

# **MANAGING STORMWATER FROM NEW DEVELOPMENT AND REDEVELOPMENT**

## Key Provisions of Effective Stormwater Bylaws and Regulations

# *CURRENT MS4 REQUIREMENTS*

- All towns must have Bylaws for new development and redevelopment
  - For projects of 1 acre or more
  - Must include erosion & sediment control provisions governing construction period
  - Must require permits for post-construction stormwater management (including O&M)
  - Bylaw must be enforceable

# NEW MS4 PROPOSAL

- Bylaws will have to require compliance with at least some DEP Stormwater Standards
- Other provisions, particularly those relating to compliance with the Neponset Bacteria TMDL will be difficult to meet without stricter rules for new development and redevelopment.
- Many if not most Neponset towns will be required to amend their Stormwater Bylaws.

# ASSESSING MUNICIPAL STORMWATER BYLAWS FOR EFFECTIVE STORMWATER MANAGEMENT PROVISIONS

- Draft CIC Stormwater Bylaw Questionnaire covers about 30 possible Bylaw provisions; each town assessed individually
- After review of current bylaws by CIC and municipal staff, municipal staff in each town will select possible bylaw revisions for consideration by its stormwater permitting authority and Board of Selectmen.
- Following are results for 8 towns assessed so far regarding *7 Key Bylaw Provisions*

## **Ques. 1: Does your stormwater bylaw or regulation require projects to comply with all MassDEP Stormwater Standards and the MA Stormwater Handbook?**

*[DEP regulations state that applicants must meet the 10 stormwater standards “**as further defined and specified in the MA Stormwater Handbook,**” but this requirement seldom followed.]*

- 5 of 8 towns assessed require compliance with DEP Stormwater Standards.
- 1 other town requires full on-site recharge of all polluted stormwater, which may be stricter than DEP.
- Only 2 of 8 towns specifically require compliance with the MA Stormwater Handbook.

## 2. Does your bylaw or regulation *specifically* require applicants to implement BMPs that are “consistent with” the Neponset watershed Bacteria TMDL?

- Bacteria is the most serious pollutant virtually everywhere in our watershed.
- The requirement that BMPs be consistent with TMDL(s) is contained in the MA Stormwater Handbook, but is hidden and *largely unknown.*
- NepRWA has developed model Guidance on BMPs consistent with Bacteria TMDL.

## 2. (continued) Bylaw provision requiring BMPs consistent with TMDL(s)

- None of the 8 assessed bylaws contains this specific provision clearly stated.
- Walpole has language that can be interpreted that way, but could use clarification.
- Westwood includes this provision in its draft Bylaw.

### 3. Is the size threshold for stormwater permit applications less than the 1 acre required by the MS4 permit?

- 2 out of the 8 assessed towns do not require stormwater permits for all projects of an acre or more.
- 2 town uses the use the MS4 1 acre threshold (although one of them gives automatic approval if permitting authority doesn't act within 30 days, which probably doesn't meet MS4 standards).
- 4 towns have lower thresholds. *Dedham* has no size threshold below which projects do not need permits; *Canton* has a 5,000 sf threshold, *Westwood's* draft bylaw has a permitting threshold of ½ acre; *Walpole's* is 40,000 sf.

## **4. Does bylaw/reg contain non-permitting requirements/standards for smaller projects?**

- 4 towns have some requirements for projects below their permitting threshold (for Westwood, this is in Draft Bylaw).
- 1 of these towns (Dedham) has no permit size threshold, but exempts some single and 2 family home projects that are designed to minimize stormwater runoff.
- 1 other (Canton) does not, but its permitting threshold is only 5,000 sf.
- 3 towns have no such requirements.

## **5. Is stormwater permitting done by a board and/or staff member with stormwater expertise?**

- The permitting authority in 5 towns is the Conservation Commission and all 5 also have conservation agents.
- 1 town has a designated Stormwater Manager who works with other town committees when stormwater is an issue.
- The permitting authority in 1 town is the DPW.
- 1 town does not require stormwater permits.

## **6. Does your town have good intra-municipal coordination among boards/departments reviewing project with stormwater impacts?**

- This is a subjective measurement. About ½ the towns assessed have told me that this coordination is not good. In at least one of these, another Board has its own rules and review process for stormwater management.
- Coordination is good in Sharon as it has a single Stormwater Manager working with all relevant boards.
- Canton and Walpole require applicants to give a copy of their application to other boards for their review and comment.

## **7. Does your bylaw have strong compliance and enforcement provisions, including effective methods for guaranteeing ongoing O&M?**

- 2 towns do not.
- 5 towns have fairly good C&E provisions, but no effective way to track O&M compliance over the years. Most say they would need a good computer tracking program to do this.
- Sharon probably has the best provisions, including a requirement that permittees report O&M activities annually and establish an O&M Fund.