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Chapter 126

Stream Corridor Management Regulations for the Town of Bolton

§126-1. Purpose and Intent.

The purpose of this chapter is to establish permit requirements and standards for the protection of stream corridors within the Town of Bolton; to protect and safeguard the general health, safety, and welfare of the public residing in or visiting the town by preserving and protecting the quality of the ground and surface waters. This chapter has the following specific objectives:

- A. To preserve the water quality of Lake George and its tributaries.
- B. To protect the riparian and aquatic ecosystems of streams within the Lake George.
- C. To provide for the environmentally sound use of the Lake George and land resources.

Section §126-2. Definitions.

- A. Terms used in this Chapter shall have the following meaning:

AGRICULTURAL ACTIVITIES

The activities of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, and using land for growing agricultural products, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

COMMISSION

The Lake George Park Commission.

DEPARTMENT

The Department of Environmental Conservation of the State of New York.

DESIGNATED STREAM CORRIDOR

The stream bed and the area extending thirty-five (35) feet from the high-water mark on each side of a stream.

DEVELOPMENT

Any building, construction, expansion, alteration, modification, demolition or other activity, including land clearing, land disturbance, grading, roadway construction or expansion, mining or mineral extraction which materially changes the use or appearance of land or a structure, or the intensity of the use of land, or the creation of a subdivision which may result in such activity, but not including interior renovations to a structure, a change in use of a structure which results in no land disturbance

DEVELOPMENT AREA OR SITE

Any parcel of property or lot or combination of contiguous lots which (a) are in common ownership, or (b) are in diverse ownership where development is to occur in common. For the purposes of this Ordinance contiguous lands shall include those separated by a public highway.

DISTURBED AREA

That part of a development site area where actual land disturbance, vegetation removal, or construction of buildings, structures or utilities will occur or has occurred.

EXISTING DEVELOPMENT

Buildings, structures, impervious areas, landscaped areas, utilities, and accessory structures present on the effective date of this chapter.

HIGH WATER MARK (HWM) OF A STREAM

A line along the banks of a stream that is the approximate seasonal peak water level as indicated by the cut of the bank and the demarcation between terrestrial and aquatic vegetation. For the purpose of determining the high-water mark, ponds of one acre or less within the stream shall be included.

EROSION

The wearing away of the land surface by water, wind, or ice or the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

IMPERVIOUS AREA

All impermeable surfaces that cannot effectively infiltrate rainfall. This includes paved, concrete and gravel surfaces (i.e. parking lots, driveways, roads, runways and sidewalks); building rooftops and miscellaneous impermeable structures such as patios, pools, and sheds.

INFILTRATION

The downward movement of water from the surface to the subsoil. Infiltration rate is typically expressed as inches per hour.

LAND DISTURBANCE OR LAND CLEARING

Grading, digging, cutting, scraping, excavating, removing of soil, placement of fill, paving or otherwise covering, construction, substantial removal of natural or human-made vegetation, replacement of natural vegetation with lawn or other human-made vegetation, demolition or other removal of human-made features, or any activity which bares soil or rock. For the purposes of calculating the square footage affected by any development in order to determine a project's classification, all affected areas of the development site shall be considered in aggregate whether or not the affected areas are contiguous, however the calculation shall not include areas used for (i) approved wastewater treatment systems, (ii) stormwater retrofit projects, or (iii) infiltration devices for new development. Infiltration devices located in areas that would otherwise be impacted by development activity shall be considered in the calculation of land disturbance (eg. porous pavement, infiltration chambers beneath a parking lot).

LANDSCAPED AREA

An area of vegetation which has been actively maintained as a lawn, garden, hedge, or planting bed.

LAWN

Any non-crop land area that is covered by any grass species. Lawn or non-agricultural turf does not mean flower or vegetable gardens, pasture, hayland, trees, shrubs, turf grown on turf farms, or any form of agricultural production.

PEAK FLOW

The maximum instantaneous flow of water from a given condition at a specific location.

PERSON

Any individual, firm, partnership, club, trust, company, association, cooperative, corporation (including a government corporation), municipality, the State or Federal government and any agency thereof.

POROUS PAVEMENT

An open graded paving material which allows water to pass through it.

PROJECT

Any land use or development activity proposed by an applicant which is subject to this Chapter.

PROJECT LIFE

The anticipated or actual time a project will be used, utilized or remain in functional existence.

