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# MS4 STORMWATER BYLAW WORKSHOP



CENTRAL  
MASSACHUSETTS  
REGIONAL  
STORMWATER  
COALITION

October 8, 2020

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## Agenda

Objectives for Updated Bylaw/Ordinance

Key Considerations:

- Separate vs. Consolidated Bylaws
- Enforcement Authority
- Review of Exempt Discharges
- Typical Development Projects & Site Plan Review Thresholds
- Building Permit / Certificate of Occupancy
- Roles/Responsibilities and Implementation

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## Objectives for Bylaw / Ordinance Updates

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## Overview of Project Scope

### Task 1

- Identify Existing Bylaws and Ordinances
- Deliverable: Inventory / Links (Table 1)

### Task 2

- Bylaw/Ordinance Components Audit
- Compliance with MS4 Permit
- Deliverable: General Components and Compliance Review (Tables 2 and 3)

### Task 3

- Recommendations
- Implementation considerations
- Deliverables: Recommendations Memo and Workshop(s)



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## Stormwater Permit Requirements for Bylaws/Ordinances

### MCM 3: Illicit Discharge Detection & Elimination

- "adequate legal authority to: prohibit illicit discharges; investigate suspected illicit discharges; eliminate illicit discharges, including discharges from properties not owned by or controlled by the MS4 that discharge into the MS4 system; and implement appropriate enforcement procedures and actions."

### MCM 4: Construction Site Stormwater Runoff Control

- "ordinance or regulatory mechanism that requires the use of sediment and erosion control practices at construction sites. In addition to addressing sediment and erosion control, the ordinance must include controls for other wastes on construction sites such as demolition debris, litter and sanitary wastes."

### MCM 5: Stormwater Management in New Development and Redevelopment

- 1 acre disturbance
- LID
- Mass SW Standards
- Retain Volume on-Site
- Remove TSS
- Remove Phosphorus

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## Stormwater Management Regulatory Documents

### Bylaw / Ordinance

- Legal Authority

### Rules & Regulations

- Technical Requirements
- Procedures

### Guidance Materials

- Examples & Details
- BMPs

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## Key Considerations

# Separate vs. Consolidated Bylaws

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## Separate vs. Consolidated Bylaws Document Structure

*Separate existing bylaws/ordinances may be combined to create one  
Stormwater Management Bylaw/Ordinance*

### Communities with Singular Comprehensive Bylaw

• Ashland	• Charlton
• Fitchburg	• Lunenburg
• Paxton	• Shrewsbury
• Spencer	• Sturbridge
• Upton	• Uxbridge

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## Separate vs. Consolidated Bylaws

### Advantages to Consolidated Bylaw

- **General Language – Authority, Applicability, Purpose, Administration, Definitions, Severability, Enforcement will be consolidated and the same.**
- **Jurisdiction can be same for Illicit Discharges and Land Disturbance or different.**
- **Future updates to one bylaw/ordinance.**

## Consolidated Bylaw vs. Separate Bylaws

### Key Questions:

- **Who has jurisdiction over discharges?**
- **Who will oversee land disturbance?**



Key Considerations

## Authorized Enforcement Agency

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Authorized Enforcement Agency

## Roles and Responsibilities

Administer

Implement

Enforce

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## Authorized Enforcement Agency Central Mass. AEAs



Director of Public Works	Town/City Engineer
Planning Board	Conservation Commission
Highway Department	Board of Health
Land Use Enforcement Officer	Stormwater Committee

Refer to Table 2: Existing Stormwater Bylaw and Ordinance General Information

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## Authorized Enforcement Agency Recommendations

*Consideration should be given to either naming a person with an official Town role as AEA or establishing a “Stormwater Committee” to serve as the AEA comprised of at least one person (position) with an official Town role.*

