguous land area under one ownership on which multiple separate and distinct construction activities are occurring under one development plan.

**CONSTRUCTION ACTIVITY** - Any activity that causes a change in the position or location of soil, sand, rock, gravel or similar earth material for the purpose of building roads, parking lots, residences, commercial buildings, office buildings, industrial buildings or demolitions.

**CONSTRUCTION SITE** - The plot of land located within the Town on which the construction activity will occur.

**CONSTRUCTION AND WASTE MATERIALS** - Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

**DEVELOPMENT** - The modification of land to accommodate a new use or expansion of use, usually involving construction.

**DISCHARGE OF POLLUTANTS** - The addition from any source of any pollutant or combination of pollutants into the MS4 or into the waters of the United States or Commonwealth from any source.

**DISTURBANCE** - Any activity such as clearing, grading and excavating that exposes soil, sand, rock, gravel or similar earth material.

**EROSION** - The wearing of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicular traffic and the subsequent detachment and transportation of soil particles from their origin to another location.

**EROSION AND SEDIMENTATION CONTROL PLAN** - A document containing narrative, drawings and details developed by a qualified professional engineer (PE), a professional land surveyor (PLS), or a certified professional in erosion and sediment control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction-related land disturbance activities.

**FLOODING** - A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

**GRADING** - Changing the level or shape of the ground surface.

**GROUNDWATER** - All water beneath any land surface including water in the soil and bedrock beneath water bodies.

**GRUBBING** - The act of clearing land surface by digging up roots and stumps.

**IMPERVIOUS SURFACE** - Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, sidewalks, rooftops, driveways, patios, and paved, gravel and compacted dirt-surfaced roads.

**INFILTRATION** - The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**LAND DISTURBANCE ACTIVITY** - Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters, involves clearing and grading, or results in an alteration of drainage characteristics.

**LAND DISTURBANCE PERMIT** - A permit issued by the Stormwater Authority pursuant to this bylaw prior to commencement of Land Disturbing Activity or Redevelopment.

**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 (MGL c. 131, § 40) and Massachusetts Clean Waters

Act (MGL c. 21, §§ 23 through 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)** - The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Sharon.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)** - The Clean Water Act prohibits a person from discharging "pollutants" through a "point source" into a "water of the United States" unless they have an NPDES permit. The permit will contain limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or Peoples' health. In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to the operations of each person discharging pollutants.

**OPERATION AND MAINTENANCE PLAN** - A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**OUTFALL** - A point source at which a municipal separate storm sewer system discharges to waters of the commonwealth.

**OWNER** - A person with a legal or equitable interest in property.

**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 Sharon and any other legal entity, its legal representatives, agents, or assigns.

**POINT SOURCE** - Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**POLLUTANT(S)** - Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any MS4, sewage treatment works or waters of the Commonwealth.

Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, and soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

**PRECONSTRUCTION** - All activity in preparation for construction.

**PRE-DEVELOPMENT** - The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Authority. 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 process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**REDEVELOPMENT** - Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites. The creation of new areas of impervious surface or new areas of land disturbance on a site constitutes development, not redevelopment, even where such activities are part of a common plan which also involves redevelopment. Redevelopment includes maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and remedial projects specifically designed to provide improved stormwater management such as projects to separate storm drains and sanitary sewers and stormwater retrofit projects.

**RUNOFF** - Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT** - Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION** - The process or act of depositing mineral or organic soil material in stormwater as a result of erosion.

**SITE** - Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SOIL** - Any earth, sand, rock, gravel, or similar material.

**STABILIZATION** - The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

**STOP WORK ORDER** - An Enforcement Order issued, which requires that all construction activity on a site be stopped.

**STORMWATER** - Rainfall and snow melt that exceeds the soil's capacity contemporaneously to absorb it and which, instead, runs across the surface of the ground as run-off.

**STORMWATER AGENTS** ("Agents") – As delegated by the Stormwater Authority, the Town Engineer, the Assistant Town Engineer, Conservation Administrator, and the Stormwater Manager will serve in this capacity.

**STORMWATER AUTHORITY** - The Conservation Commission or its authorized agent(s). The Conservation Commission is responsible for coordinating the review, approval and permit process as defined in this By-law. Other Boards and/or departments participate in the review process as defined in the Stormwater Regulations adopted by the Conservation Commission.

**STORMWATER DISCHARGES** - Stormwater that runs off from the construction site into the MS4 or otherwise into waters of the Commonwealth.

**STORMWATER DISCHARGE PERMIT** - A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

**STORMWATER MANAGEMENT MEASURES** - Best management practices that are constructed or installed during construction activity to slow velocities and prevent or reduce pollutants from entering stormwater discharges, or to reduce the quantity of stormwater discharges that will occur after construction activity has been completed. Examples include, but are not limited to: on-site attenuation by vegetation or natural depressions, outfall velocity dissipation devices, retention structures, and water quality detention structures.

**STORMWATER MANAGEMENT PLAN** - A document containing narrative, drawings and details prepared by a qualified professional engineer (PE) or a professional land surveyor (PLS), which includes structural and nonstructural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an operational and maintenance plan describing the maintenance requirements for best structural management practices.

**STORMWATER MANAGER** - A qualified administrator and/or town employee who provides managerial support the Stormwater Authority.

**STORMWATER PERMIT** - The permit issued by the Town to the applicant which allows construction activity to occur as outlined by the applicant in its application and stormwater pollution prevention plan.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** - The plan required of all applicants in which they outline the erosion and sedimentation BMPs they will use, the BMPs they will use to control wastes generated on the construction site, the stormwater management measures they will construct and their plan for long-term maintenance of these measures.

**WATERCOURSE** - A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERS OF THE COMMONWEALTH** - All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**WETLAND RESOURCE AREA** - Areas specified in the Massachusetts Wetlands Protection Act G.L. c.131, § 40 and in the Town of Sharon Wetlands Protection Bylaw and Regulations.

**WETLANDS** - Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes. Common names include marshes, swamps and bogs.