SILVICULTURE ACTIVITY

The practice of controlling the establishment, composition, constitution, and growth of forests. Silvicultural activities include: site preparation for forest regeneration; reforestation (including subsequent cultural treatment); thinning; prescribed burning; pest and fire control; harvesting operations; surface drainage; harvest related road/trail construction and maintenance; and nursery operations. Tree removal in preparation for development or other conversion to a non-forestry use is not silviculture.

SITE - (See Development Area)

STORMWATER

Water produced by precipitation including snow melt which does not evaporate, and which flows over a natural or human-made surface or into a natural or human-made channel.

STORMWATER CONCEPT PLAN OR SCP

A report prepared in accordance with Schedule B of this Ordinance or on behalf of a project sponsor which includes analysis of a site's environmental characteristics, potential impacts of the development on water resources and the effectiveness and acceptability of the proposed stormwater management system in order to determine the types of stormwater measures necessary for the proposed development.

STORMWATER CONTROL MEASURES

All those natural and man-made structures, infiltration devices, erosion controls, systems, facilities, agreements, institutional arrangements, and financial provisions to manage stormwater including, but not limited to, any of the following: dry wells, pits of crushed rock, infiltration trenches, retention ponds, detention ponds, blind ditches, swales, pipes, culverts, natural depressions, porous paving, recharge areas, and basins.

STORMWATER CONTROL REPORT OR SCR

A report prepared in accordance with Schedule B of this Ordinance or on behalf of a project sponsor which evaluates the quantity and quality of stormwater runoff resulting from the proposed project. The report shall include a set of drawings and other documents to provide all the necessary information and specifications pertaining to stormwater management and associated pollution control for a particular site. The SCR is intended to implement the SCP.

STORMWATER DESIGN

The written narrative, maps, and diagrams prepared for the purpose of runoff control on a specific development site, based upon survey and analysis of the site.

STORMWATER MANAGEMENT

- A. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by human-made changes to the land; and
- B. For qualitative control, a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

STORMWATER MANAGEMENT MAINTENANCE AGREEMENT

An agreement between the project sponsor and some other entity to ensure adequate maintenance and repair of the stormwater management system over the life of the project.

STORMWATER MANAGEMENT PLAN OR PLAN

A local stormwater management plan adopted by a municipality pursuant to this Chapter and Environmental Conservation Law section 43-0112.

STORMWATER RECHARGE AREA

An area of land used for the purpose of infiltrating stormwater.

STORMWATER REGULATORY PROGRAM OR PROGRAM

A local stormwater regulatory control program adopted by a municipality pursuant to 6NYCRR 646-4 and Environmental Conservation Law section 43-0112.

STORMWATER RETROFIT PROJECT

An activity undertaken for the purpose of reducing stormwater runoff volume, velocity, and/or pollutants generated from pre-development conditions, and which is undertaken or approved by the municipality in which the project is located, the county Soil and Water Conservation District, or the Commission.

STORMWATER RUNOFF

Any surface water runoff or runoff in channels which results directly either from a rainstorm or from the melting of snowpack.

STREAM

An AA-special perennial stream designated or mapped by the Department.

STREAM BED

The flow area of a stream at and below the high-water mark of a stream.

SURFACE WATER RUNOFF

water which flows over the land and does not percolate into the soil, and which may run off as a sheet, rill or stream flow.

WATER BODY

any lake, pond, river, stream, intermittent stream or wetland.

WATER TABLE

the upper surface or top of the saturated portion of the soil or bedrock layer, indicating the upper extent of groundwater.

WATERSHED

the total drainage area contributing runoff to a single point.

WETLAND

an area designated as a freshwater wetland by the New York State Adirondack Park Agency.

§126-3. Prohibitions.

- A. No person shall undertake development, land disturbance, or land clearing in a designated stream corridor without first receiving a permit pursuant to this Chapter.
- B. No person shall disturb the stream bed of any stream without first receiving a permit pursuant to this Chapter.
- C. No person shall discharge, throw, or abandon any foul, noxious or deleterious substance into a stream or designated stream corridor.
- D. No person shall fail to conform to any permit issued pursuant to this Chapter.
- E. No person or owner of real property located within the Town of Bolton shall create or maintain a condition on such property, which due to a human disturbance of land or vegetative cover, or soil, results in the erosion of soil into any water body or designated stream corridor. Such condition shall be a violation of this Article with an additional violation for each day the condition continues.

§126-4. Exemptions.

