

Chapter 499. Stormwater Management

Article II. Erosion Control

[Adopted 5-7-2022 SATM by Art. 18^[1]]

[1] *Editor's Note: This article also repealed former Art. II, Erosion Control, adopted 5-7-2007 SATM, Art. 29 (Article XXIX of the 1973 General Bylaws), as amended.*

§ 499-13. Purpose.

A. Findings.

- (1) Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:
 - (a) Impairment of water quality and decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - (b) Contamination of drinking water supplies;
 - (c) Erosion of stream channels;
 - (d) Alteration or destruction of aquatic and wildlife habitat;
 - (e) Flooding; and
 - (f) Overloading or clogging of municipal catch basins and storm drainage systems.
- (2) The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Walpole's water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this bylaw are to:

- (1) Protect water resources;
- (2) Require practices that eliminate soil erosion and sedimentation;
- (3) Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
- (4) Establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality generated from new development and redevelopment;
- (5) Protect groundwater and surface water from degradation;

- (6) Promote infiltration and the recharge of groundwater;
- (7) Maximize recharge of groundwater in the Walpole Resource Protection Overlay District as defined by Section 12 of the Walpole Zoning Bylaw;
- (8) Prevent pollutants from entering the municipal storm drain system;
- (9) Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
- (10) Ensure adequate long-term operation and maintenance of structural stormwater best management practices;
- (11) Encourage low-impact development best management practices which minimize land disturbance;
- (12) Prevent and reduce pollutants from entering the Town of Walpole's municipal separate sewer system (MS4);
- (13) Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
- (14) Comply with state and federal statutes and regulations relating to stormwater discharges; and
- (15) Establish the Town of Walpole's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring and enforcement.

§ 499-14. Definitions.

ABUTTER

The owner(s) of land abutting the activity.

AGRICULTURE

The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act^[1] and its implementing regulations.

ALTERATION OF DRAINAGE CHARACTERISTICS

Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. 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

Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the commonwealth or the federal government, to the extent permitted by law, requesting a land disturbance permit and/or fast track permit for proposed land disturbance activity.

AS-BUILT DRAWING

Drawings that completely record and document applicable aspects and features of conditions of a project following construction using stormwater management plans derived from a land disturbance permit.

AUTHORIZED ENFORCEMENT AGENCY

Conservation Commission and its employees or agents designated to enforce this bylaw.

BEST MANAGEMENT PRACTICE (BMP)

An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CERTIFICATE OF COMPLETION (COC)

A document issued by the Stormwater Authority after all construction activities have been completed, which states that all conditions of an issued land disturbance permit have been met and that a project has been completed in compliance with the conditions set forth in the permit.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)

A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

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 a construction site that may adversely impact water quality.

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 municipal storm drain system or into the waters of the United States or commonwealth from any source.

DISTURBANCE OF LAND

Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing and grading; or results in an alteration of drainage characteristics.

DRAINAGE EASEMENT

A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

ENVIRONMENTAL SITE MONITOR

A professional engineer, or other trained professional selected by the Conservation Commission and retained by the holder of a land disturbance permit, to periodically inspect the work and report to the Conservation Commission.

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 public land surveyor (PLS), 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.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS

Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

FAST TRACK PERMIT

Permit issued by the Stormwater Authority for a land disturbance activity that does not require a land disturbance permit because of its size and/or scope.

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.

HAZARDOUS MATERIAL

Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

ILLICIT DISCHARGE

Direct or indirect discharge to the municipal storm drain system or into a watercourse or the waters of the commonwealth that is not composed entirely of stormwater, except as in Article I of the General Bylaws, Illicit Discharge Bylaw, § 499-7B, Exemptions.

IMPERVIOUS SURFACE

Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops.

IMPOUNDMENT

A stormwater pond created by either constructing an embankment or excavating a pit which retains a permanent pool of water.

INFILTRATION

The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LAND DISTURBANCE PERMIT

A permit issued by the Conservation Commission regulating any activity applicable under § 499-16B of this bylaw.

LAND USE WITH HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL)

Land uses such as auto salvage yards, auto fueling facilities, exterior fleet storage yards, vehicle service and equipment cleaning areas, commercial parking lots with high intensity use, road salt storage areas, outdoor storage and loading areas of hazardous substances, confined disposal facilities and disposal sites, marinas, boat yards or other uses as identified by the Massachusetts Stormwater Handbook.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE

Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing and grading; or results in an alteration of drainage characteristics.

LARGER COMMON PLAN OF DEVELOPMENT

A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

LOT

An individual tract of land as shown on the current Assessor's Map for which an individual tax assessment is made. For the purposes of these regulations, a lot also refers to an area of a leasehold on a larger parcel of land, as defined in the lease agreement and shown by approximation on the Assessor's Map.

