Article 24: Stormwater Management Bylaw

To see if the Town will vote to amend the General Bylaws by adding the following new Article XV, or take any other action related thereto:

COHASSET STORMWATER MANAGEMENT BYLAW

1. Authority
   This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the federal Clean Water Act, 33 U.S.C. §§ 1251-1386 (the "Act") and regulations issued pursuant to the Act which are found at 40 CFR 122.34.

2. Purpose
   A. The purpose of this Bylaw is to:
      1. Prevent and reduce existing and future flooding.
      2. Protect water quality.
      3. Increase groundwater recharge.
      4. Reduce erosion and sedimentation.
      5. Promote environmentally sensitive site design practices.
      6. Ensure long-term maintenance of stormwater controls.
      7. Help the Town of Cohasset meet federal requirements under Phase II of the National Pollutant Discharge Elimination System.
      8. Establish the legal authority by which the Town of Cohasset can enforce the provisions of this Bylaw and accompanying regulations.

3. Definitions
   A. The following definitions shall apply in the interpretation and implementation of this Bylaw. The term "alter" shall include, without limitation, the following activities:
      1. Changing of pre-existing drainage characteristics, adding impervious area or changing type of land cover, or changing sedimentation patterns, flow patterns or flood retention characteristics;
      2. Dumping, discharging or filling with any material, or removal of material, which would alter elevations or change drainage patterns or degrade water quality;
      3. Driving of piles, erection, or expansion of buildings or structures of any kind;
      4. Destruction of plant life, including clearing of trees;
      5. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

4. Regulated Activities
   A. Regulated Activities Requiring a Stormwater Permit. The following activities, developments or redevelopments require the issuance of a full Stormwater Permit by the Conservation Commission (the "Commission") after the filing by the Applicant of a full application and full review by the Commission through a public hearing:
      1. Any activity that will alter 5,000 square feet or more of land.
      2. Any construction or development activity on an undeveloped parcel of any size that will increase the impervious surface area, or increase the amount or rate of runoff from the parcel.
      3. Any development or redevelopment of Land Uses with Higher Potential Pollutant Loads as defined in the Massachusetts Stormwater Management Policy, which include, for example:
         a. auto salvage yards (auto recycler facilities)
         b. auto fueling facilities (gas stations)
         c. exterior fleet storage areas (cars, buses, trucks, public works equipment)
         d. exterior vehicle service, maintenance and equipment cleaning areas
         e. commercial parking lots
         f. road salt storage and loading areas
g. commercial nurseries
h. outdoor storage and loading/unloading of hazardous substances
i. marinas (service, painting and hull maintenance areas)

B. Regulated Activities Requiring Administrative Approval. The following activities, which are smaller than activities requiring a full Stormwater Permit, shall require approval under an Administrative Approval process by the Commission or its Stormwater Agent:
1. Any activity that will result in a net increase in impervious surface area of more than 500 square feet of land but which will alter less than 5,000 square feet of land.
2. Any replacement of an existing building with a new building of more than 500 square feet.

C. Regulated Activities Completed in Phases Requiring a Stormwater Permit or Administrative Approval:
1. Activities that are completed in phases, such as subdivision developments and phased commercial developments which could be reasonably expected to alter more than the thresholds in 4.A and 4.B shall require a Stormwater Permit or Administrative Approval prior to beginning construction, even if the planned alteration is conducted over separate phases and/or by separate owners.

5. Exempt Activities
A. This Bylaw shall not apply to the following activities:
1. Normal use, maintenance and improvement of land in agricultural use.
2. Maintenance of existing landscaping.
3. Repair or modification of a building that remains within its existing footprint.
4. Construction of a fence that will not alter existing terrain or drainage patterns.
5. Repairs or alterations to any stormwater management facility or practice that poses a threat to public health, safety, or the environment.
6. Emergency work associated with accidents, spills or releases of oil or hazardous wastes, or natural disasters.
7. Repair or maintenance of a sewage disposal system when required by the Board of Health for protection of public health, provided the post-repair condition drainage is similar or more effective than the pre-repair condition.
8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

