

Stormwater Management Bylaw Lancaster, Massachusetts

Introduction

The Town of Lancaster hereby determines that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn have led to increased flooding, stream channel erosion, and sediment transport and deposition, and decreased groundwater recharge.

As the area of house and building roofs, parking lots and road surfaces increase, the rate of stormwater runoff from these surfaces increases, along with the preponderance of greater flooding. Unregulated stormwater runoff from historic development has led to the flooding we see today.

Land development projects and other land use conversions also contribute to increased non-point source pollution and degradation of receiving waters.

The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, groundwater resources, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters.

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and re-development, by the use of both structural and non-structural Best Management Practices.

Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and non-point source pollution.

The United States Environmental Protection Agency has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, flooding, post-construction soil erosion and sedimentation, stream channel erosion, and non-point source pollution associated with post-development stormwater runoff.

Therefore, the Town of Lancaster has established this Stormwater Management Bylaw to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from

degradation. This Bylaw regulates the post-construction stormwater controls for both new and re-development projects.

1.0 Purpose

The purpose of the Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, flooding and non-point source pollution associated with new development and re-development and to comply with Phase II NPDES Stormwater requirements.. It has been determined that proper management of post-development stormwater runoff will minimize flood damage to the public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies.

The objectives of this Bylaw are:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development, re-development and all land conversion activities result in after-development runoff characteristics that are equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, non-point source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
3. 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 and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff; and establish minimum design criteria for measures to minimize non-point source pollution from stormwater runoff which would otherwise degrade water quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of non-structural stormwater management measures and better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable; and coordinate site design plans, including green space, with the Town of Lancaster’s design guidelines;

6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and non-structural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
7. Establish provisions to ensure there is an adequate funding mechanism, including financial security or surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented under this Bylaw;
8. Establish administrative procedures and fees for the submission, review, approval or disapproval of stormwater management plans, the inspection of approved active development projects, and for long-term follow-up inspection to ensure ongoing care of approved facilities.
9. Establish the Town of Lancaster's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

Nothing in the Bylaw is intended to replace the requirements of the Town of Lancaster Wetlands Protection Bylaw or any other Bylaw or regulations that may be adopted by the Town of Lancaster, or any State or Federal requirement, law, regulation or policy. Any activity subject to the provisions of this Bylaw must comply with the requirements of all other applicable laws and regulations.

2.0 Definitions

The definitions contained herein apply to issuance of a Stormwater Management Permit (SMP) established by the Town of Lancaster Stormwater Management Bylaw. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

ALTERATION: Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alteration may be similarly represented as "alteration of drainage characteristics" and "conducting land disturbance activities". Such changes include change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Applicant shall refer to a property owner or agent of a property owner who has filed a stormwater management plan.

BEST MANAGEMENT PRACTICES (BMP): Structural, non-structural 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. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Non-structural” BMPs are natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BUILDING: A building shall refer to any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property, and occupying more than 100 square feet of area.

CHANNEL: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*) and as it is amended from time to time.

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DETENTION: The temporary storage of storm runoff in a stormwater management facility, with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DEVELOPER: A person who undertakes land disturbance activities.

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

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the storm drain or into waters of the United States or Commonwealth from any source.

DISTURBANCE OF LAND: Any action, including clearing and grubbing that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

DRAINAGE WAY: Any channel that conveys surface runoff throughout the site.

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 CONTROL: A measure that prevents erosion.

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.

GRADING: Changing the level or shape of the ground surface.

GROUNDWATER: Water beneath the surface of the ground.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltration to the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks, rooftops, compacted soils, hard-packed gravel driveways and similar surfaces.

INFILTRATION: The process of percolating stormwater into the sub-soil.

LAND DISTURBANCE ACTIVITY: Any activity which changes the volume or peak flow discharge rate of rainfall from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural man-made watercourse.

LANDOWNER: The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding property rights in the land.

LOW IMPACT DEVELOPMENT (LID): An approach to environmentally friendly land use planning. It includes a suite of landscaping and design techniques designed to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques capture water on site, filter it through vegetation, and allow seeping into the ground rather than being lost as surface runoff so that the local water table can recharge. An important LID principle embodies the concept that rainwater is a resource and not merely a superfluous waste product.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21 § 23-56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): 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 manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Lancaster.