MASSACHUSETTS ENDANGERED SPECIES ACT

MGL c. 131A and its implementing regulations at 321 CMR 10.00 which prohibit the "taking" of any rare plant or animal species listed as endangered, threatened, or of special concern.

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, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 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 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 Walpole.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

NONPOINT 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 man-made pollutants finally depositing them into a water resource area.

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.

OUTSTANDING RESOURCE WATERS (ORWs)

Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER

A person with a legal or equitable interest in property.

PATIO

An impervious area adjoining a house and used as an area for outdoor lounging, dining and other such recreational uses.

PERMITTEE

The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the 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 nonpoint source, that is or may be introduced into any sewage treatment works, watercourse or waters of the commonwealth. Pollutants include, but are not limited to:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes;
- G. Sewage, fecal coliform and pathogens;
- H. Dissolved and particulate metals;
- I. Animal wastes;
- J. Rock, sand, salt, soils;
- K. Construction wastes and residues; and
- L. Noxious or offensive matter of any kind.

PRE-CONSTRUCTION

All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES

Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.^[2]

RECHARGE

The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT

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

RESPONSIBLE PARTIES

Owner(s), persons with financial responsibility, and persons with operational responsibility.

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.

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

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

STORMWATER AUTHORITY

Walpole Conservation Commission or its authorized agent(s).

STORMWATER MANAGEMENT PLAN

A document containing narrative, drawings and details prepared by a qualified professional engineer (PE) or a professional public land surveyor (PLS), which includes structural and nonstructural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an operation and maintenance plan describing the maintenance requirements for structural best management practices.

STRIP

Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TOTAL MAXIMUM DAILY LOAD or TMDL

The greatest amount of a pollutant that a water body can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking, swimming, recreation, and fishing. A TMDL is also a plan, adopted under the Clean Water Act,^[3] specifying how much of a specific pollutant can come from various sources, including stormwater discharges, and identifies strategies for reducing the pollutant discharges from these sources so as not to violate Massachusetts surface water quality standards (314 CMR 4.00 et seq.).

TOTAL SUSPENDED SOLIDS or TSS

Undissolved organic or inorganic particles in water.

VERNAL POOLS

Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE

A natural or man-made channel through which water flows, including a river, brook, or 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 and waters of the United States as defined under the federal Clean Water Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

WETLAND

Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and in the Town of Walpole Wetlands Protection Bylaw^[4] and collectively referred to as "wetlands resource areas."

WETLAND RESOURCE AREA

Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and in the Walpole Wetlands Protection Bylaw, Chapter **561**, § **561-9**.

[1] *Editor's Note: See MGL c. 131, § 40 et seq.*

[2] *Editor's Note: See MGL c. 131A, § 1 et seq.*

[3] *Editor's Note: See 33 U.S.C. § 1251 et seq.*

[4] *Editor's Note: See Ch. 561, Wetlands Protection.*

§ 499-15. Statutory 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 regulations of the federal Clean Water Act found at 40 CFR 122.34, published in the Federal Register on December 8, 1999.

§ 499-16. Applicability.

No person may undertake a construction activity or land disturbance, including clearing, grading, excavation or redevelopment that will disturb equal to or greater than the thresholds outlined in the Town of Walpole Stormwater Management Regulations without an

administrative fast track permit or a land disturbance permit approved by a majority of the Stormwater Authority members or as otherwise provided in this bylaw. Any person who fails to follow the requirements of an erosion and sedimentation control plan, operation and maintenance plan, and/or any land disturbance permit or fast track permit issued under this bylaw and the Stormwater Management Regulations shall be in violation of this bylaw.

- A. An administrative fast track permit or land disturbance permit must be obtained prior to the commencement of land disturbance activity or redevelopment based on the thresholds established in the Stormwater Management Regulations. An applicant seeking a fast track permit and/or land disturbance permit shall file an appropriate application with the Stormwater Authority in a form and containing information specified in this bylaw and in the related Stormwater Management Regulations adopted by the Stormwater Authority.
- B. The following items and activities shall specifically require a land disturbance permit:
 - (1) Land disturbance of 40,000 square feet or more, associated with construction or reconstruction of structures;
 - (2) Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more;
 - (3) Paving or other change in surface material over an area of 40,000 square feet 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 40,000 square feet;
 - (5) Any other activity altering the surface of an area exceeding 40,000 square feet or more that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system; or
 - (6) Construction or reconstruction of structures where 40,000 square feet or more of roof drainage is altered.
- C. Fast track permit. The Conservation Commission shall require a fast track permit for projects involving land disturbance of 5,000 square feet to 39,999 square feet that do not require a land disturbance permit. Projects involving the aforementioned amount of land disturbance and which require a building permit under the Zoning Bylaw and its revisions or involve alteration of land or redevelopment of land shall require a fast track permit.
 - (1) The purpose of the fast track permit authority is to streamline the permitting process under this bylaw by eliminating the requirement for public hearings for projects which meet a pre-approved set of design standards to be developed as part of the Stormwater Management Regulations.
 - (2) Project applications that meet the requirements of a fast track permit shall not be subject to the public hearing requirements of this bylaw and can be issued without holding of a public hearing.
 - (3) The Conservation Commission shall have the authority to designate an agent or agents to issue a fast track permit on its behalf.
 - (4) A fast track permit is subject to § 499-25, Inspection and site supervision, § 499-27, Enforcement, of this bylaw.
- D. Exempt activities. The following activities are exempt from the requirements of this bylaw and do not require issuance of a land disturbance permit or fast track:
 - (1) Normal maintenance and/or replacement of existing driveways and/or patios;

