

ARTICLE XXIII

STORMWATER MANAGEMENT BYLAW

1. PURPOSE AND INTENT:

The purpose and intent of this bylaw are to:

- A. Protect water resources;
- B. Require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
- C. Promote infiltration and the recharge of groundwater;
- D. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
- E. Encourage the use of Low-Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
- F. Comply with state and federal statutes and regulations relating to stormwater discharges;
- G. Establish the Town of Manchester-by-the-Sea Department of Public Works (DPW) as the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

2. DEFINITIONS

ADMINISTRATIVE LAND DISTURBANCE APPROVAL: A determination by the Permit Authority that land disturbance activity does not require a Stormwater Management Permit.

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 Stormwater Management Permit and/or Administrative Land Disturbance Review for proposed land-disturbance activity.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material, including tree cutting, grubbing, clearing, grading or excavation.

PERMIT AUTHORITY: The Department of Public Works.

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.

STORMWATER MANAGEMENT PERMIT (“SMP” and/or “Permit”): A permit issued by the Permit Authority, after review of an application, plans, calculations, and other supporting documents, which shows that the proposed project is designed to protect the environment of the

Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

3. 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 §22.34
- B. Nothing in this bylaw is intended to replace the requirements of any other bylaw that has been made or may be adopted by the Town of Manchester-by-the-Sea.

4. APPLICABILITY

- A. This bylaw shall apply to all activities that result in land disturbance exceeding the threshold established in the regulations promulgated hereunder.
- B. Administrative Land Disturbance Review is required for projects that result in the amount of land disturbance described in the regulations promulgated hereunder.
- C. Exempt Activities – the regulations promulgated hereunder shall identify certain exempt land disturbance activities.

5. PERMITS AND PROCEDURES

- A. The procedures for a Stormwater Management Permit and/or Administrative Land Disturbance Review application shall be described in detail in the regulations promulgated hereunder.
- B. Waivers.
 - 1) The Permit Authority may waive strict compliance with any requirement of this bylaw or the regulations adopted hereunder, where:
 - (a) Such action is allowed by federal, state, and local statutes and/or regulations;
 - (b) It is in the public interest; and
 - (c) It is not inconsistent with the purpose and intent of this bylaw.
 - 2) Any Applicant may submit a written request to be granted such a waiver. 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 purpose or objectives of this bylaw.
- C. Appeals. A decision of the Permit Authority shall be final. Further relief of a decision by the Permit Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days of the final action taken by the Permit Authority, in accordance with M.G.L. c. 249, §4.

6. FINAL REPORT

Upon completion of the work, the Applicant shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (P.E.), certifying that all erosion and

sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

7. CERTIFICATE OF COMPLETION

The Permit Authority will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work allowed by the permit has been satisfactorily completed in conformance with the permit and this bylaw.

8. EMPLOYMENT OF OUTSIDE CONSULTANTS

The Permit Authority may employ outside consultants, at the Applicant's expense to assist in its permit decision, including but not limited to plan review, drainage, and stormwater analysis; to determine conformance with this bylaw and other requirements; and for construction inspection.

9. PERFORMANCE GUARANTEE

- A. The Permit Authority may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Permit Authority has received the Final Report as required by Section 6 of this bylaw and issued a Certificate of Completion.
- B. The regulations promulgated hereunder shall establish reasonable criteria for assessing the Performance Guarantee.

10. DURATION OF STORMWATER MANAGEMENT PERMIT

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

11. ENFORCEMENT

- A. Land disturbance activities in excess of the thresholds established in the regulations promulgated hereunder conducted without a Stormwater Management Permit or Administrative Land Disturbance Approval shall constitute a violation of this bylaw. The Permit Authority, or an authorized agent of the Permit Authority, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, §21D and General Bylaw Article 1, Section 4, in which case the Permit Authority or its agent shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate

offense.

12. REGULATIONS

The Stormwater Authority shall adopt, and may periodically amend regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures, and administration of this Bylaw by majority vote of the Town of Manchester-by-the-Sea Select Board after conducting a duly noticed public hearing to receive comments pursuant to the Town's public notice requirements. 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.

Stormwater Management Regulations (Regulations), rules, or guidance shall identify requirements for stormwater permits or approvals required by this Bylaw and be consistent with or more stringent than the relevant requirements of the most recent MS4 General Permit.

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.