

Canton Soil Erosion and Sediment Control By-Law

1. TITLE

This by-law shall be known, and may be cited as, the **Town of Canton Soil Erosion and Sediment Control By-Law**.

2. PURPOSE

This by-law is adopted for the purpose of eliminating, or reducing, the harmful impacts of soil erosion and sedimentation on the public health, safety, and welfare, and the environment by prohibiting any increase in sediment laden runoff from land disturbing activities and by prohibiting stream bank erosion along bodies of water. This by-law regulates activities with potential for such impacts by requiring permits and pre-activity review. For activities above the thresholds of jurisdiction under this by-law, either a full or limited land disturbance permit is required, and compliance with permit conditions. By implementing the controls in permit conditions and in this by-law, and in regulations promulgated pursuant to this by law, erosion and sediment shall be controlled so as to protect water quality, flood storage, stream flow, wildlife habitat, aquatic resources, and public safety.

3. ** JURISDICTION **

No person shall clear, cut, grade, or perform any land disturbing activity on an area of land five thousand (5,000) square feet or greater without first applying for and receiving an approved full or limited land disturbance permit from the Canton conservation commission in accordance with this by-law. Land in agricultural use is exempt from the permitting required under the by-law. The conservation commission shall have authority to promulgate rules and regulations to implement this by-law, to review permit applications, to perform monitoring and inspections, to grant or deny permits, and to enforce the provisions of this by-law. The local conservation district may provide technical services to the conservation commission in the review of plans or any other matter under this by-law.

4. APPLICATION PROCEDURES

Where a full or limited land disturbance permit is required, a written application shall be submitted to the conservation commission. The owner of the property on which the proposed activity is to be conducted shall sign the application. In addition, the applicant, if the applicant is not the owner, shall sign the application. If the owner or applicant is a business entity, the chief executive officer or other officer with authority shall sign the application. Any application or other submittal in support thereof shall be submitted to the conservation commission in duplicate by certified mail or hand delivery. Upon receipt, the application shall be marked with the date and time received and a file number shall be assigned.

5. COORDINATION WITH TOWN AND OTHER AGENCIES

Any person filing a permit application with the conservation commission shall submit a copy thereof at the same time, by certified mail or hand delivery, to the board of selectmen, planning board, board of appeals, board of health, building inspector, and the local conservation district. The person filing such application shall at the same time submit to the conservation commission a written notice that these copies have been submitted to these other agencies. The conservation commission shall not take final action on an application until such boards and officials have had fourteen calendar days from their receipt to submit written comments, if any, to the conservation

Canton Soil Erosion and Sediment Control By-Law

commission. The applicant shall have the right to receive such written comments, if any, and to respond to them, if desired, prior to final action.

6. COMPLIANCE

No land disturbing activity shall take place, unless exempt by the terms of this by-law, without compliance with a land disturbance permit issued by the conservation commission, with the plans approved by that permit, and with any rules and regulations promulgated by the conservation commission. In addition, any land-disturbing activity shall comply with all federal, state, and local statutes, regulation and by-laws/ordinances and shall obtain and comply with any other necessary permits, licenses, or other approvals.

7. MODIFICATION OF PLANS

Any change in or alteration of a land-disturbing activity approved in a permit, and any approved plans, shall be submitted to the conservation commission, prior to any further land disturbing activities, for prior review and approval. If in the judgment of the conservation commission the change or alteration is substantial, the conservation commission may require that an amended application shall be submitted. If any change or alteration takes place during land disturbing activities, the conservation commission may require the installation of interim erosion and sediment control measures before the change or alteration may be approved.

8. FEES

The conservation commission by regulation shall promulgate an application fee schedule for full and limited land-disturbance applications and compliance certificates. The fee specified in such a fee schedule shall be made payable to the conservation commission and shall accompany the permit application or request for certificate of compliance. The conservation commission may require a fee for review of any change in or alteration from an approved permit or plan. **This town hereby accepts the provisions of General Laws, chapter 44, § 53E.]**

The conservation commission may in any year in which the town votes to make the provisions of chapter forty-four, section 53E½ applicable to such special fund, draw upon said special account for costs and expenses in processing applications, plans, changes or alterations, certificates of compliance, providing notices, conducting hearings, meetings, field inspections and other reviews, performing services by the conservation commission staff and other departments, agencies, boards, officers and employees of the town/city in reviewing matters pending, performing measurements, testing, monitoring, and other evaluations, and mileage, recording, and telephone costs. Provided, however, that only those costs and expenses reasonably attributable to review, approval, disapproval, or other actions on applications, plans, changes or alterations, or certificates of compliance may be so charged against said special account. This filing fee schedule when adopted by the conservation commission shall include a declaration that the conservation commission has determined the fees to be charged are reasonably commensurate with the expense incurred by the town in providing these municipal services to applicants.

