

Chapter 193

STORMWATER AND LAND DISTURBANCE

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[HISTORY: Adopted by the Annual Town Meeting of the Town of Wayland 4-10-2008 by Art. 25; amended in its entirety by the Annual Town Meeting 4-6-2015 by Art. 19. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Wetlands and water resources protection — See Ch. 194.

Zoning — See Ch. 198.

Aquifer Protection District — See Ch. 198, Art. 16.

Site plan review and approval — See Ch. 302.

Subdivision of land — See Ch. 303.

§ 193-1. Purposes and objectives.

A. The purpose of this chapter is to:

- (1) Protect the quantity and quality of water recharge to the Town's water supply aquifers;
- (2) Protect cold water fisheries and other designated outstanding water resources from discharges of toxic pollutants, nutrients, and temperature changes;
- (3) Protect and enhance wildlife habitat;
- (4) Protect streams, rivers, and private property from additional flood damage from changed flow patterns.

B. This chapter seeks to implement these goals through the following objectives:

- (1) Complement and expand upon the requirements of state and federal statutes and regulations relating to stormwater and illicit discharges;
- (2) Establish provisions for long-term responsibility for and maintenance of structural stormwater control facilities/devices and nonstructural stormwater management practices to ensure they continue to function as designed, are maintained, and pose no threat to public safety;
- (3) Ensure that soil erosion control measures, sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;

- (4) Require that new development and redevelopment maintain the pre-development hydrologic characteristics in the post-development state as nearly as practicable in order to reduce flooding, stream bank erosion, and non-point source pollution, to maintain the integrity of stream channels and aquatic habitats and to provide protection from property damage.
- (5) Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff; establish minimum design criteria for BMP measures to minimize point and non-point source pollution from stormwater runoff which would otherwise degrade water quality;
- (6) Control the volume and rate of stormwater runoff resulting from land disturbance activities; establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development, redevelopment and land conversion activities from damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff;
- (7) Establish minimum design criteria for BMP measures to minimize point and non-point source pollution from stormwater runoff which would otherwise degrade water quality;
- (8) Require that there be no increase in post-development discharge from storm drainage systems or any other changes in post-development conditions that alter the post-development watershed boundaries;
- (9) Require that all catch basin discharge points or other point source discharge points shall be designed with structures to disperse stormwater energy;
- (10) Encourage the use of non-structural stormwater management and low-impact stormwater site design standards such as reducing impervious cover and the preservation of open space and other natural areas;
- (11) Require practices to control waste such as discarded building materials, truck washouts, chemicals, litter and sanitary waste at construction sites that may cause adverse impacts to water quality;
- (12) Ensure compliance with the provisions of this bylaw through inspection, monitoring and enforcement;
- (13) Establish provisions to ensure there is an adequate funding mechanism, including a performance guarantee, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this chapter;
- (14) Establish administrative procedures and fees for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

- C. Nothing in this chapter is intended to replace the requirements of Chapter 194 of the Town Code, the Town's Wetlands and Water Resources Bylaw, or any other bylaw that may be adopted by the Town.

§ 193-2. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter.

ALTER — Shall include, but is not limited to, one or more of the following actions upon areas described in this bylaw:

- A. The removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- B. The changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood storage retention areas;
- C. The drainage or disturbance of the water level or water table; the dumping, discharging or filling with any material or drainage which could degrade the water quality;
- D. The driving of piles; erection of buildings or structures of any kind;
- E. The placing of obstructions, including docks and piers, whether or not they interfere with the flow of water;
- F. The destruction of plant life, including the cutting of trees;
- G. The changing of water temperature, biochemical oxygen demand and other natural characteristics of the receiving water;
- H. Any activity, change or work which pollutes or degrades the quality of any stream, body of water, wetland, buffer zone, or water resource area, whether located in or out of the Town of Wayland;
- I. The flowage of water, piped or otherwise channelized, through irrigation or other unnatural means into or onto any wetlands, buffer zones, and related water resources.

