**Chapter 295**

**STORMWATER MANAGEMENT REGULATIONS**

**GENERAL REFERENCES**

**Conservation Commission — See Ch. 7, Art. VIII.**

**Water Resources and Drainage Committee — See Ch. 7, Art. IX.**

**Stormwater management — See Ch. 160. Wetlands protections — See Ch. 192.**

**Zoning — See Ch. 196.**

**Subsurface sanitary systems — See Ch. 201.**

**Earth removal and earth filling projects — See Ch. 205.**

**Subdivision of land — See Ch. 300.**

**Wetlands protection regulations — See Ch. 375.**

# § 295-1. Introduction and purpose.

1. Introduction. These regulations are promulgated by the Boxford Conservation Commission ("Commission") pursuant to the authority granted to it under the Boxford Stormwater Management Bylaw (hereinafter referred to as the Bylaw).**1** These regulations shall complement the bylaw and provide additional detail on its implementation. Article I herein provides definitions and procedures. Article II herein provides standards for work within jurisdictional areas.
2. Purpose. This regulation sets forth a public review and decision-making process to manage stormwater runoff and post-construction stormwater discharges resulting from the alteration of construction sites or hotspots, as defined herein, located within the NPDES Phase II Regulated Area, or for such sites which drain to the municipal separate storm sewer system within the NPDES Phase II Regulated Area.

# § 295-2. Statement of jurisdiction.

1. This regulation applies only to the alteration of a construction site or hotspot located within the NPDES Phase II Regulated Area of Boxford, or which drains to the municipal separate storm sewer system within the NPDES Phase II Regulated Area, as defined herein.
2. The following exemptions apply to the alteration of a construction site or hotspot:
	1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;

**1. Editor's Note: See Ch. 160, Stormwater Management.**

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* 1. ~~Stormwater discharges that are authorized under an order of conditions issued by the Boxford Conservation Commission pursuant to the Wetlands Protection Act, MGL c. 131, § 40, and 310 CMR 10.00, and the Town of Boxford Wetlands Protection Bylaw, Town Code Chapter 192 and Chapter 375, and where the order includes findings by the Commission that the discharge complies with the Massachusetts Stormwater Management Policy.~~
	2. (2) Emergency activities necessary to protect public health and/or safety, so long as all necessary emergency permits or emergency certifications have been obtained or applied for; and
	3. (3) Any work or projects for which all necessary municipal approvals and permits have been issued before the effective date of this chapter.

# § 295-3. Burden of proof; permission required for certain actions.

1. Burden of proof. The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will comply with the Massachusetts Stormwater Management Standards and will not have significant or cumulative adverse effect upon the hydrologic response of local watersheds, stormwater runoff rates or volumes, flooding, stream channel erosion, non-point source pollution, sediment transport and deposition, groundwater recharge, public safety, public and private property, surface water, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of land and water. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.
2. No person shall perform any activity that alters a construction site or hotspot except as authorized by the Conservation Commission in a Stormwater Management Permit or as otherwise provided in this chapter.

# § 295-4. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter. Additional definitions may be adopted by separate regulation:

ALTERATION — Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, earthmoving, paving, and modification of existing vegetation.

ABUTTER — The owner of any property any portion of which lies within 500 feet radially from any lot line of the subject property, including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property

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that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence.

CONSTRUCTION SITE — Any site where activity is proposed or occurs that involves the alteration of an area of one acre (43,560 square feet) or more during or post-construction, or that will alter less than one acre of land but is part of a larger, common plan of development or sale that will ultimately disturb one acre or more of land. A project with a limit of disturbance shown on a plan encompassing an acre or more is a construction site.

HOTSPOT — Land uses or activities, without regard to square footage, that have the potential for high stormwater runoff pollutant loadings, including, but not limited to, auto fueling facilities, fleet storage yards, municipal and commercial parking lots, road salt storage areas and designated snow disposal areas, long-term staging areas for construction or landscaping operations, and commercial outdoor maintenance, storage or loading areas.

MAJORITY VOTE — A vote by a majority of the Commission for all actions taken under § 160-5 of the Stormwater Management Bylaw (Administration) and issuance of enforcement orders, and a vote by a majority of a quorum of the Commission for all other matters under the bylaw or under these regulations.

