

ARTICLE I

Stormwater Management and Erosion Control**§ 570-1. Purpose.**

The purpose of this bylaw is to manage land development in order to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to:

- 1) Control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff, and
- 2) Control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

§ 570-2. Definitions.

The following definitions shall apply in the interpretation and implementation of this bylaw. Additional definitions may be adopted by separate regulation:

ADVERSE IMPACT — Having a deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses, which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

ALTERATION — Any activity, which will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, earthmoving, paving, and modification of existing vegetation.

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 stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater 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.

CONSTRUCTION SITE — Any site where activity is proposed or occurs that involves the alteration of more than 10,000 square feet of land.

HOTSPOT AREA — Land uses with higher potential pollutant loads as defined in Standard 5 of the Massachusetts Stormwater Handbook, 310 CMR 10.04 and 314 CMR 9.02 to include the following land uses identified in 310 CMR 22.20B(2), 310 CMR 22.20C(2)(a) through (k) and (m), 310 CMR 22.21(2)(a)1. through 8., and 310 CMR 22.21(2)(b)1. through 6.; areas within a site that are the location of activities that are subject to

an individual National Pollutant Discharge Elimination System (NPDES) permit or the NPDES Multi-sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high intensity use; confined disposal facilities and disposal sites.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee or agent of such person.

STORMWATER MANAGEMENT PERMIT — A document signed by the Town of Webster Planning Board, which allows the alteration of the land within a hotspot area or construction site based upon the person's proposed work on a project plan which was submitted as required by this Stormwater Management Bylaw.

§ 570-3. Authority and administration.

- A. This bylaw is adopted pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34, and as authorized by the voters of the Town of Webster at the October 15, 2012 Special Town Meeting under Article 17. The Planning Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated to its designee.
- B. The Planning Board shall adopt, and may periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), fines and penalties, application requirements, procedures and administration of this Stormwater Management Bylaw, after conducting a public hearing to receive comments on any proposed rules and regulations. Failure by 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.

§ 570-4. Applicability.

- A. Prior to construction of any proposed development listed below, a Stormwater Permit is required to satisfy the purpose and intent of this bylaw and in accordance with the rules and regulations adopted pursuant to § 570-3B of this bylaw as revised unless exempt pursuant to § 570-5 of this chapter.
- B. A Stormwater Management Permit will be required prior to starting any land disturbance within the person's property for the following:
 - 1) Construction activities that will result in land disturbances of 10,000 square feet of total area or more, or which is part of a common plan for development that will disturb 10,000 square feet or more;
 - 2) Construction activities that will increase the amount of impervious surface to more than 25% of the lot; or
 - 3) Any alteration, redevelopment or conversion of land use in a hotspot area.

§ 570-5. Exemptions.

The following exemptions from this Stormwater Management Bylaw apply:

- A. Activities that disturb less than 10,000 square feet of land or less than 25% of the lot, whichever is less;
- B. Repair or replacement of an existing roof, patio, deck, or walkway that will not alter existing terrain or drainage patterns;
- C. The construction, reconstruction, or repair of any fence or wall that will not alter the existing terrain or drainage patterns;
- D. Maintenance of existing landscaping, gardens and lawn areas associated with a single family dwelling;
- E. Repair or replacement of a sewage disposal system that will not alter the existing terrain or drainage patterns;
- F. Stormwater discharges resulting from land disturbance activities that are subject to review under the Massachusetts Stormwater Management Policy and permitted under an Order of Conditions issued by the Conservation Commission under the Wetlands Protection Act;
- G. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act regulation, 310 CMR 10.04;
- H. Emergency activities necessary to protect public health or safety, so long as all necessary emergency permits or emergency certifications have been or will be obtained;
- I. Normal maintenance and improvements of the Town of Webster public land, ways and appurtenances;
- J. Construction of municipal utilities; and
- K. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw.

§ 570-6. Permit process.