- A. The permit requirements in Chapter §125-13 Permit application review procedures shall not apply to any of the following:
 - (1) Emergency actions necessary to protect the public health, safety, or welfare or to prevent damage to private property for which notice is provided to the Town within 72 hours after the emergency action.
 - (2) Any project that received required approvals prior to the effective date of this Chapter.
 - (3) Projects located entirely outside the Lake George watershed.
 - (4) Maintenance of structures, utility rights-of-way, impervious areas and landscaped areas existing on the effective date of this Chapter, which do not increase the footprint of existing development, do not involve stream crossings, and do not require disturbance to the stream bed.
 - (5) Removal of storm damaged trees that are a hazard to people or buildings.
 - (6) Construction of a fence.
 - (7) Agricultural and silviculture activities exempted by Chapter 125, respectively. Note, though permit requirements are waived, any activity in a stream corridor must comply with all design standards of §126-7 and §126-8, except as noted in §126-6 below.
 - (8) Any activities that conform with the standards of §126-8 to the maximum extent practicable, and for which a permit or authorization has been issued by the Department pursuant to the processes, procedures, and standards set forth shall be exempt from §126-5 (b) above.

§126-5. Provisions Relating to Silviculture Activity.

- A. The permit requirements in §126-3 shall not apply to silviculture activity provided all of the following are met:
 - (1) the project qualifies for exemption from stormwater regulations at §126-6, and the property owner, their agents or assigns, provides a completed notice of intent to harvest timber checklist to the Town a minimum of fifteen (15) days in advance of starting land disturbance or vegetation removal, and posts a copy of the notice of intent to harvest timber checklist in a conspicuous location at the access to the property to be harvested,
 - (2) the project complies with the Standards for the Protection of Designated Stream Corridors at 6 126-7 of this Chapter,

- (3) any stream crossings are authorized by the Department's General Permit for Temporary Bridges/Culverts for Logging Activities. The conditions of the Department's General Permit for Temporary Bridges/Culverts for Logging Activities shall control over standards for Stream Crossings and Stream Bed Disturbances at §126-5,
 - (4) except as necessary for stream crossings, there shall be no wood roads, skid trails, or log landings within designated stream corridors
 - (5) the number of crossings per site shall not exceed one per 1,000 feet of stream
 - (6) the project is in accordance with the New York State Forestry Voluntary Best Management Practices for Water Quality: BMP Field Guide 2018 Edition (nysbmpguidelines.com).
- B. The notice of intent to harvest timber checklist shall be submitted on forms made available by the Town. A notice of intent to harvest timber checklist may cover a period of up to three years.
- C. If the Town determines that the scope of vegetation removal, road construction, excavation, land clearing or land disturbance proposed or undertaken under a permit exemption for silvicultural activity constitutes development or otherwise poses a threat to the natural resources of the Park, it shall give written notice to the property owner that a permit is required pursuant to this Chapter. After such notice, failure by any person to obtain a permit or conform to the permit requirements shall constitute a violation of this Chapter.
- D. No person shall undertake silviculture activity or vegetative removal in a designated stream corridor except in accordance with New York State Forestry Best Management Practices for Water Quality. Whenever the Town determines that timber harvesting or vegetative removal is occurring or has occurred in a manner not in accordance with the New York State Forestry Best Management Practices for Water Quality, it shall give notice to the property owner setting forth a reasonable period of time to undertake specific corrective action. Failure to undertake the specific corrective action prescribed in the notice within the period of time shall constitute a violation of this Article. Each day the property owner fails to undertake the specific corrective action after the period of time shall be a separate violation.

§126-6. Project Classification.

Minor and Major project classifications established in Chapter §125-9 shall apply to any project that requires permit pursuant to this Article. Said permit shall be approved as outlined in Chapter 125.

- A. Minor Project. In a stream corridor involving disturbance of less than 15,000 sq./ft. a project shall be classified as minor.
- B. Major Project. In a Stream Corridor where disturbance is greater than 15,000 sq./ft. a project shall be classified as major.

§126-7. Standards for the Protection of Designated Stream Corridors.

- A. The following standards shall apply to all development, land disturbance, and land clearing within a designated stream corridor:
 - (1) within 6 feet of the high-water mark of a stream no vegetation may be removed, except that a contiguous clear-cut opening may be created. The opening shall not exceed 30% of the stream length on a site or a maximum of 75 linear feet, whichever is less.
 - (2) between 6 feet and 35 feet from the highwater mark of a stream no woody vegetation greater than one inch in diameter at 4.5 feet above ground elevation may be removed, except that a contiguous clear-cut opening may be created. The opening shall not exceed 30% of the stream length on a site or a maximum of 75 linear feet, whichever is less.