AUTHORIZED ENFORCEMENT AGENT — The Wayland Conservation Commission, hereinafter the Commission, its employees or agents designated to enforce this chapter.

BEST MANAGEMENT PRACTICE (BMP) — Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment.

- A. Structural BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff.
- B. Nonstructural BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN — Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and open space, reducing impervious cover, and using natural features for stormwater management.

CLEARING — Any activity that removes the vegetative surface cover.

CONSTRUCTION AND WASTE MATERIALS — Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at construction sites that may adversely impact water quality.

DEVELOPMENT — The modification of land to accommodate a new use or expansion of an existing use, usually involving construction.

DISCHARGE — A general outflow term including flow from a pipe into a stream, or from a stream to a body of water.

- A. **DISCHARGE POINT** — The outlet of a pipe or a particular location along a stream.
- B. **DISCHARGE (FLOW) RATE** — Volume of water passing a particular point in a given time.
- C. **DISCHARGE (FLOW) VOLUME** — Includes both sheet runoff and point source discharges from pipes or stream channels.

EROSION — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN — A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ILLICIT DISCHARGE — Any direct or indirect discharge to the municipal separate storm sewer system and municipal storm drain system that is not composed entirely of stormwater, except for projects exempted by this bylaw or regulations issued thereunder. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltration to the underlying soils. "Impervious surface" includes without limitation roads, paved parking lots, sidewalks, stone patios, decking, and rooftops.

INFILTRATION — The movement of water downward into the soil. Infiltration is important to replenishing the groundwater.

LAND-DISTURBING ACTIVITY — Any activity including clearing, the removal of trees and other vegetation that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LAND USE CONVERSION ACTIVITY — Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns.

LOCAL GENERAL PERMIT — Work permitted by right under this chapter, providing that there is an approved erosion and sediment control plan for the land-disturbing activity.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Wayland.

NATURAL VEGETATED STATE — Ground covers of native plants species and other trees, shrubs, and/or grasses that are not mowed more than twice a year.

NEW DEVELOPMENT — Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

NON-POINT SOURCE POLLUTION — Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

NPDES PERMIT — National Pollutant Discharge Elimination System, a permit program of the Clean Water Act administered by the Environmental Protection Agency, Region I, for the Commonwealth of Massachusetts.

OPERATION AND MAINTENANCE PLAN (O & M) PLAN — A plan setting up the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL — A pipe or conduit discharging water.

OWNER — A person with a legal or equitable interest in property.

POST-DEVELOPMENT — The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion and does not refer to the construction phase of the project.

PRE-CONSTRUCTION — All activity in preparation for construction.

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Any ground surface disturbing construction, alteration, demolition, or improvement of a parcel of land that currently lacks a natural vegetated state and contains alterations by man-made activities.

RUNOFF — Water from precipitation, rainfall, snowmelt, or irrigation, which flows broadly over the ground surface as opposed to a channel. Also called "stormwater runoff" or "direct runoff."

- A. **RUNOFF VOLUME** — The total volume of water that occurs as direct runoff from a given rainfall event.
- B. **RUNOFF RATE** — The volume of water passing a particular point in a given period of time, often expressed as cubic feet per second.
- C. **TOTAL RUNOFF** — Includes both sheet or non-point runoff (water flowing over the ground and point sources from stream channels/pipes).

SEDIMENT — Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

SEDIMENTATION — The process or act of deposition of sediment.

SITE — Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE — The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL — Any earth, sand, rock, gravel, or similar material.

STABILIZATION — The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER — Runoff from precipitation or snowmelt, surface water and drainage.

STORMWATER MANAGEMENT AND LAND DISTURBANCE PERMIT (SMLDP) — The permit issued following a review of an application, plans, calculations and other supporting documents, which is designed to protect the environment of the Town of Wayland from deleterious effects of uncontrolled and untreated stormwater runoff.

STRIP — Any activity that removes vegetative ground surface cover, including, but not limited to, tree removal, clearing, grubbing, and storage or removal of topsoil.

TOTAL SUSPENDED SOLIDS (TSS) — A measure of the sediments in a unit volume of water. Small particles of mineral and organic matter that are suspended within water runoff. TSS does not include sediment fractions larger than two millimeters in size.