Canton Soil Erosion and Sediment Control By-Law

The application fee is non-refundable except as provided herein. Any applicant aggrieved by the imposition of, or size of, the fee, or any act related thereto, may appeal the decision of the conservation commission to the board of selectmen, in the same manner as is provided for appeal of certain other similar matters in chapter forty-four, section fifty-three G.

In addition to the filing fee imposed by this by-law and by regulations promulgated by the conservation commission hereunder, the conservation commission is authorized to require the applicant to pay the reasonable costs and expenses incurred by the conservation commission for specific expert engineering and consulting services deemed necessary by the conservation commission to review an application, plan, change or alteration, or certificate of compliance, **[up to a maximum of five thousand dollars (\$5,000)]**. Said payment may be required by the conservation commission at any point in reviewing or deliberating prior to a final decision being rendered. Said services may include but are not necessarily limited to soil survey and delineation, hydrogeologic and drainage analysis, erosion and sedimentation potential, and environmental/land use law. The conservation commission is hereby authorized to impose a requirement that engineering and consulting services designated by the conservation commission be paid by the applicant whenever an application proposes any of the following: five hundred (500) square feet or greater of alteration of a freshwater or coastal wetland; fifty (50) linear feet or greater of alteration of a bank or waterway; five hundred (500) square feet or greater of alteration of land within one hundred (100) feet of a body of water; alteration of greater than five hundred (500) square feet of land under a water body; discharge of any sediment or siltation into or contributing to surface or ground water; or construction of a detention or retention basin or other drainage device.

Said fee for expert engineering and consulting services and may in any year in which the town votes to make the provisions of chapter forty-fours, sections 53EI/2 applicable to such special fund, be expended by the conservation commission for the purpose allocated without further appropriation.

The conservation commission may draw upon said special account for services approved by the conservation commission at a public meeting. Provided, however, that only those costs and expenses reasonably attributable to review, approval, disapproval, or other action on applications, plans, changes or alterations or certificates of compliance may be so charged against said special account.

Fees are non-refundable. Any applicant aggrieved by the imposition of, or size of, the fee, or any act related thereto may appeal the decision of the conservation commission to the board of selectmen, in the same manner as is provided for appeal of certain other similar matters in chapter forty-four, section fifty-three G.

Canton Soil Erosion and Sediment Control By-Law

9. BOND

The conservation commission may require that the applicant post a performance bond, as a condition of a permit, in form and content approved by the municipal attorney before construction may commence. This bond shall ensure that the installation and maintenance of soil erosion and sediment control procedures are completed as approved by the conservation commission, within a time specified in the permit.

If satisfactory to the conservation commission, the applicant may substitute a certificate of guarantee, irrevocable letter of credit, or cash bond in lieu of a performance bond. Any performance bond or letter of credit shall be executed and maintained by a financial institution, surety, or guaranty company qualified to do business in the Commonwealth.

10. CERTIFICATION

At the time of application, the applicant shall certify in writing the name of the person who is responsible for sediment control for the land-disturbing activity which is the subject of the application. Said person shall ensure that said activity takes place in accordance with the application, plan, and permit conditions.

11. REGISTRY OF DEEDS

Prior to commencement of any land-disturbing activity, the applicant shall record the permit with the registry of deeds for the county in which the activity is to take place, or the appropriate land court section of said registry, and shall submit to the conservation commission written proof of such recording.

12. FULL LAND DISTURBANCE PERMIT

The following land-disturbing activities shall require a full land disturbance permit:

- A. Clearing and grading activity disturbing an area of more than twenty thousand (20,000) square feet; OR
- B. Volume of earth movement resulting in a total quantity of (five hundred (500) cubic yards or more of earth; OR
- C. Land-disturbing activities on two or more contiguous lots within a twelve month period.

The following information shall be submitted, at a minimum, with any full land disturbance application: a plan adequately describing the proposed activity; the items specified below; and any additional information specified in regulations promulgated by the conservation commission. The applicant shall submit any additional information requested by the conservation commission or the conservation district during review of the application.