MASSACHUSETTS STORMWATER MANAGEMENT ~~POLICY (The Policy)~~ STANDARDS —The ~~policy~~ standards issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131, § 40, and Massachusetts Clean Waters Act MGL c. 21, § 23-56, prevent or reduce pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or

system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Federal Clean Water Act that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

NPDES PHASE II REGULATED AREA — The area within Boxford identified by the U.S. Environmental Protection Agency as "Designated MS4 Area" under the National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater Program.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the

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commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

# § 295-5. Procedures.

1. Application for permits. Written applications for permits shall be filed with the Commission to perform any activity that alters a construction site or hotspot within jurisdictional area. A permit application is not complete until all required application materials have been received by the Conservation Commission. No hearing or meeting for the proposed project will be scheduled until all required application materials have been received.
2. All permit applications shall contain eight sets of the complete application package, including an original signed set. The applicant shall also submit to the Commission eight sets of any revised, amended, or supplemented information introduced or referred to by the applicant during the course of the public hearings on the application. The applicant must also provide a complete set of the application materials and any revisions, amendments or supplements to the Superintendent of Public Works. The Commission may, at any time during the review process, require the submission of extra copies, at cost, of the application and/or plans.
3. The following application materials are required:
	1. Stormwater management plan. The following minimum requirements apply. At its sole discretion the Commission may relax these requirements for small projects. The Commission may also, at its sole discretion, relax the sheet size and scale requirements for projects involving land areas too large to be contained on a sheet meeting the size and scale requirements.
		1. Sheet size: maximum 30 inches by 42 inches.
		2. Scale: as needed to show all necessary details, but at a ratio no greater than 1:480 (e.g., one inch equals 40 feet).
		3. Title block: Located at the right-hand lower corner:
			1. Name of owner of record, applicant, PLS/PE (if involved).
			2. Lot number, street number, street, Tax Assessor's Map, Block and Parcel/Lot numbers.
			3. Original date.
			4. Revision area for dates and nature of revisions.
			5. Scale.
		4. North arrow.
		5. Locus map.

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* + 1. All existing topography and proposed contours at a contour interval no greater than two feet.
		2. Reference benchmark (vertical datum used).
		3. Property boundaries, rights-of-way, easements, restrictions.
		4. Conservancy district, if applicable (show as cross-hatched area, including all adjacent bordering vegetated wetlands).
		5. Existing site improvements, e.g., buildings, stone walls, trails, utilities.
		6. All proposed or completed site improvements.
		7. The boundary of all wetland resource areas, as identified at Town Code § 375-2 and defined at Town Code § 375-4, located on the site or within 100 feet of proposed construction activity, except for perennial streams, which shall be shown within 200 feet of the proposed construction activity. Boundaries shall be indicated by numbered points corresponding to flags placed in the field.
		8. The name of the person conducting the wetland resource field work.
		9. The boundary of all relevant buffer zones and setback distances as described or identified at Town Code § 375-98.
		10. Location of well and septic system with reserve area.
		11. All stormwater management measures shall be listed on the plan. Measures that can be shown graphically shall also be depicted on the plan.
		12. A limit of disturbance line enclosing and encompassing all areas of proposed work, including construction access to and from an existing paved surface.
		13. A calculation of the area within the limit of disturbance line.
		14. Construction details of proposed stormwater management measures, as applicable.
		15. All proposed discharge points.
		16. Stamp and signature of a registered professional land surveyor or a registered professional engineer. In circumstances where the Commission determines that no survey is required, the stamp and signature of a registered sanitarian may be acceptable.
	1. Hydrology report. The following minimum requirements apply.

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* + 1. The hydrology report must respond directly to each of the nine standards enumerated in the Massachusetts Stormwater Management Standards ~~Policy (the Policy)~~, without regard to the applicability thresholds described on pages 2-4 ~~1-3~~ of the Massachusetts Stormwater ~~Policy~~ Handbook, v.1, 2008 MassDEP, available at: mass.gov/guides/Massachusetts-stormwater-handbook-and-stormwater-standards#-stormwater-handbook-volume-1-. The hydrology report must describe how compliance is achieved for each ~~s~~Standard ~~of the policy~~, and must be prepared and stamped by a professional engineer.
		2. Unless indicated otherwise in these regulations, the analytical methodology, numerical values and assumptions provided in the ~~Policy~~ Standards shall apply.
		3. There shall be no increase in the peak rate of runoff from the two-, ten-, twenty-five-, fifty- and one-hundred-year storms.
		4. There shall be no increase in the volume of runoff from the two-

, ten-, twenty-five-, fifty- and one-hundred-year storms.