VERNAL POOL — Any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways, which normally holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool

community species. In addition this definition, shall include any vernal pool certified by the Natural Heritage and Endangered Species Program (NHESP) of the Massachusetts Division of Fisheries and Wildlife.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WAYLAND'S WETLANDS AND WATER RESOURCES PROTECTION BYLAW — Chapter 194 of the Town Code.

WETLAND RESOURCE AREA — Areas specified in the Massachusetts Wetlands Protection Act and/or in Wayland's Wetlands and Water Resources Bylaw.

WETLANDS — Wet meadows, marshes, swamps, bogs, and other areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a hydrophilic plant community, or emergent and submergent plant communities in inland waters.

§ 193-3. Authority.

This chapter is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution.

§ 193-4. Applicability.

- A. This chapter shall apply to all new development and redevelopment within the Town of Wayland, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that is likely to result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that is likely to alter the drainage characteristics of a parcel of land, unless exempt pursuant to § 193-4B of this chapter. An SMLDP shall be required for all new development and redevelopment regulated by this chapter.
- B. Exemptions. No person shall alter land within the Town of Wayland without having obtained an SMLDP for the property, except for the following activities:
- (1) Any activity disturbing an area less than 5,000 square feet; or 10% of the lot area, whichever is less;
 - (2) Any activity creating new impervious surface or increasing existing impervious surfaces less than a total of 500 square feet;
 - (3) Normal maintenance and improvement of land in agricultural use as defined in 310 CMR 10.04 and MGL c. 40A, § 3;

- (4) Construction and repair of septic systems when required and approved by the Board of Health for the protection of public health and in compliance with Massachusetts Title V requirements, providing no other local permit is needed and the applicant has implemented a soil erosion plan that includes the use of sediment barriers, temporary and permanent soil stabilization specifications, and containment of erodible materials;
- (5) Projects wholly within the jurisdiction of the Commission and requiring an Order of Conditions pursuant to the Wetlands Protection Act and/or a wetlands permit pursuant to Chapter 194 of the Town Code;
- (6) Construction activities associated with utilities (gas, water, electric, telephone, fiber-optic cable) other than drainage, which will not permanently alter terrain, ground cover or drainage patterns;
- (7) Emergency repairs to any stormwater management facility or practice that poses a threat to public health or public safety or as deemed necessary by the Commission;
- (8) Any work or projects for which all necessary approvals and permits have been issued prior to the effective date of this chapter;
- (9) Construction or reconstruction of an existing stonewall and all other retaining walls less than 12 feet in length that will not deter drainage or runoff;
- (10) The construction of any fence that will not alter existing terrain or drainage patterns;
- (11) The repair or replacement of an existing roof of a single-family dwelling;
- (12) Municipal activities for public safety or public health such as water line flushing, street sweeping and dye testing, provided notification is given to the Authorized Enforcement Agency.

§ 193-5. Administration.

- A. The Conservation Commission shall administer and implement this chapter.
- B. Stormwater and land disturbance regulations. The Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection and/or consultant), procedures and administration of this chapter by majority vote of the Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing date shall be advertised in a newspaper of general local circulation, at least seven days prior to the hearing date. After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of the Commission to promulgate such rules and regulations shall not act to suspend or invalidate the effect of this chapter.
- C. Waiver: The Commission may waive strict compliance with any requirement of this chapter or the rules and regulations promulgated hereafter, where such action:

- (1) Is allowed by federal, state and local statutes and/or regulations;
- (2) Is in the public interest; and
- (3) Is not inconsistent with the purpose and objectives of this chapter.

§ 193-6. Procedures.

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 193-5 of this law.

§ 193-7. Enforcement.

The authorized enforcement agent shall enforce this chapter, regulations, orders, violation notices, and enforcement orders, and may pursue all civil (noncriminal) and criminal remedies for such violations.

§ 193-8. Severability.

The invalidity of any section, provision, paragraph, sentence, or clause of this chapter shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