Canton Soil Erosion and Sediment Control By-Law

Detailed engineering plans for proper soil erosion and sediment control shall be submitted including the following, at a minimum:

1. A locus map, legend, and north arrow;
2. A scale showing one inch equals forty feet;
3. Title blocks identified by project name or parcel;
4. Delineation of the total land area to be disturbed;
5. Boundary lines of lots and delineation of land area where activity is to be performed;
5. Contours showing existing and proposed elevations and/or contours at two foot intervals;
6. Symbols for sediment and erosion control practices including detail and elevation;
8. Existing and proposed roadways;
9. Delineation of wetland areas;
10. Delineation of the 100 year flood plain;
11. Street profiles showing proposed grades and elevations;
12. Proposed storm drainage systems;
13. All bodies of water, including streams, rivers, lakes, and ponds, within 100 feet of the proposed activity;
14. A description of construction activities, in sequence, which specifies the expected date of soil stabilization and completion;
15. Temporary and permanent soil erosion and sediment control measures;
16. Temporary and permanent seeding and other vegetative controls.

If any structural soil erosion and sediment control is deemed necessary in the judgment of the conservation commission, the detailed engineering plans shall include the following additional information:

1. Detailed location of any dam or basin;
2. Plan view of any dam or basin;
3. Spillway designs showing calculations and profiles;
4. Emergency spillway designs showing calculations, profiles, and cross-sections;
5. Runoff calculations for peak runoff during a 100-year storm;
6. Notes and construction specifications;
7. Type of sediment trap;
8. Drainage area to any sediment trapped
9. Volume of storage required;
10. Outlet length or pipe sizes;
11. Storage depth below outlet or cleanout elevation;
12. Embankment height and elevation;
13. A portable safety fence surrounding any basin or trap, not less than forty-two inches in height with openings not more than three inches in height, firmly anchored at spacing no greater than eight feet.

Canton Soil Erosion and Sediment Control By-Law

The conservation commission shall review and respond to any completed permit application within forty-five calendar days of receipt, or such additional time as is necessary to provide coordination with other local boards and officials in accordance with Section V above. If the conservation commission denies the application, the conservation commission shall specify its reasons in writing. The decision with permit or denial shall be mailed or hand delivered by the conservation commission to the applicant. Any person aggrieved by the decision of the conservation commission may appeal in the nature of certiorari to the Superior Court.

***13. LIMITED LAND DISTURBANCE PERMIT ***

Any land-disturbing activity not requiring a full land disturbance permit, if it meets the limitations below, shall require a limited land disturbance permit application:

- A. * Activity disturbing an area of land no more than twenty thousand (20,000) square feet and no less than five thousand (5,000) square feet; AND
- B. Volume of earth movement resulting in a total quantity of no more than five hundred (500) cubic yards of earth no less than one hundred (100) cubic yards; AND
- C. Activity involving a parcel of land having a final graded slope no steeper than three horizontal units to one vertical unit, equivalent to a slope of 33 percent; AND
- D. Any area of soil cut or filled not exceeding four feet in vertical depth at its deepest point as measured from the natural ground level.

An application for a limited land disturbance permit shall, at a minimum, include a sketch of the parcel or parcels on which the activity is to take place, drawn so as to include soil erosion and sediment control practices, roadways, waterways, building or buildings to be constructed, topography, and a stabilized construction entrance.

The conservation commission shall review and respond to the permit application within forty-five calendar days of receipt, or such additional time as necessary to provide coordination with other boards as specified in Section V above. If the permit is denied, the conservation commission shall specify its reasons in writing. The decision with permit or denial shall be mailed or hand delivered by the conservation commission to the applicant. Any person aggrieved has a right to appeal a decision of the conservation commission in the nature of certiorari to the appropriate Superior Court.

14. STABILIZATION

Vegetative stabilization measures shall be employed. All perimeter dikes and slopes, basin or trap embankments shall be stabilized with sod, seed, and anchored straw mulch within seven calendar days of disturbance. All other disturbed areas shall be stabilized with sod, seed, and anchored straw mulch within fourteen calendar days after disturbing activities have ceased. Topsoil shall be stripped from disturbed areas and stockpiled in an approved area and stabilized with temporary vegetative cover if left for more than thirty calendar days. Perimeter sediment

Canton Soil Erosion and Sediment Control By-Law

controls shall be installed around stockpiled topsoil. During the months of October through March, when seeding and sodding may be impractical, anchored mulch shall be applied as approved by the conservation commission.

15. EXTENSION

A full or limited land-disturbance permit shall be valid for one year from the date the permit is issued. The conservation commission may grant one extension for an additional year, upon written request for renewal no later than thirty (30) days prior to expiration. Thereafter a new application shall be required.

16. INSPECTION

The conservation commission, in its discretion, may conduct an inspection at any stage of construction to ensure compliance with the terms of this by-law and any permit. The conservation commission also may require the applicant to submit periodic oral or written reports at any stage of construction. The conservation commission shall be authorized to conduct announced or unannounced inspections at any reasonable time. In any event, upon completion of the land disturbing activities approved by a permit, the applicant shall notify the conservation commission to request an inspection.