* + 1. Runoff calculations for flood control shall be done according to the Rational Formula, the Natural Resource Conservation Service TR-20, or TR-55, as appropriate for the site. The appropriate methodology shall be determined from the restrictions on each method described in Hydrology Handbook for Conservation Commissioners, (2002). The Rational Method cannot be used to determine volume.
		2. The flow length for predevelopment sheet flow to determine the time of concentration (Tc) or travel time (Tt) shall not exceed 50 feet.
		3. All stormwater-related calculations and management designs submitted to the Commission shall be based upon the following rainfall data:

|  |  |
| --- | --- |
| **Storm Event in Years** | **Inches per 24 hours** |
| 2 | 3.1 |
| 10 | 4.7 |
| 25 | 5.8 |
| 50 | 7.1 |
| 100 | 8.3 |

* + 1. For each predevelopment design point there shall be a corresponding post-development design point.
		2. Estimated seasonal high groundwater elevation and infiltration rates in areas proposed for use as stormwater retention, detention, or infiltration measures, shall be determined by a professional engineer, registered sanitarian or certified soil scientist based upon one or more soil observation holes dug in the location of the proposed management measure.

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* + 1. Off-site areas shall be assessed based on their "predeveloped condition" for computing the water quality volume (i.e, treatment of only on-site areas is required). However, if an off- site area drains to a proposed BMP, flow from that area must be accounted for in the sizing of a specific practice.
		2. Off-site areas should be modeled as "present condition" for peak-flow attenuation requirements.
		3. The standard for characterizing predevelopment land use for on-site areas is "good woods." Predevelopment Runoff Curve Numbers by NRCS hydrologic soil group (HSG) shall be:
			1. HSG A: 30.
			2. HSG B: 55.
			3. HSG C: 70.
			4. HSG D: 77.
		4. The determination of flooding and channel erosion impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project, and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
	1. Operation and management plan. The following minimum requirements apply. At its sole discretion the Commission may relax these requirements for small projects.
		1. The name(s) of the owner(s) for all components of the proposed project.
		2. A map showing the location of all stormwater management measures, including catch basins, manholes/access lids, main, and stormwater devices.
		3. The names and addresses of the person(s) responsible for operation and maintenance.
		4. The person(s) responsible for financing maintenance and emergency repairs.
		5. An inspection and maintenance schedule for all stormwater management facilities, including routine and nonroutine maintenance tasks to be performed.
		6. A schedule for submitting written reports to the Conservation Commission describing inspection results, recommendations, and actions taken to ensure continued compliance with the ~~Policy~~ Standards and permit requirements.

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* + 1. Stormwater management easements in recordable form shall be provided by the property owner(s) as necessary to ensure access for facility inspections and maintenance. Stormwater management easements are required for all areas used for off- site stormwater control, unless a waiver is granted by the issuing authority. Easements shall be recorded with the Essex South Registry of Deeds prior to the preactivity meeting.
		2. The owner(s) of the stormwater management system must notify the Boxford Conservation Commission of changes in ownership.
	1. Abutters list. An abutters list listing the owner of any property that lies within 500 feet radially from any lot line of the subject property, including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water (e.g., lakes, ponds, rivers, streams and creeks). In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond, or pond association if in existence. The abutters list must be certified by the Boxford Tax Assessor's office.
	2. Copies of the notice of intent submitted to the United States EPA under the National Pollutant Discharge Elimination System Construction General Permit, as well as a copy of the stormwater pollution prevention plan (SWPPP).
	3. Proof of delivery of a complete set of application materials to the Superintendent of Public Works.
	4. A filing fee of $200 per quarter acre of proposed alteration.
1. An applicant filing a permit application with the Commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters. Said notification shall be at the applicant's expense, and shall state where copies of the permit application may be examined and obtained and shall state a brief description of the proposed work, as well as the date, time and place of the public hearing. The Conservation Office of the Town of Boxford will type said notice and provide it to the applicant at time of permit filing. Proof of such notification, with a copy of the notice mailed or delivered, shall be submitted by the applicant to the Commission prior to the beginning of the public hearing. Failure to provide proof of mailing shall be cause to delay the opening the public hearing.
2. The Conservation Office shall cause the notice of public hearing to be published in a newpaper of general circulation at least five days prior to the scheduled public hearing. The cost of publishing this notice shall be borne by the applicant.
3. The Commission may require the applicant to file a performance bond or a deposit of money in an amount determined by the Commission to

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be sufficient to cover the cost of all or any part of the site alterations, monitoring, and maintenance specified in the permit and/or shown on the plans approved by the Commission. Bond amounts will be set so that funds will be adequate to comply with the order of conditions, repair damage to wetlands and to permanently stabilize the work site and all soils. Bonds shall be determined on a site-by-site basis. Bonds shall be funded prior to work commencing.