- (2) Expansion of a residential driveway and/or patio in such that no more than 15% or 2,500 square feet, whichever is greater, of the building lot is rendered impervious;
- (3) Normal maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling;
- (4) Repair or replacement of septic systems with erosion controls shown on the plan approved by the Board of Health for the protection of public health;
- (5) The construction of fencing that will not alter existing terrain or drainage patterns;
- (6) The removal of earth products undertaken in connection with an agricultural use if the removal is necessary for or directly related to planting, cultivating or harvesting or the raising or care of animals;
- (7) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04, and MGL c. 40A, § 3;
- (8) The maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways that have been approved by the appropriate authorities provided that written notice be filed with the Conservation Commission 14 days prior to commencement of activity; or
- (9) Normal maintenance of Town-owned public land, ways and appurtenances.

§ 499-17. Administration.

The Town of Walpole Conservation Commission shall administer, implement and enforce this bylaw. Any powers granted to, or duties imposed upon, the Conservation Commission through this bylaw may be delegated in writing by the Conservation Commission to its employees or agents.

§ 499-18. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminant, or significantly limit the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structure will not become a hazard to the use, function, or physical integrity of the watercourse.

§ 499-19. Control of construction waste.

All construction site operators, general contractors, and owners shall control waste such as discarded building materials, concrete truck wash-out, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

§ 499-20. Regulations.

The Conservation Commission may adopt, and periodically amend, rules and regulations to effectuate the purposes of this bylaw. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 499-21. Land disturbance permit application.

A public hearing before the Conservation Commission is required for a land disturbance permit to be issued prior to any activity disturbing 40,000 or more square feet of land unless otherwise stated in this bylaw or regulations adopted hereunder. The site owner or his agent shall file a completed application for the permit with the Conservation Commission. While application may be made by a representative, the permittee must be the owner of the site.

- A. Applications. An application shall be made to the Conservation Commission in a form and containing information as specified in this bylaw and in the regulations adopted by the Conservation Commission and shall be accompanied by payment of the appropriate application and review fees.
- B. Fees. Fees shall be established by Conservation Commission to cover expenses related to public notice, application review, and monitoring permit compliance. The fees shall be sufficient to also cover professional review. The Conservation Commission is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of the application. Applicants must pay review fees before the review process may begin. The applicant for a land disturbance permit may be required to cover the costs of said consultant through an account established pursuant to MGL c. 44, § 53G.
- C. Information requests. The Conservation Commission may request such additional information as is necessary to enable the Commission to determine whether the proposed activity will protect water resources and meet the objectives of this bylaw.
- D. Determination of completeness. The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.
- E. Coordination with other boards. On receipt of a complete application for a land disturbance permit the Conservation Commission shall distribute one copy each to the Planning Board, Department of Public Works, Board of Health, Engineering Department and Sewer and Water Commission for review and comment.
- F. Entry. Filing a complete application for a land disturbance permit will include a written grant approval for the Conservation Commission or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- G. Hearing.
 - (1) The Conservation Commission shall hold a public hearing within 21 days of receipt of complete application and shall take final action within 21 days upon closing the public hearing. Notice of the public hearing shall be given by publication in a local paper of general circulation at a minimum of seven days prior to the public hearing, and by posting the notice at the Town Hall.
 - (2) Any person filing an application with the Commission shall at the time give written notice at a minimum of seven days prior to the public hearing thereof, by certified mail, certificate of mailing, or hand delivery, to all the abutters according to the most recent records of the Assessor, including those across a traveled way or body of water. The notice to abutters shall include the date, time and place of the hearing and where copies of the application and plans may be examined by abutters free of charge.
- H. Action. The Conservation Commission may:

- (1) Approve the application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this bylaw;
 - (2) Approve the application and issue a permit with conditions, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this bylaw; or
 - (3) Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this bylaw. If the Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Commission may disapprove the application and deny the permit.
- I. Project changes. The permittee, or their agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Commission determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Commission under this bylaw, the agent of the Commission may require that an amended application or a full application be filed in accordance with this section. If any change or alteration from the land disturbance permit occurs during land-disturbing activities, the agent of the Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

§ 499-22. Erosion and sediment control plan.