### Communities with a Board or Commission as the AEA

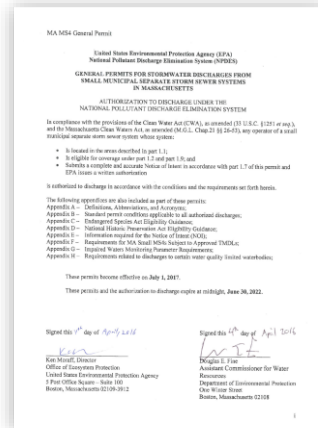
• Ashland	• Ayer
• Charlton	• Framingham
• Grafton	• Hopkinton
• Leominster	• Lunenburg
• Millbury	• Natick
• Northborough	• Palmer
• Paxton	• Rutland
• Shrewsbury	• Southborough
• Spencer	• Sterling
• Upton	• Uxbridge
• Westborough	

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## Authorized Enforcement Agency Key Questions:

- **Who is responsible for MS4 permit compliance?**
- **Who has the most resources to implement and enforce?**
- **What support does the AEA need?**



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## Key Considerations Allowable Discharges

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## Exempt (Allowable) Discharges

- Waterline flushing;
- Flow from potable water sources;
- Springs;
- Natural flow from riparian habitats and wetlands;
- Diverted stream flow;
- Rising groundwater;
- **Uncontaminated groundwater** infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- Discharge from landscape irrigation or lawn watering;
- Water from individual residential car washing;
- **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;
- Discharge from street sweeping;
- **Dye testing**, provided verbal notification is given to the Authorized Enforcement Agency prior to the time of the test;
- Non-stormwater discharge permitted under a Federal or State permit/authorization
- Discharge for which advanced written approval is received from the Authorized Enforcement Agency as necessary to protect public health, safety, welfare or the environment.



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## Exempt (Allowable) Discharges Key Questions:



- ***Pool water discharges – how is that handled?***
- ***Dye testing?***
- ***Future / Regulations - Where do decorative fountain and splash park waters get discharged?***

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Key Considerations

# Typical Development / Land Disturbance Thresholds

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Land Disturbance Thresholds

## Central Mass. Land Disturbance Thresholds

1 acre	All subdivisions, site plan review
40,000 SF	Increase imperviousness to > 50% of parcel
20,000 SF	Disturbance of volume greater than 1,500 CY
5,000 SF	Increase in floor area, vehicle traffic, persons
Project occurs in a critical area or hot spot	Projects clearing 50% of parcel (trees)
Addition of 30% impervious area	Land disturbance in sloped areas (15% slope)



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## Land Disturbance Thresholds Construction Statistics (1 Acre or More)

### Number of Sites seeking coverage under EPA's Construction General Permit by Year

Year	NOI's Filed
2014	6
2015	4
2016	1
2017	1
2018	4
2019	0

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VISIT:

<https://www.epa.gov/npdes/electronic-reporting-epas-npdes-general-permits>

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Search for NOIs

(May want to search under 2017 and 2012 permits)

### Electronic Reporting for EPA's NPDES General Permits

The [NPDES Electronic Reporting Rule](#) requires regulated entities to submit information electronically to EPA instead of filing paper reports. Electronic reporting is required for construction sites, industrial facilities, pesticides, and vessel operators to apply for coverage under EPA's:

- Construction General Permit (CGP),
- Multi-Sector General Permit (MSGP),
- Pesticides General Permit (PGP), and
- Vessel General Permit (VGP).

EPA's Construction General Permit (CGP) (construction stormwater)



[Obtaining coverage under EPA's CGP](#)

[Search for NOIs and LEVs submitted under 2017 CGP](#)

[Search for NOIs and LEVs submitted under the 2008 and 2012 CGPs](#)

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## Land Disturbance Thresholds Construction Statistics

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Under Permit Lookup, Select Construction  
General Permit

