

TOWN OF HOPKINTON
GENERAL BYLAW

Chapter 172
STORMWATER MANAGEMENT AND EROSION CONTROL

§ 172-1. Purpose.

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[HISTORY: Adopted by the Annual Town Meeting of the Town of Hopkinton 5-5-2008, Art. 30]

§ 172-1. Purpose.

A. The purposes of this Chapter are to: 1) 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 and nonpoint source pollution associated with new development and redevelopment; and 2) protect, maintain, and enhance the public safety, environment and general welfare by establishing minimum standards and procedures to control runoff and prevent soil erosion and sedimentation resulting from construction/alteration and development.

B. The Town is mandated by the federal government to adopt a stormwater management bylaw in 2008 and could be subject to penalties if it does not. The Metropolitan Area Planning Council has received a grant to help the Town of Hopkinton develop a new Stormwater Management bylaw. The process has begun and will be completed in 2009. This bylaw is an interim bylaw which is intended to satisfy the mandate of the federal government while the grant process is completed.

§ 172-2. Applicability.

A. This Chapter shall apply to all construction activity unless exempt pursuant to § 172-2.C of this Chapter.

B. A Stormwater Management Permit (SMP) shall be required from the Planning Board for the following:

(1) Construction activities that will result in land disturbance of one acre in area or more, or which is part of a common plan for development that will disturb one acre or more;

(2) Construction activities that will disturb land with 15% or greater slope, and where the land disturbance is greater than or equal to 10,000 square feet within the sloped area;

(3) Any construction activity that will increase the amount of impervious surface to more than 50% of the area of a lot.

C. Exemptions

A Stormwater Management Permit shall not be required for the following activities, whether or not such activity results in disturbance or alteration that meets or exceeds the SMP requirements of Section 172-3.B:

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- (1) Additions or modifications to single family structures;
- (2) Additions or modifications to structures which are not for single family use, provided that such addition or modification does not increase the footprint of the structure by more than 100%.
- (3) Normal maintenance of Town owned public land, ways and appurtenances;
- (4) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
- (5) Activities conducted in accordance with a Forest Stewardship Plan approved by the Massachusetts Department of Conservation and Recreation;
- (6) Normal maintenance of landscaping, gardens, lawn areas, driveways and the like;
- (7) Construction of patios, decks, walkways, swimming pools, sheds, fences, or replacement of wells;
- (8) Repair or replacement of an existing roof;
- (9) Construction of utilities (gas, water, sewer, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns; the reconstruction, maintenance or resurfacing of any way maintained by the Hopkinton Department of Public Works;
- (10) Emergency repairs to any utilities (gas, water, sewer, electric, telephone, etc.), stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the DPW Director;
- (11) Repair or replacement of sewage disposal systems;
- (12) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Chapter, including Orders of Conditions issued by the Conservation Commission;
- (13) Any construction activity or project wholly within the jurisdiction of the Conservation Commission provided that an Order of Conditions has been issued by the Conservation Commission;
- (14) Any construction activity or project requiring approval under the Subdivision Control Law where the Planning Board has approved an application for definitive subdivision approval and any construction activity or project requiring Site Plan Review, provided that the plans include stormwater management provisions for the site;
- (15) Any construction activity or project requiring approval under Zoning Bylaw Articles XIII, Garden Apartments in Residential Districts, XIII A, Village Housing in Residential Districts, and XVIA, Senior Housing Development, provided that the Planning Board has granted all required approvals, and that the plans include stormwater management provisions for the site.

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§ 172-3. Administration.

A. The Planning Board shall be the permit granting authority for the issuance of Stormwater Management Permits and shall administer, implement and enforce this Chapter. Any powers granted to or duties imposed upon the Planning Board may be delegated to its employees or agents or other municipal employees as appropriate. Permit applications shall be submitted, considered and issued only in accordance with the provisions of this Chapter and the Regulations adopted pursuant to this Chapter.

B. Stormwater Regulations. The Planning Board shall adopt, and may periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection and/or consultant fees), procedures and administration of this Chapter. The Regulations shall be adopted by majority vote after conducting a public hearing. Such hearing date shall be advertised once in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. Failure of the Planning Board to adopt such Regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Chapter.

Stormwater Management Permit procedures and submission requirements shall be defined and included as part of the Stormwater Regulations. Such Regulations shall include, but shall not be limited to:

(1) A requirement that Stormwater Management Permits be issued within 60 days of the date of filing a complete application, unless an extension of time has been granted.

(2) A procedure for distribution to and review of permit applications by the Town of Hopkinton Conservation Administrator, Public Health Administrator, Director of Municipal Inspections, and Director of Public Works.

(3) A requirement for applicants to submit an Operation and Maintenance Plan for the stormwater management system.

(4) Performance standards which require that projects must meet the Stormwater Management Standards of the Massachusetts Stormwater Management Policy. The Planning Board will utilize the policy, criteria and information, including specifications and standards, of the latest edition of the Massachusetts Stormwater Management Policy for execution of the provisions of this Chapter. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

C. Waivers. Strict compliance with this Chapter or the Stormwater Regulations may be waived by the Planning Board when, in the judgment of the Board, such action is not inconsistent with the purposes of this Chapter or the Regulations.

D. Actions by the Planning Board. The Planning Board may take any of the following actions on an application for a Stormwater Management Permit: Approval, Approval with Conditions, or

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Disapproval. A Permit may be disapproved if the Planning Board determines that the requirements of this Chapter or the Regulations are not met.

E. Appeals. A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this Chapter shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.

§172-4. Enforcement.

A. When the Planning Board or its agent determines that an activity is not being carried out in accordance with the requirements of this Chapter, Stormwater Regulations or SMP, it shall issue a written notice of violation to the owner of the property. Persons receiving a notice of violation may be required to:

(1) Halt all construction activities until there is compliance. A “stop work order” will be in effect until the Planning Board or its agent confirms that the activity is in compliance and the violation has been satisfactorily addressed.

(2) Maintain, install or perform additional erosion and sedimentation control measures;

(3) Monitor, analyze and report to the Planning Board;

(4) Remediate erosion and sedimentation resulting directly or indirectly from the activity.

Failure to address a notice of violation in the time specified therein may result in penalties in accordance with the enforcement measures authorized in this Chapter.

B. Penalty. Any person who violates any provision of this Chapter, Regulations, or SMP’s issued thereunder, may be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense, and each provision of the Chapter, Regulations or SMP violated, shall constitute a separate offense.

C. Non-Criminal Disposition. As an alternative to the penalty in § 172-4.B, the Town of Hopkinton may elect to utilize the non-criminal disposition procedure set forth in Article II of the Bylaws of the Town of Hopkinton. Each day or part thereof that such violation occurs or continues shall constitute a separate offense, and each provision of this Chapter, Regulation or permit violated shall constitute a separate offense.

§172-5. 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.