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 § 570-3B of this bylaw. At a minimum, the applicant must meet standards 1 through 10 of the Massachusetts Department of Environmental Protection Stormwater Management Standards and Handbook using current best management practices and the following:

- A. The Planning Board shall hold a project review meeting with the applicant at a regularly scheduled meeting of the Planning Board no later than 45 days from the date of the submission of the Application for Stormwater Permit.
- B. On receipt and review of a complete application, the Planning Board may:
 - 1) Approve the Permit Application and issue a Permit if it finds that the proposed plan will protect water resources and complies with the purposes of this Bylaw,
 - 2) Approve the Permit Application and issue a Permit with conditions, modifications, or restrictions that the Board determines are required to ensure that the project will protect water resources and complies with the purposes of this Bylaw, or

- 3) Disapprove the Permit Application and deny the Permit if it finds that the proposed plan will not protect water resources or fails to comply with the purposes of this Bylaw.
- C. Failure by the Board to take final action on an application within 60 days following the submittal of a complete application shall be deemed to be approval of the application, unless this timeframe is extended by mutual agreement of the Planning Board and applicant.

§ 570-7. Enforcement; violations and penalties.

A. Enforcement.

- 1) This bylaw shall be enforced by the Planning Board or its designee who may, for these purposes subject to applicable law and regulations; enter upon the premises where such operations are carried on at all reasonable times.

B. Violations and penalties.

- 1) Any person, corporation or entity found in violation of any provision of this bylaw shall be punished by a fine in accordance with the following schedule of fines, and each day that the violation continues shall constitute a separate offense:

Number of Offense

Penalty

First offense

Written notice of violation

Second offense

\$100

Third offense and subsequent offenses

\$200

- 2) Notice of violations and procedures shall be in accordance with MGL c. 40, § 21D and Section 85-2 of the Webster General Bylaws (noncriminal disposition).

§ 570-8. 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.

ARTICLE II

Non-Stormwater Discharge**§ 570-9. Purpose.**

The purpose of this bylaw is to regulate discharges to the Municipal Separate Storm Sewer System ("MS4"), to protect Webster's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment, by:

- a) Preventing pollutants from entering Webster's MS4;
- b) Prohibiting illicit connections and unauthorized discharges to the MS4;
- c) Requiring the removal of all such illicit connections;
- d) Establishing the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

§ 570-10. Definitions.

For the purposes of this bylaw, the following shall mean:

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

DISCHARGE OF POLLUTANTS — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER — Water beneath the surface of the ground.

ILLICIT CONNECTION — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, toilets, or laundry facilities, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 570-12. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to § 570-12 of this bylaw.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltrating from the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM ("MS4") or MUNICIPAL STORM DRAIN SYSTEM — 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 Webster.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE — Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT — 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 Webster's MS4 or waters of the Commonwealth. Pollutants shall include, but not be limited to:

- 1) Paints, varnishes, and solvents;
- 2) Oil and other automotive fluids;
- 3) Non-hazardous liquid and solid wastes and yard wastes;
- 4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- 5) Pesticides, herbicides, and fertilizers;
- 6) Hazardous materials and wastes;
- 7) Sewage, fecal coliform and pathogens;
- 8) Dissolved and particulate metals;
- 9) Animal wastes;
- 10) Rock, sand, salt, silt, soils;
- 11) Construction wastes and residues; and
- 12) Noxious or offensive matter of any kind.

PROCESS WASTEWATER — Water that during manufacturing or processing comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

STORMWATER — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Massachusetts Department of Environmental Protection ("MassDEP") pursuant to 314 CMR 3.00 that authorize the discharge of pollutants to waters of the Commonwealth of Massachusetts.

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

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

§ 570-11. Authority and administration.

This bylaw is adopted pursuant to the federal Clean Water Act (33 U.S.C. 1251 & seq.), and as authorized by the voters of the Town of Webster at the October 15, 2012 Special Town Meeting under Article 17. The Webster Department of Public Works ("DPW") shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the DPW to employees or agents of the DPW.

§ 570-12. Applicability.

This bylaw shall apply to all flows entering the MS4 of the Town of Webster. The following discharges are exempt from this Chapter provided that the source is not a significant contributor of a pollutant to the MS4:

- 1) Water line flushing;
- 2) Landscape irrigation;
- 3) Diverted stream flows;
- 4) Rising ground waters,
- 5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005[20]);
- 6) Uncontaminated pumped ground water;
- 7) Discharge from potable water sources;
- 8) Foundation drains;
- 9) Air conditioning condensation;
- 10) Irrigation water, springs;
- 11) Water from crawl space pumps;
- 12) Footing drains;
- 13) Lawn watering;
- 14) Individual resident car washing;
- 15) Flows from riparian habitats and wetlands;
- 16) Dechlorinated swimming pool discharges;
- 17) Street wash water and residential building wash waters, without detergents;
- 18) Discharges or flows from firefighting activities;
- 19) Dye testing, provided verbal notification is given to the DPW prior to the time of the test;
- 20) Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the

discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and

- 21) Discharges for which advanced written approval is received from the DPW if necessary to protect public health, safety, welfare or the environment.