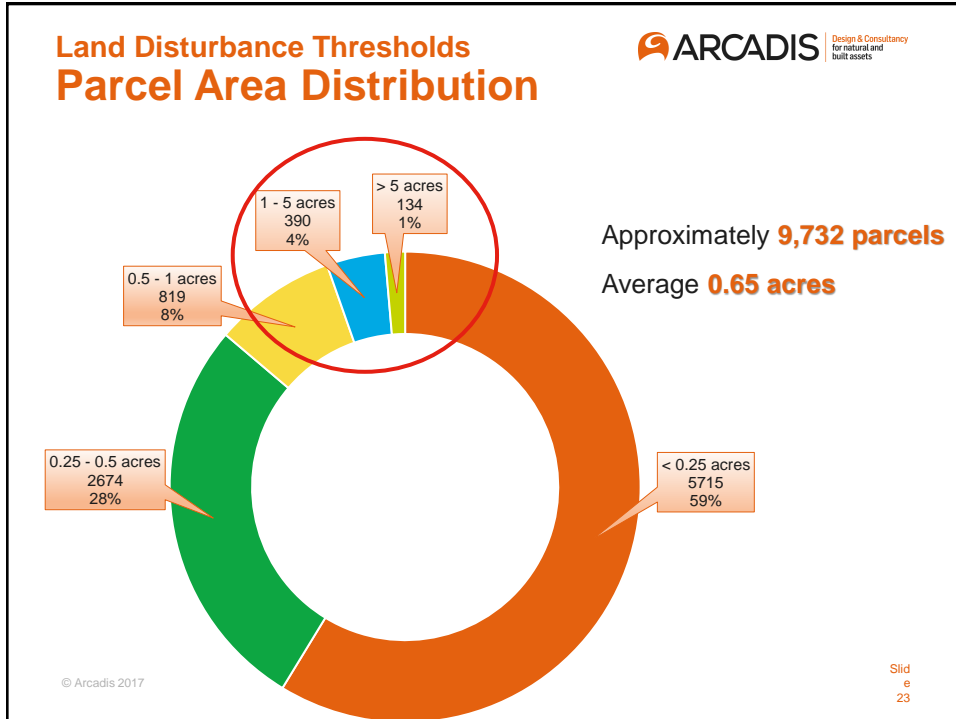
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Enter City/Town and  
State only. Hit Search

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### Land Disturbance Thresholds Key Questions:

- What types of development are you seeing right now, can you expect to see in the future?
- What does the topography of your Town look like?
- Will 1 acre or more be sufficient for controlling stormwater runoff in your Town?
- What level of effort and resources will be required for site plan review/permitting process?
- Are there special/critical areas that require protection outside of other boards' jurisdictions?

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## Key Considerations: Violations/Penalties

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## Enforcement

### Civil Relief

- Injunctive relief in court restraining person from performing activities

### Orders

- Written Order – Eliminate discharges, perform monitoring, cease and desist, remediation

### City Performs Remediation at Cost to Owner

- Cost plus administrative fee, no less than \$300

### Criminal Penalty

- Fine not more than \$200 / violation (each day constitutes separate violation)

### Non-Criminal Disposition

- 1<sup>st</sup> violation \$25
- 2<sup>nd</sup> violation \$50
- 3<sup>rd</sup> violation \$100
- 4<sup>th</sup> violation \$200


### Entry to Private Property to Perform Duties

- Authorized Enforcement Agency
- Inspectional Services Department

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**Violations/Penalties**

**Key Questions:**



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- Each Day is separate violation
- Each Violation is separate
- Mimic clean water act - \$\$ per violation per day.
- Procedural Language belongs in the regulations.
- How does your Town/City set fines? Where do they need to be listed?
- Right to enter property
- Right to perform the fix, at cost to Owner

