

General By-Laws of the Town of Boylston, Massachusetts

SECTION 9 – STORMWATER CONTROL BY-LAW

[Amended STM; 16-OCT-2006; Article 2]

- 9.01 The Stormwater Control By-Law is hereby established in the Town of Boylston, Massachusetts. This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the rules and regulations of the federal Clean Water Act found at 40 CFR 122.34.

This By-law shall take effect upon its approval by the Attorney General and publications as provided by Law, provided however, that any continuous legally permitted development activities in actual operation on that date may continue.

9.02 PURPOSE

.01 The purpose of this By-law 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, nonpoint source pollution associated with new development and redevelopment, and erosion and sedimentation associated with construction.

.02 Compatibility with Other Permit and By-law Requirements: This By-law is not intended to interfere with, abrogate, or annul any other by-law, rule or regulation, statute, or other provision of law. The requirements of this by-law should be considered minimum requirements, and where any provision of this by-law imposes restrictions different from those imposed by any other by-law, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

For projects within any resource area protected under law, including, but without limitation: the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, or the BMP design and selection criteria given in the most current Massachusetts Stormwater Management Policy, as amended, shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Boylston Stormwater Control By-law. This By-law shall not take precedence over applicable state and federal statutes and pertinent rules and regulations adopted thereunder, unless this By-law is more restrictive.

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9.03 DEFINITIONS

Terms that apply to issuance of a Stormwater Control Permit established by this By-law shall be defined and included as part of the Regulations promulgated and from thie to time amended under Section 9.05.02 of this By-law, the first version of which have been voted by the Conservation Commission as approved on the condition that this By-law enacted, and a copy of which is available at the Conservation Commission and the office of the Town Clerk. Terms not defined in said Regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

9.04 SCOPE AND APPLICABILITY

.01 This By-law shall be applicable to the following activities:

- (a) Any Subdivision as defined in the Town's Zoning By-laws or in Section IV of the Rules & Regulations Governing Subdivision of Land in Boylston, Massachusetts (and as amended) requiring a Definitive Plan;
- (b) Any activities that result in a land disturbance greater than one acre within the Town of Boylston. Land disturbance shall mean any action that causes vegetation clearing; or a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material; and
- (c) Any activities that result in a land disturbance less than one acre if the project is part of a larger common plan of development which eventually will disturb greater than one acre within the Town of Boylston. Plans that do not require approval under the Subdivision Control Law, hereafter referred to as "ANR lots", and meet one or more of the applicability criteria described herein are subject to the provisions of this By-law and shall obtain a Stormwater Control Permit.

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.02 Exemptions: No person who meets the applicability of this by-law shall alter land within the Town of Boylston without having obtained a Stormwater Control Permit, with the following exceptions:

- (a) The construction of a single-family or a two-family dwelling, or accessory uses customarily incidental to a single-family or two-family dwelling that disturbs less than one acre of land;
- (b) In the course of customary Cemetery management operations;
- (c) Maintenance of existing landscaping, gardens or lawn areas;
- (d) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A Section 3;
- (e) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-law;
- (f) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not permanently alter terrain, ground cover, or drainage patterns; and
- (g) Emergency repairs to any stormwater management facility or practice, such that the original design location, size, and technology remain the same, that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission.

.03 Coordination with Other Town Permits. No Town Earth Removal Permit, Order of Conditions from the Conservation Commission, Building Permit, subdivision approval, special permit, variance or finding shall be issued for a project or activity that meets the Scope and Applicability of this By-law until the developer submits a complete Stormwater Control Permit application, the Conservation Commission issues a Stormwater Control Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved Plans.

9.05 ADMINISTRATION

.01 Stormwater Authority. – The Conservation Commission is hereby designated as the Stormwater Authority. The Conservation Commission, or their agent, shall administer, implement and enforce this By-law. The Boylston Conservation Commission may appoint an Agent to issue Permits and sign Plans provided for in this By-law. The Conservation Commission may appoint the Building Inspector, or other, as its authorized Agent for site inspections and enforcement of this By-law.

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.02 Stormwater Regulations. – The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, and/or consultant fees), procedures and administration of this Stormwater Control By-law after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this By-law. Failure of the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this By-law.

.03 Stormwater Management Manual. – The Conservation Commission will utilize the Massachusetts Stormwater Management Policy and Handbooks, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this By-law. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically altered in this Stormwater Control By-law, stormwater management practices that are designed, constructed, and maintained in accordance with the MA Stormwater Management Handbooks design and sizing criteria may be presumed by the Conservation Commission to be protective of Massachusetts water quality standards.

.04 Actions by the Stormwater Authority. – The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Control Permit as more specifically defined as part of the Regulations promulgated as part of this By-law: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

.05 Appeals of Action by the Conservation Commission. – A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this By-law shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 49 § 4.

.06 Low Impact Development (LID) Credit System. – The Conservation Commission may adopt, through the Regulations authorized by this By-law, a LID Credit System. This credit system will allow applicants the option, if approved by the Conservation Commission, to take credit for the use of “stormwater better site design practices” to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Conservation Commission to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this By-law.

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9.06 PERMIT PROCEDURES

Permit procedures and requirements, including permit submittals, right-of-entry, fee schedule, and public hearing process, shall be defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.07 PERFORMANCE STANDARDS

Criteria for erosion and sediment control and post-construction stormwater management, including stormwater and low impact development performance standards, shall be defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.08 WAIVERS

.01 The Conservation Commission may in its discretion and after due consideration decide to waive and exempt strict compliance with any requirement of the Town of Boylston Stormwater Control By-law or the Regulations promulgated hereunder, where it makes a written finding that such action is:

- (a) Allowed by federal, state and local statutes and/or regulations;
- (b) In the public interest; and
- (c) Consistent with the purpose and intent of the Town of Boylston Stormwater Control By-law and its Regulations.

.02 Criteria for granting a waiver shall be defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.09 ENFORCEMENT

The Conservation Commission or its authorized agent shall enforce this By-law and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the Conservation Commission. Further, any action by any person which violates any provision of the Town's Stormwater Control By-law or any application for a permit or a finding or waiver thereunder, shall and does hereby constitute irrevocable authorization by the applicant an any owner or successor in interest to them, for the Conservation Commission or its agents to enter and inspect the premises at any time, and to take action to abate or mitigate any potentially irreparable harm or damage to the public health, safety, environment and general welfare of the Town or the public. Enforcement shall be further defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

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9.10 SEVERABILITY

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