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17. COMPLIANCE CERTIFICATE

Upon satisfactory completion of land-disturbing activity, in accordance with a permit and any approved plan, the applicant shall request that the conservation commission issue a certificate of compliance. The conservation commission shall conduct an inspection prior to granting such a certificate of compliance and releasing any performance bond or other security. The conservation commission shall grant such certificate unless the activity is found to be in violation of this by-law or any regulations, permit, or approved plan.

18. ENFORCEMENT

Upon request of the conservation commission, the board of selectmen and the town counsel shall take legal action for enforcement of this by-law under civil law. Upon request of the conservation commission the chief of police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the conservation commission in enforcement. The conservation commission shall have the power and duty to enforce this by-law, regulations there under, and permits, including but not limited to issuance of violation notices and enforcement orders. An enforcement order may require the halt to any illegal work, removal of equipment, and site restoration.

19. VIOLATIONS/PENALTIES

Violations of this by-law, any regulations hereunder, or any permit shall be punished by a fine of not more than \$300 per day.

Canton Soil Erosion and Sediment Control By-Law

20. EDUCATION

The conservation commission, within its available resources, should provide education programs on soil erosion and sediment control to the general public and persons regulated by this by-law. Workshops and seminars should provide guidelines and advice to ease the permit application process and foster acceptance of good erosion control practices.

21. DEFINITIONS

For the purposes of this by-law the following words and phrases shall have the following meaning, unless a different meaning is clearly evident from all of the circumstances:

AGRICULTURE: Land in agricultural use means land presently and primarily used in producing or raising agricultural commodities for commercial purposes.

ANCHORED MULCH: Mulch consisting of straw, woodchips, emulsifier, and other appropriate materials, bound together by anchored pegs and twine.

APPLICANT: Any natural person, individual, partnership, corporation, trust agency, department, political subdivision, or other legal entity requesting a soil erosion and sediment control permit for proposed land-disturbing activity.

CLEAR: The act of removing vegetative cover in a **manner that** does not disturb root mat or the existing soil surface.

CUT: The excavation of soil, sand, gravel, stones, or other earth material from the land.

CONSERVATION COMMISSION: The conservation commission of the town of Canton.

CONSERVATION DISTRICT: The conservation district for the county in which this municipality lies.

ENGINEERING PLAN: A plan developed by a professional engineer, landscape architect, land surveyor, or person duly qualified, whose name appears on said plan.

EROSION: The process by which the ground surface is worn by natural forces such as wind, water, ice, gravity, and glaciers or by artificial means.

FILL: Any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported, and includes the conditions that result from that act.

GRADE: An act by which soil is cleared, stripped, stockpiled, or any combination thereof.

Canton Soil Erosion and Sediment Control By-Law

LAND-DISTURBING ACTIVITY: Any action that causes the alteration of earth, sand, rock, gravel, vegetation, or similar material on land.

ONE HUNDRED-YEAR FLOODPLAIN: An area delineated under the Federal Emergency Management Act (FEMA.) indicating the extent of flooding as a result of a 100-year storm.

PERIMETER CONTROL: A measure that prevents erosion and sedimentation through the use of earth and dikes at the outer extent of land disturbing activities.

PERMIT: The full or limited land-disturbance permit issued by the Conservation commission authorizing land-disturbing activity in accordance with the requirements of this by-law.

SEDIMENT: Organic material or minerals transported or deposited by the movement of wind, water, ice, gravity, glaciers, or by artificial means.

SEDIMENT BASIN: A temporary barrier or dam constructed across a drainage way or at another suitable location to intercept and trap sediment.

SEDIMENT TRAP: A temporary sediment control measure formed by excavation or embankment to intercept and trap sediment.

SITE: Any lot or parcel of land or area of property where land disturbing activities are, were, or will be performed.

SLOPE: The inclined surface of a fill, excavation, or natural terrain.

SOIL: Any earth, sand, rock, gravel, or similar material.

STRIP: Any activity, which removes the vegetative surface cover Including but not limited to tree removal, clearing, grubbing, and storage or removal or topsoil.

WETLAND: Any resource area, which is subject to the Wetlands Protection Act, General Laws, chapter 131, § 40 and the Town of Canton Wetland By-law.

XXII. SEVERABILITY

If any provision of this by-law is held to be invalid such invalidity shall not affect any other provision of this by-law.

XXIII. EFFECTIVE DATE

This by-law shall take effect in the manner provided in section thirty-two of chapter forty.

Town of Canton Soil Erosion and Sediment Control By-Law amended as of August 2009, voted at ATM 2008

* means section of by-law has been amended