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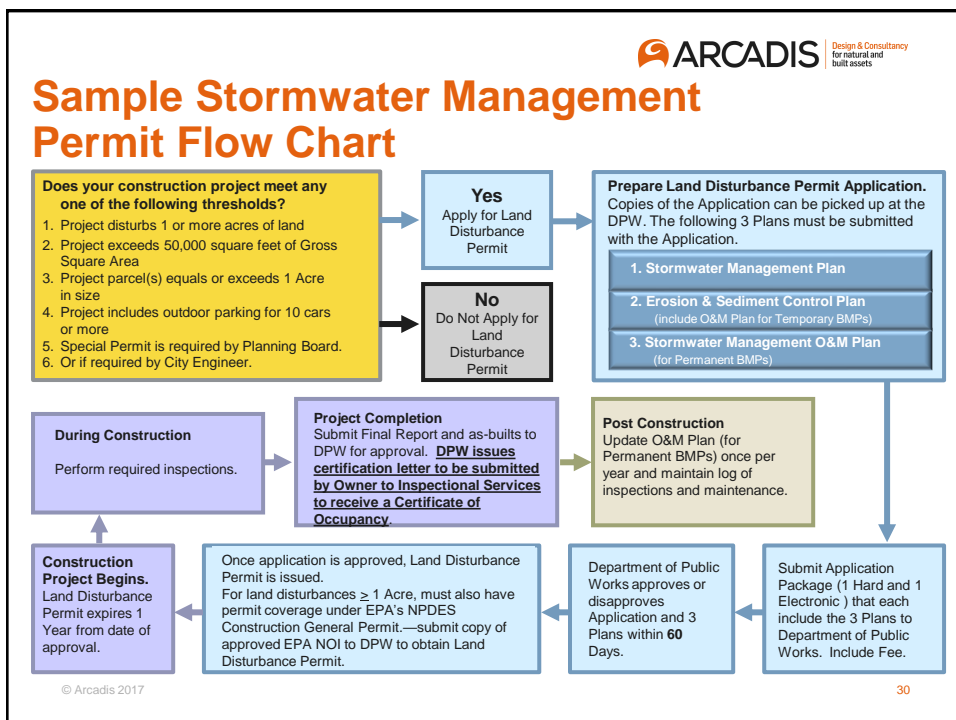
**Key Considerations:**

**Building Permit / Certificate of Occupancy**

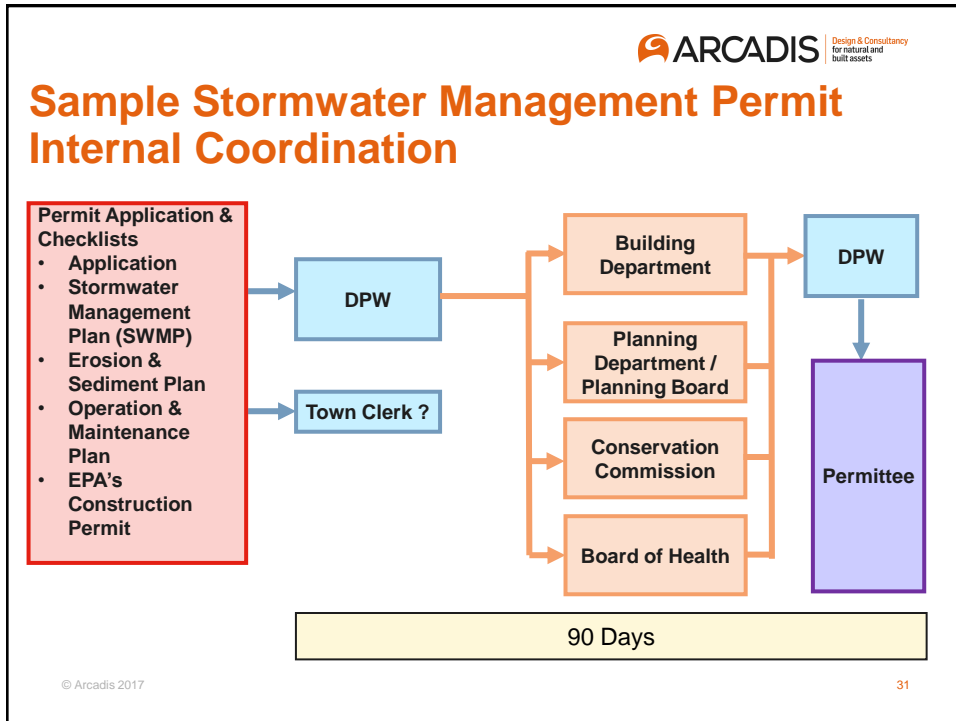
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## Implementation Considerations



Form a Stormwater Bylaw and/or Regulations Task Force



Review related bylaws and regulations for potential opportunities to streamline the site plan submittal and review process



Document findings related to the feasibility of making Green Infrastructure, infiltration practices, etc. allowable



Development of fact sheets, checklists and other educational materials

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## Thank You

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