- (3) a maximum of 100 square feet of new impervious area or 400 square feet of porous pavement (i.e., porous pavers) may be created on a site.
 - (4) where development exists within a designated stream corridor prior to the effective date of this Chapter, these areas are to be considered in aggregate with any proposed development, land disturbance, and land clearing such that the total development within a designated stream corridor complies with the standards above. If development within a designated stream corridor exists prior to the effective date of this Article and exceeds the standards above, it may be maintained in perpetuity.
- B. Prior to the issuance of a permit pursuant to this Chapter, the Town shall ascertain the probable effect of the project on the water quality of the stream and the Lake and on the natural resources of the Park including the flora and fauna. When it is determined that the proposed activity will endanger the health, safety or welfare of the public or lead to unnecessary, uncontrolled or undue impacts to water quality, to the natural resources of the Park or to the physical or ecological integrity of a designated stream corridor, the permit shall be denied.

§126-8. Standards for Stream Crossings and Stream Bed Disturbances.

- A. The following criteria shall apply to all stream crossings and stream bed disturbances.
- (1) Stream crossing, channelization, or piping is allowed only for utility crossings, logging roads, public roads (including subdivision roads to be accepted), approved private roads, and driveways to access private real property.
 - (2) Separate road and utility crossings shall not be approved when the consolidation of the proposed crossings is feasible.
 - (3) When separate road and utility crossings are necessary, the preferred methodology for utility establishment shall be by directional boring under the stream bed.
 - (4) The number of crossings shall be limited to one per site per stream.
 - (5) When culverts or arches are used, they shall be used so as to maintain the natural course and bed of the stream.
 - (6) Culverts and arches must be sized and designed in accordance with standard design practices, including allowing for safe passage for wildlife and floodplain flows.
 - (8) All stream crossings shall be designed to safely pass the fifty (50)-year, peak storm event. The Town may require additional design features it determines necessary to prevent a hazard to downstream property and natural resources.
 - (9) Stream crossings shall not impound water during the 10-year storm event.
 - (10) Stream crossing structures shall be designed to span one and one-fourth (1.25) times the stream bed width.
 - (11) Culverts shall be embedded twenty percent (20%) along their entire linear length.
 - (12) Any stream bed disturbance shall promote the natural shape, slope, and substrate of a stream.
 - (13) Any stream bed disturbance shall be limited to the minimum disturbance necessary.
 - (14) Creation of land disturbance and impervious areas for driveways and roads shall be limited to a maximum width of twenty (20) feet and thirty (30) feet, respectively. If this standard conflicts with standards at §126-7 (a) (1-3), this provision shall control.
 - (15) Crossings that convey wastewater shall be depicted on a survey map prepared and stamped by a professional surveyor licensed to operate in New York State. The survey map shall be filed with the Office of the County Clerk in the county where the property is located.

- (16) No permit shall be issued pursuant to this Chapter unless the Town Board first determines that the activity is reasonable and necessary, will not endanger the health, safety, or welfare of the public, and will not cause damage to downstream properties or the natural resources of the Lake George.

§126-9. Plan Requirements.

- A. Project plans shall be required to include information the Town Board determines is reasonably necessary to complete its review and generally shall include plan views of proposed and existing buildings and impervious areas, grading plans, temporary erosion and sedimentation controls, limits of clearing, areas of selective cutting, location of trees to be removed, soil tests, slopes, landscape and plantings and buffer areas to be protected. Designated stream corridors shall be depicted on subdivision plats submitted for approval.
- B. Plans may include proposed restoration, plantings, and conservation areas to demonstrate compliance with the standards at §126-7.

§126-10. Administration.

- A. A variance to any standard in this Chapter shall be processed in accordance with the requirements of outlined in Chapter 200 of Bolton Town Code, particularly Article X. Variances.
- B. Whenever the permit requirements of this Chapter apply in conjunction with the requirements of the stormwater management regulations at §126-4, a single application form, fee, and permit processing shall be required.
- C. The fee for permits required pursuant to the Chapter shall be those established for major and minor stormwater projects pursuant to Chapter §125 Stormwater and Erosion Control.
- D. In addition to or as an alternative to any penalty provided herein or by law, any person that violates this regulation may be required to restore land to its undisturbed condition.
- G. The Town Zoning Administrator, or their designated agents may enforce all portions of this Chapter with all rights as outlined herein and in Chapter 200 Zoning., Chapter 125 Stormwater and Erosion Control, and Chapter 150 Subdivision.

§126-11. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

126-12. Interpretation; Conflict.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or ordinances, provided that whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted regulations, rules or ordinances, the most restrictive or those which impose the highest standards shall govern.

§126-13. Effective Date.

This Local Law shall be effective upon filing with the New York State Secretary of State.