

CITY OF BRISTOL – PUBLIC WORKS POLICY

23.20 PRIVATE PROPERTY STORMWATER RUNOFF – DPW RESPONSE (STORMWATER RUNOFF FROM PRIVATE PROPERTY ONTO PRIVATE PROPERTY)

1. Policy Name

23.20 Private Property Storm Water Runoff – DPW Response (Stormwater Runoff – Private Property to Private Property).

2. Responsible Division and Effective Date

Engineering Division of the Public Works Department.

3. Rationale or Purpose

The Department of Public Works receives a number of requests for assistance from private property owners associated with stormwater runoff from adjacent properties onto their property, causing damage. The concern is primarily associated with the allegation that the adjacent property owner has altered the ground surface characteristics, site topography, or has installed storm drainage in a manner that increases or concentrates stormwater onto their property. Said stormwater concentration or runoff may cause the deposition of sediment, water damage, or erosion and property damage.

Requests for assistance occur during construction on adjacent lots, or in established neighborhoods, where stormwater runoff is a concern.

Impacted residents often seek assistance from the Department of Public Works. The Department's authority to address concerns located on private property is limited. The DPW Engineering Division administers City Inland Wetland regulations, and as such, can enforce regulations within wetlands and upland review areas. The DPW Engineering Division may also have expertise with site grading and storm drainage that can be of value to assist other departments, such as the City's building department, that may have additional authority pursuant to state building codes. In addition, property owners can exercise their rights by taking civil action against adjacent property owners who they assert have damaged their property by increasing or concentrating storm water, or other actions that have resulted in the deposition of sediment onto their property.

Stormwater runoff from one private property onto another private property due to filling, excavating, or grading of land within the area regulated by the Inland Wetland Commission may be subject to enforcement action (fines, tickets, cease and desist) by the Inland Wetland Commission. Areas not located within wetlands or wetlands upland review areas are not subject to Inland Wetland regulations.

Although the Department of Public Works' authority to regulate the excavation, filling, grading, and changes to site ground characteristics on private property is limited, the

City's Building Department may have authority under the following Building Code Provisions:

- a. Section 302.2 Grading and Drainage: All premises shall be graded and maintained to prevent erosion of soil and to prevent the accumulation of stagnate water thereon, or within any structure located thereon.
- b. Section 304.7 Roofs and Drainage: The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration of walls or interior portions of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstruction. Roof water shall not be discharged in a manner that creates a public nuisance.
- c. Section 507.1 Storm Drainage – General: Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates public nuisance.

4. Policy Statement

The Department of Engineering will review each complaint submitted by a property owner indicating a concern that an adjacent property owner has concentrated or increased stormwater flowing onto their property causing damage to their property. To ensure the department's understanding of the complaint, DPW would request documentation in the form of pictures, videos, and/or a written statement.

The DPW investigation will be conducted to determine if it appears that adjacent property owners have performed grading or installed storm drainage that has concentrated or increased flow onto the complainant's property.

The purpose of this policy is to define the level of assistance that the Department of Public Works can provide property owners. The intent of this policy is to provide direction to property owners that are experiencing runoff onto their property from adjacent lots and to establish the level of authority of the Department of Public Works associated with the specific concern. The role of the Department of Public Works is not to define fault or liability. Rather, it is to document condition and, if applicable, pursue correct action or direct complainants to a department or agency that may have the regulatory authority to pursue a corrective action. It should be clear that the Department of Public Works is not authorized to perform corrective work, such as excavating or regrading, on private property to mitigate runoff from one private property to another. The Department's scope of work does not include the design of corrective measures for either party.

In general, the concern with storm runoff from an adjacent property is NOT the flow of stormwater. Stormwater naturally and historically flows from property to property. Stormwater runoff requiring potential corrective action stems from the alteration (excavation, filling, regrading, or changed ground surface conditions) of properties. Stormwater runoff flows from higher elevations to lower elevations. Stormwater flow also increases as rainfall totals and intensity increase.

5. Scope/Items

5.1 Inspection of Property – Upon receipt of a request of assistance from a property owner indicating that the adjacent property has been altered (through a change in ground cover, excavation, or filling of land that has resulted in a concentration or increase in flow water flow onto the subject property), the Department of Public Works shall inspect the property and report the findings to the property owner requesting assistance.

The inspection is to determine if site topography has been excavated, filled, graded, or if ground cover is characterized as modified in a manner that has altered the concentration or increased stormwater flow onto an adjacent property. The Department's investigation shall determine if the area of concern is within an area subject to Inland Wetlands regulation, or currently under construction with an active (open) building permit.

The Department of Public Works site inspection shall include a review of arial photographs, photographs provided by residents, along with proposed and existing site topographic maps.

- 5.2 Properties Located Within Inland Wetland Regulated Areas:** Alteration of site topography (excavation, fill, regrading) shall require permits from the Inland Wetlands and Watercourse regulations, except for activities authorized as a matter of right, in accordance with the regulations. Site grading, excavation, filling, and alterations to ground cover in areas subject to Inland Wetland Regulations resulting in the concentration or increased flow onto an adjacent property shall be subject to a notice to cease and correct actions, fines or tickets by the Inland Wetlands Commission.
- 5.3 Properties currently under construction (open building permits):** Based on inspection of the property by the Department of Public Works, property under construction, or lacking adequate erosion control measures that result in accumulation of sediment or erosion, shall be referred to the Building Department, and Department of Public Works shall recommend that a Certificate of Occupancy not be issued pending correction of runoff concern.
- 5.4 Existing/Established Property Runoff Concerns:** The focus of the Department of Public Works' inspection shall be to identify areas of excavation, filling, or regrading that have altered historic or natural grading of the property. If evidence of site grading alterations is observed, the Department of Public Works shall report findings to the Building Department and the property owner requesting assistance. Property owners shall be advised that areas of disturbance that have revegetated are difficult for the Department of Public Works to identify as areas of excavation, fill, or regrading and may be classified as historic or naturally occurring site conditions.
- 5.5 Stormwater Runoff During Construction:** During the period of construction, when a building permit has been issued, and prior to the issuance of a certificate of occupancy, if construction of the house on an adjacent property is concentrating or increasing storm water flow on a property, the DPW Engineering Division will coordinate with the Building Department to seek corrective action, and recommend suspending or revoking the building permit until the issue is resolved. It is imperative that property owners seeking assistance from the City contact the Department prior to the completion of work and issuance of certificate of occupancy by the Building Department. Once graded, and areas are vegetated and stabilized, it is difficult to identify changes in grades.

- 5.6 Stormwater Runoff from City Roads to Private Property:** Stormwater runoff from City roads onto private property resulting in erosion, accumulation of sediment causing damage as a result of increased stormwater flow are not the subject of this policy. Stormwater runoff from City roads resulting in property damage to private property will be addressed by the Department of Public Works with the installation of storm drainage, driveway aprons, grading within the City right of way or installation of curbing.
- 5.7 Groundwater – Private Property Concerns:** Groundwater flows in the general direction of naturally occurring grades (perpendicular to natural topographic contours). Ground water levels vary based on seasonal rains and soil conditions, and are not generally impacted by construction activities more than 50 ft from the area of concern. As a result, the Department of Public Works has minimal authority to address ground water concerns from residents. In addition, the subsurface groundwater investigations required to accurately determine groundwater conditions, including the installation of monitoring wells, are outside the scope of services provided by the Department of Public Works.

6. Definitions

N/A

7. Approval authority: Board of Public Works

8. Approved date: _____

9. Review cycle: Every five years