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.

NON-STORMWATER DISCHARGE: Discharge to the storm drain not comprised entirely of stormwater.

OPERATION AND MAINTENANCE PLAN: A plan describing 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: The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include, without limitation:

- 1) Paints, varnishes and solvents;
- 2) Oil, antifreeze and other automotive fluids;
- 3) Non-hazardous liquid and solid wastes and yard wastes;

- 4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
- 5) Pesticides, herbicides, and fertilizers;
- 6) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- 7) Dissolved and particulate metals;
- 8) Animal wastes;
- 9) Rock, sand salt, soils;
- 10) Construction wastes and residues; and
- 11) Noxious or offensive matter of any kind.

POST-DEVELOPMENT: 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 conditions after culmination of a new development or re-development project and does not depict conditions during the construction phases of a project.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Authority. Where phased development or phased plan approval occurs (preliminary grading, roads, utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESOURCE AREA: Any area protected under the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, or the Town of Lancaster Wetlands Bylaw.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

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

SEDIMENT CONTROL: Measures that prevent eroded sediment from leaving the site or entering off-site drainage structures.

SITE: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

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

START OF CONSTRUCTION: The first land-disturbing activity associated with a development, including but not limited to, land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STOP WORK ORDER: An order issues which requires that all construction activity on a site will be stopped.

STORMWATER AUTHORITY: The Stormwater Authority for Town of Lancaster shall be the Planning Board or their authorized agent(s). The Stormwater Authority is responsible for coordinating the review, approval and permit process as defined in this Chapter. Boards and/or departments may participate in the review process as defined in this Bylaw or the Stormwater Regulations adopted by the Planning Board of the Town of Lancaster. The Conservation Agent and the Building Commissioner are authorized to act as agents of the Planning Board in enforcing this Bylaw.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Stormwater Authority, after review of an application, plans, calculations and other supporting documents, that is designed to protect the Town from deleterious effects of uncontrolled or untreated stormwater runoff.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a qualified professional engineer (PE), a professional public land surveyor (PLS), or a certified professional in erosion and sedimentation control (CPESC), that includes structural and non-structural best management practices (BMPs) to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing maintenance requirements for structural BMPs.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

WATERCOURSE: Any body of water, including but not limited to, lakes, ponds, rivers and streams.

3.0 Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rules statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Lancaster at Town Meeting, dated October 15, 2007.

4.0 Jurisdiction

No person shall undertake a regulated construction activity, as described below, without a Stormwater Management Permit from the Planning Board.

A) Regulated Activities shall include any of the following:

1. Land disturbance of greater than one acre (43,560 square feet), associated with construction or re-construction of structures.
2. Development or re-development involving multiple, separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that together disturbs one acre or more.
3. Paving or other change in surface material over an area of one acre or more causing a significant reduction of permeability or increase in runoff.
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than one acre.
5. Any other activity altering the surface of an area exceeding one acre that will, or may, result in increased stormwater runoff flowing from the property into a public way, the municipal storm drain system, or to a watercourse or wetland. An exception is the removal of tree cover when the stumps are left in place.

B) Exempt Activities

1. Normal maintenance and improvement of land in agricultural or forestry use as defined by the Massachusetts Wetlands Protection Act and its Regulations.
2. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling, provided such maintenance does not include the addition of more than 30 cubic yards of soil material, construction of

walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.

3. The construction of fencing, irrespective of materials used, that will not alter existing terrain or drainage patterns.
4. Construction, maintenance and operation of utilities (gas, water, sewer, electric, telephone, etc.) other than drainage that will not alter terrain or drainage patterns.
5. Those activities that are subject to the jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Lancaster Conservation Commission, are exempt from compliance of this Bylaw.
6. Agriculture, horticulture, floriculture and viticulture exempted from prohibition by Section 3 of Massachusetts General Law Chapter 40A on parcels of property of five (5) acres in size and larger.

5.0 Administration

The Lancaster Planning Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents (who may include the Conservation Agent and the Building Commissioner).

6.0 Regulations

The Lancaster Planning Board may adopt and periodically amend stormwater rules and regulations relating to receipt and content of stormwater management applications, review time periods, permit terms, conditions, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures, administration and enforcement of this Bylaw subsequent to a majority vote of a meeting of the Planning Board and after conducting a public hearing to receive comments on the proposed regulations and/or any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) calendar days before a hearing date.

Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

7.0 Permits and Procedures

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 6 of this Bylaw.

8.0 Inspections

Filing an application for a Stormwater Management Permit grants the Planning Board, or its agent, permission to enter the site of the land-disturbing activity, as permitted by law, to verify the information in the application and to inspect for compliance with permit conditions.

The Planning Board, in their discretion, may conduct an inspection at any stage of land-disturbing activity to ensure compliance with the terms of this Bylaw and any permit. The Planning Board also may require the applicant to submit self-inspection reports at any stage of development or post-development. The Planning Board may inspect sites before construction, weekly during construction, and within 24 hours of a rainstorm of two inches or greater.

9.0 Fees

The Planning Board by regulation shall promulgate an application fee schedule for Stormwater Management Permit applications and completion certificates. The fee schedule shall be reasonably related to the costs of processing, reviewing and acting upon the application, including review of the application by a professional engineer or other consultant retained by the Board to advise it on technical, legal, economic, or other aspects of the proposed work. The fee specified in such a fee schedule shall be made payable to the Town of Lancaster and shall accompany the permit application or request for certificate of completion. The Planning Board may require an additional fee for review of any change in or alteration from an approved permit.

Said fee shall be paid into a special account set up by the Town Treasurer and may be expended by the Planning Board for the purpose allocated without further appropriation in accordance with the provisions of M.G.L., Chapter 44, § 53E ½.

10.0 Waivers

- A) The Planning Board may waive strict compliance with any requirement of this Bylaw or the rules and regulations promulgated hereunder, where such action:
1. Is allowed by federal, state and local statutes and/or regulations;
 2. Is in the public interest;

3. Is not inconsistent with the purpose and intent of this Bylaw.
- B) Any applicant may submit a written request to be granted such a waiver. Such a waiver request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Bylaw does not further the purposes or objectives of this Bylaw.
- C) All waiver requests shall be discussed by the Planning Board and a decision will be made by the Planning Board within 30 days of receiving the waiver request.
- D) If, in the Planning Board's opinion, additional time or information is required for review of a waiver request, the Planning Board may continue consideration of the waiver request to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide the requested information, the waiver request shall be denied.

11.0 Enforcement

The Planning Board, or an authorized agent of the Planning Board, shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A) Civil Relief

If a person violates the provisions of this Bylaw, regulations, permit, notice or order issued thereunder, the Planning Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B) Orders

The Planning Board, or its authorized agent, may issue a written order to enforce the provisions of this Bylaw, or the regulations thereof, which may include:

1. A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or provisions of the Stormwater Management Permit;
2. Maintenance, installation or performance of additional erosion and sediment control measures;
3. Monitoring, analyses, and reporting;

4. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
5. Compliance with the Stormwater Management Plan and Permit;
6. Repair, maintenance or replacement of the stormwater management system or portions thereof in accordance with the Operation and Maintenance Plan.
7. Remediation of adverse impact resulting directly or indirectly from malfunction of the stormwater management system.

If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

C) Criminal Penalty

Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.

D) Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, § 21D, which has been adopted by the Town in the Code of the Town of Lancaster Chapter 125, § 125-1, Complaints, in which case the Planning Board or authorized agent shall be the enforcing person. The penalty for each violation shall be \$50.00 for the first violation, \$100.00 for the second violation, and \$300.00 for the third and subsequent violations. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E) Appeals

The decision or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.

F) Remedies Not Exclusive

The remedies listed are not exclusive of any other remedies available under any application Federal, State or local law.

12.0 Public Education

The Planning Board, within its available resources, shall provide education programs on soil erosion, sediment control and stormwater management to the general public and persons regulated by this Bylaw. The Planning Board shall provide guidelines and advice to ease the permit application process and foster acceptance of good erosion control and stormwater management practices.

13.0 Severability

If any provision, paragraph, sentence, or clause of this Bylaw is held invalid for any reason by a court of competent jurisdiction, all other provisions shall continue in full force and effect.

14.0 Effective Date

This Bylaw shall take effect upon approval of the Attorney General in accordance with M.G.L. c. 40, § 32.

Filed with the Town Clerk:

Town Clerk

Date