The erosion and sediment control plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such requirements as stated in the Stormwater Management Regulations adopted under this bylaw and such material as the Commission deems necessary to show that the proposed development will comply with applicable design standards.

§ 499-23. Stormwater management plan.

The stormwater management plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The stormwater management plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The stormwater management plan shall fully describe the project in drawings and narrative. The applicant shall submit such material as is required by the Stormwater Management Regulations adopted hereunder.

§ 499-24. Operation and maintenance plans.

An operation and maintenance plan (O&M plan) for the permanent stormwater management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this bylaw and the regulations throughout the life of the system. The Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Commission shall maintain the authority to review an operation and maintenance plan approved by the Planning Board for a subdivision project and impose such additional conditions as deemed necessary to ensure compliance with the

requirements of this bylaw and any regulations adopted hereunder. Once approved by the Commission the operation and maintenance plan shall be recorded at the Norfolk County Registry of Deeds by the permittee, shall remain on file with the Commission and compliance therewith shall be an ongoing requirement. The operation and maintenance plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this bylaw. Stormwater management easements shall be provided by the property owner(s) in areas deemed necessary to carry out the required maintenance.

§ 499-25. Inspection and site supervision.

- A. Preconstruction meeting shall take place as described in the regulations.
- B. Board inspection. The Conservation Commission or its designated agent shall make inspections as required in the Stormwater Management Regulations to approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval.
- C. Permittee inspections. The permittee or his/her agent shall conduct and document inspections of all control measures as required in the Stormwater Management Regulations. The Commission may require, for land disturbance permits, that an environmental site monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its designated agent as deemed necessary by the Commission.
- D. Access permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with this bylaw and any permit(s) issued hereunder.

§ 499-26. Final reports.

Upon completion of the allowed work, the applicant shall submit a report (including certified as-built construction plans) from a professional engineer (P.E.), surveyor, or certified professional in erosion and sedimentation control (CPESC), certifying that all BMPs, erosion and sedimentation control devices, and approved changes and modifications have been completed in accordance with the conditions of the approved erosion and sediment control plan and stormwater management plan or the requirements of the fast track permit. The Stormwater Authority may, by regulation, require ongoing reporting to ensure long-term compliance, including, but not limited to, appropriate operation and maintenance of stormwater BMPs. Any discrepancies shall be noted in the cover letter.

§ 499-27. Enforcement; violations and penalties.

- A. The Commission or an authorized agent of the Commission shall enforce this bylaw, the Stormwater Management Regulations, orders, violation notices, and/or enforcement orders, and may pursue all civil and criminal remedies for any violations thereof.
- B. Orders.
 - (1) The Commission or its authorized agent may issue a written order to enforce the provisions of this bylaw and/or the Stormwater Management Regulations, which orders may include but are not limited to the following requirements:

- (a) Cease and desist from the land-disturbing activity until there is compliance with this bylaw and/or provisions of the land disturbance permit;
 - (b) Undertake maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) Engage in monitoring, analyses, and/or reporting; and
 - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
- (2) 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. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Walpole may, at its option, pursue a court order allowing the Town to undertake such work, and the property owner shall reimburse the Town's expenses.
- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Walpole, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Select Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in MGL c. 59, § 57, after the 31st day following the day on which the costs were due.
- 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. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Walpole may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Conservation Commission or authorized agent shall be the enforcing person. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for subsequent violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 499-28. Certificate of completion.

The Conservation Commission will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the land disturbance permit has been satisfactorily completed in conformance with this bylaw and regulations. The certificate of completion shall be recorded at the Registry of Deeds by the owner(s). A certificate of compliance is not required under a fasttrack permit.

§ 499-29. Surety.

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit.

§ 499-30. Waivers.

- A. The Stormwater Authority, or its authorized agent, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder where such action is:
 - (1) Allowed by federal, state and local statutes and/or regulations; and
 - (2) In the public interest; and
 - (3) Not inconsistent with the purpose and intent of this bylaw.
- B. Any person seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.
- C. All waiver requests shall require a public hearing.
- D. If in the opinion of the Stormwater Authority or its authorized agent additional time or information is required for review of a waiver request, the Stormwater Authority may continue a hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.