6. Conservation Commission Authority
A. The Commission shall be responsible for issuing a Stormwater Permit.
B. The Commission may appoint a Licensed Professional Engineer with expertise in stormwater management as its Stormwater Agent to assist the Commission. This position shall be funded from application and review fees charged to applicants during the Stormwater Permit and Administrative Approval process.
C. The Commission shall review Stormwater Permit applications, conduct necessary site inspections and investigations, issue final permits, and monitor and enforce permit conditions. For Administrative Approval of projects regulated under Section 4.B of this Stormwater Management Bylaw, the Stormwater Agent may represent the Commission by conducting site inspections as necessary, issuing a decision based on review, and monitoring conditions stated in the Administrative Approval.
D. The Commission shall establish (1) Application Fees and (2) Review Fees which are sufficient to recover the cost for application review including assistance from the Stormwater Agent. Separate application and review fees shall be established for the Stormwater Permit process and for the Administrative Approval process which requires no public hearing. Said fees and charges shall be established by regulations issued by the Commission.

7. Rules and Regulations
A. The Commission shall adopt and amend Rules and Regulations related to the submittal requirements and performance standards required to obtain a Stormwater Permit or Administrative Approval conducted pursuant to this Bylaw. Rules and Regulations shall be adopted and amended
after a public hearing and public comment period. The public hearing shall be advertised in a newspaper of general local circulation at least seven days before the hearing date.
B. Other boards, commissions, and departments are encouraged to adopt those Rules and Regulations by reference.
C. Failure to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this Bylaw.

8. Performance Standards
A. The purpose of the Stormwater Permit and Administrative Approval Program shall be to maintain the post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics.
B. Performance standards for site design, erosion control, stormwater management, materials, vegetation, and other aspects of developments shall be outlined in the Rules and Regulations. Performance standards shall include (but are not limited to) standards for the following:
1. Peak discharge rates and runoff volumes (flooding protection and channel protection).
2. Recharge volume.
3. Pre-treatment and water quality.
4. Erosion control and property damage.
5. Vegetation, site design, and site restoration.
6. Integrity of stream channels, surface water, and aquatic habitats.
7. Application of Low-Impact Development measures to facilitate the maximum possible infiltration of precipitation on-site.
C. Applicants shall meet these performance standards and those of the Massachusetts Stormwater Management Policy (as may be amended), whichever are more stringent.

9. Submittal Requirements
A. Submittal requirements for a Stormwater Permit, or for Administrative Approval, shall be as required below and as further defined in the Rules and Regulations.
B. Submittal requirements for a Stormwater Permit shall include (but may not be limited to) the following:
1. Stormwater management plan stamped by a Professional Engineer certifying post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics. The plan shall show proposed grading, description of stormwater management system with map of pre- and post-development drainage, existing and proposed vegetation, recharge analysis, hydrologic calculations, and estimated seasonal high groundwater.
2. Abutters list.
3. Erosion control plan.
4. Operations and maintenance plan listing responsible parties, maintenance agreements, maintenance schedule, and estimated annual budget (including anticipated sources of funding) for operations and maintenance.
5. Record(s) of stormwater easements.
6. For subdivision applications, a plan showing the building envelope within each house lot and proposed grading, drainage, and stormwater disposal for each lot.
7. Application and review fees.
C. Submittal requirements for an Administrative Approval shall include (but may not be limited to) the following:
1. A stormwater management plan stamped by a Professional Engineer describing the proposed alteration activities and the mitigation measures and best management practices to be employed to manage stormwater generated by the alteration, and certifying post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics. The following additional submittals may be required, but only if determined necessary by the Commission or their Stormwater Agent to support the
engineer’s stormwater Management plan and certification: Plan of proposed grading, more
detailed description and/or drawings of proposed stormwater management system with map of
pre- and post-development drainage, existing and proposed vegetation, recharge analysis,
hydrologic calculations, estimated seasonal high groundwater, and erosion control plan.
2. Abutters list.
3. Application and review fees.

10. Application Review
   A. Pre-Application Meeting. If a Stormwater Permit or Administrative Approval is required under
      Section 4 of this bylaw, applications are strongly encouraged to schedule a pre-application
      meeting with the Commission and/or its Stormwater Agent to review the proposed development
      plans at the earliest feasible time.

   B. Review and Comment by Town Boards and Departments. Following receipt of a completed
      application for Stormwater Permit or for Administrative Approval, the Commission shall provide
      the opportunity for review and comments from the Planning Board, Board of Health, Sewer
      Commission, Water Commission, Building Inspector and Department of Public Works. Failure by
      these other Town Boards or Departments to make recommendations within fourteen days of
      receipt shall be deemed lack of opposition.