1. Review of materials. The Commission will not accept any material from the applicant or his representative intended for discussion at subsequent meetings/hearings less than seven calendar days prior to that scheduled meeting/hearing. Late filed materials shall be excluded from the record and shall be considered irrelevant to the decision. However, the Commission reserves the right on a case-by-case basis to grant a waiver to this requirement. All public materials received or produced by the Conservation Commission pertinent to a permit application shall be placed in the applicable public file folder, and shall be available to the public for viewing at the Conservation Commission's office during regular business hours. Upon request, said materials will also be copied and provided by the Commission for a fee in accordance with the public records law, MGL 66, § 10, and its regulations at 950

C.M.R. 32.00 et seq., as they may be amended from time to time.

1. Public meeting and hearing procedures. The Conservation Commission shall comply fully with the Open Meeting Law, MGL c. § 39, § 23. In addition, the Commission shall comply with the following procedures:
	1. Presentation of materials after the close of a public hearing. After the close of a public hearing, no materials pertinent to a decision on a permit application may be submitted to or received by the Conservation Commission, with the following exception: Commission members may distribute documents to the Commission that they have produced which summarize all or part of the public information that was presented at prior public hearings or is contained in the Commission's public files. Said documents may also express a Commission member's opinions. No information shall be distributed or presented that constitutes new information, defined as substantive information concerning the project not previously presented at a public hearing or contained in the Commission's public files. A Commission member's opinions shall not constitute new information.
	2. Review and execution of stormwater management permits. After the close of a public hearing, the Conservation Commission will discuss one or more draft stormwater management permits for possible approval. Approval consists of a successful motion to approve the order, and the signatures of a majority of the Commission. Review and approval will take place at a public meeting, held either at the same meeting that the public hearing was closed, or at a subsequent meeting.

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1. No work proposed in any stormwater management permit shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

# § 295-6. Amendments.

An applicant wishing to amend a valid stormwater management permit may submit a written request for an amendment, along with an amendment fee of $100, an updated abutters list certified by the Town of Boxford Assessor's Office, and any plans, narrative or other materials necessary to describe the requested amendment. All requests for amendment shall contain eight sets of any information submitted, including a signed original set. A copy shall also be provided by the applicant to the Superintendent of Public Works. The requirements and procedures described in § 295-5D through I shall also apply to requests for amendments.

# § 295-7. Emergencies.

The application and permit required by the bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in the bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

# § 295-8. Enforcement.

1. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this regulation and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the commonwealth.
2. The Commission shall have authority to enforce the bylaw, its regulations and permits issued thereunder by violation notices, enforcement orders, and civil and criminal court actions.

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1. Upon a request of a majority of the Commission, the Board of Selectmen and the Town Counsel may take legal action for enforcement under civil law. Upon the request of a majority of the Commission to the Board of Selectmen and the approval thereof, the Chief of Police shall take legal action for enforcement under criminal law.
2. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in the enforcement of the bylaw.
3. Any person who violates any provision of the bylaw or regulations thereunder, or any permits, enforcement order or violation notice of the Commission or of the Conservation Administrator issued thereunder, shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw regulations or permit, enforcement order or violation notice violated shall constitute a separate offense.
4. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL § 40, § 21D, as set forth in Chapter 1 of the General Bylaws.
5. The specific penalties as listed here shall apply, and in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed shall also be enforcing persons for such penalties. Each day on which any violation exists shall be deemed to be a separate offense.

# Unauthorized Activity Subject to the Stormwater Management Bylaw and Regulations

**Noncompliance with a Stormwater Management Permit, Enforcement Order or Violation Notice**

First offense $100 $200

Second offense $200 $300

Third offense(and any subsequent offense)

$300 $300

1. Municipal personnel authorized: Commission members, administrator or agent.

# § 295-9. Severability.

The invalidity of any section or provision of the Bylaw or these Regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any order, certificate, or determination which previously has been issued.