§ 570-13. Regulations.

The DPW may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 570-14. Prohibited activities.

- A. Illicit discharges. No person shall dump, discharge, cause or allow to be discharged a pollutant or non-stormwater discharge into Webster's MS4 or into waters of the Commonwealth, except as allowed under § 570-12 of this bylaw.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue an illicit connection to an MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of storm drain systems. No person shall obstruct or interfere with the normal flow of stormwater into or out of an MS4 without prior approval from the DPW or its designee.

§ 570-15. Suspension of storm drain access.

The DPW may suspend the access to the MS4 to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, or the environment.

§ 570-16. Monitoring of discharges.

The DPW may establish or require the installation of monitoring equipment as necessary to conduct monitoring and/or sampling of stormwater discharge from a facility that has stormwater discharges associated with industrial activity, construction activity or suspected illicit discharge. Said equipment shall be maintained at all times in a safe and proper operating condition by the facility owner at its own expense. All devices used to measure stormwater flow and quality shall be calibrated by the facility owner to ensure their accuracy.

§ 570-17. Notification of spills.

Notwithstanding any other requirements of local, state or federal law, as soon as a property owner, resident or person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of a known or suspected release of materials at that facility or operation, which is resulting or may result in illicit discharge of

pollutants, that person shall take the necessary steps to ensure containment and cleanup of the release. In the event that a release enters the MS4 or Waters of the Commonwealth in Webster, the person shall immediately notify the Webster DPW. Written confirmation of telephone, facsimile or in-person notifications shall be provided to the DPW or its designee within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained by said facility owner or operator for at least three years.

§ 570-18. Enforcement.

- 1) The Director of the DPW or appointed designee is responsible for enforcing this bylaw and may, as an alternative to seeking a criminal penalty for violation of this bylaw, use noncriminal disposition consistent with the requirements of MGL c. 40, § 21D, and § 85-2 of the Webster General Bylaws.
- 2) The Penalty for each violation of this stormwater management portion of the bylaw and the rules and regulations adopted hereunder shall be two hundred dollars (\$200) and each day or part thereof shall constitute a separate violation. The Director of the DPW or appointed designee may give the offender a written notice on the first offense.
- 3) The DPW, in addition to assessing penalties, may enforce the provisions of this bylaw by seeking injunctive relief if it determines that the health, safety or welfare of any resident or member of the public or that the well-being of the community is or will be endangered by the violation(s).
- 4) To the extent permitted by law, or if authorized by the owner or other person in control of the property, the DPW or its designee may enter onto any property to determine if an activity on such property is in violation of this bylaw or rules and regulations.
- 5) For cause shown, the DPW may suspend or terminate a person's connection to the MS4 for a violation of this bylaw.
- 6) Notice of the intent to suspend or terminate a person's connection to the MS4 shall be given in writing to the owner of the property and to the person in control of the property, if different, by delivering to the owner at the address listed for taxation purposes in the Assessor's Office, and to the person in control of the property by delivering notice to the property. A copy of the notice of hearing shall be mailed to said addresses by certified mail and by first class mail, postage prepaid, at least 14 days before said hearing.
- 7) Said notice shall contain the:
 - a) Name and address of the owner of the property;
 - b) The name and address of the person in control of the property (if known) if different than the owner;
 - c) The action contemplated;
 - d) Statement of violations believed to exist; and
 - e) A statement that the owner and person in control of the property or their representatives may present evidence regarding alleged violations.

- 8) If the DPW or its designee determines in writing that the public health, safety or welfare requires immediate action, it may suspend or terminate MS4 service immediately. However, in such a case, notice as set forth above shall be delivered and mailed to the owner and person in control of the property, if different, informing them that they have 15 days from the date of the suspension or termination to appeal said action of the DPW.

§ 570-19. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

§ 570-20. Transitional provisions.

Property owners shall have six months from the effective date of the bylaw to comply with its provisions, unless good cause is shown for the failure to comply with the bylaw during that period.