   C. Stormwater Permit. If a Stormwater Permit application is filed, then the review process shall
      include a public hearing held by the Commission in conjunction with public hearings held for
      other aspects of the project when practicable. The Commission shall hold a separate hearing for
      the stormwater permit application if necessary. If a separate hearing is required, then written
      notice shall be given, at the expense of the applicant, in a newspaper of general circulation in the
      Town at least seven (7) working days prior to the hearing; and the Commission shall also give
      written notice of the hearing to all abutters, as that term may be defined by the Commission, also
      at least seven (7) working days prior to the hearing. Such notice shall be given in the form and
      manner that the Commission shall prescribe.

      1. The Commission shall commence the public hearing within twenty-one (21) calendar days
         from the receipt of a complete application and shall issue its permit, denial or determination in
         writing within twenty-one (21) calendar days after the close of said public hearing. The
         Commission shall have the authority to continue any hearing to a date certain announced at
         the hearing, for reasons stated at the hearing, which may include receipt of additional
         information offered by the applicant or others, information and plans required of the applicant
         deemed necessary by the Commission in its discretion, or comments and recommendations of
         other Town boards and officials.

      2. After review of the Stormwater Permit application, circulation to other boards, and public
         hearing, the Commission may take one of the following actions within twenty-one days after
         closing the public hearing:

         a. Approve the application and issue a Stormwater Permit if it finds that the proposed plan
            will protect water resources and meets the objectives and requirements of this Bylaw.

         b. Approve the application and issue a Stormwater Permit with conditions, modifications, or
            restrictions as necessary to ensure protection of water resources or to meet the objectives
            of this Bylaw.

         c. Disapprove the application and deny a permit if it finds the proposed plan will not protect
            water resources or fails to meet the objectives of this Bylaw; or if it finds that the
            applicant has not submitted information sufficient for the Commission to make such a
            determination.

      3. A decision by the Commission shall be final. Appeal should be to a court of competent
         jurisdiction pursuant to applicable law. The remedies listed in this Bylaw are not exclusive of
         other remedies available under applicable federal, state, or local law.

   D. Administrative Approval. The Administrative Approval process shall require notification of
      abutters, as that term may be defined by the Commission, but will not require a public hearing and
      may be conducted by the Stormwater Agent acting on behalf of the Commission. After
      completing a review and after circulating the application to other boards, the Commission or its
      Stormwater Agent may take one of the following actions within twenty-one (21) calendar days of
      receiving a complete application:
1. Approve the application if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw.

2. Approve the application with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this Bylaw.

3. Disapprove the application and require submission of a Stormwater Permit to the Commission.

4. Disapprove the application if it finds the proposed plan will not protect water resources or fails to meet the objectives of this Bylaw; or if it finds that the applicant has not submitted information sufficient for the Commission or its Stormwater Agent to make such a determination.

5. A decision by the Commission or its Stormwater Agent shall be final. A decision by the Stormwater Agent made under this Bylaw shall be reviewable by the Commission if an appeal of the decision is filed with the Town Clerk within twenty days thereof, and if the applicant files with such appeal a complete application for a Stormwater Permit.

11. Site Inspection
Submital of the Stormwater Permit or Administrative Approval application shall grant the Commission and its agents with permission to enter the site for inspection.

12. Surety
For projects requiring a Stormwater Permit under 4.A, the Commission may require the posting of a surety bond until work is completed.

13. Enforcement
A. The Commission shall enforce this Bylaw with violation notices, administrative orders and enforcement orders, and may pursue all civil and criminal remedies for such violations. Mechanisms and procedures for enforcement shall be detailed in Rules and Regulations adopted by the Commission pursuant to this Bylaw.

B. Any person who violates any provision of this Article, regulations thereunder, or permits issued thereunder, shall be punished by a fine of one hundred ($100) dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations or permit violated shall constitute a separate offense.

C. Non-criminal disposition. As an alternative to criminal prosecution or civil action, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, § 21D and Section 1(b) of the Town’s General Bylaws. The penalty for violation shall be $100. Each day or part thereof that such violation occurs or continues shall constitute a separate offence.

14. 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.

Or take any other action related thereto.

INFORMATIONAL SUMMARY:

Board of Selectmen: Recommend Approval by Vote of 5-0
Advisory Committee: