

TOWN OF PAXTON STORM WATER BYLAW

Accepted May 6, 2006 (Amended May 6, 2019)

Introduction

Land uses in Town affect our streams, lakes and water supplies. Careful planning of new development will protect the quality and health of these important water resources. Therefore, the Town of Paxton enacts this Stormwater Bylaw to provide guidance that will prevent harmful impacts from land development activities.

1.0 PURPOSE

A.) The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing requirements and procedures to manage stormwater runoff, promote groundwater recharge and to prevent water pollution from new development and redevelopment. This Bylaw seeks to meet that purpose through the following objectives:

1. Establish regulations for land development activities that preserve the health of water resources;
2. Require that the amount and quality of stormwater from new development is equal to or better than pre-development conditions in order to reduce flooding, stream erosion, pollution, property damage and harm to aquatic life;
3. Establish stormwater management standards and design criteria to control the quantity and quality of stormwater runoff;
4. Encourage the use of "low impact development practices", such as reducing impervious cover and preserving greenspace and other natural areas;
5. Establish maintenance provisions to ensure that stormwater treatment practices will continue to function as designed and pose no threat to public safety;
6. Establish procedures for the Town's review of stormwater management plans and for the Town's inspection of approved stormwater treatment practices.

B) Nothing in this Bylaw is intended to replace the requirements of the Town of Paxton Flood Plain Zoning Bylaw, or any other Bylaw that may be adopted by the Town of Paxton. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

2.0 DEFINITIONS

Definitions are in Appendix A of this Bylaw and shall apply in the interpretation and implementation of the Bylaw. Terms not defined in this Appendix shall be understood according to their customary and usual meaning. Additional definitions may be adopted by separate regulation.

3.0 AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, and pursuant to the regulations of the federal Clean Water Act, and as authorized by the residents of the Town of Paxton at Town Meeting, dated May 6, 2006.

4.0 ADMINISTRATION

A) The Stormwater Authority, shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by the Stormwater Authority to its employees or agents.

- B) Stormwater Regulations. The Stormwater Authority may adopt, and 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 Stormwater Bylaw by majority vote of the Stormwater Authority, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. After public notice and public hearing, the Stormwater Authority may issue rules and regulations to fulfill the purposes of this Bylaw. Failure by the Stormwater Authority to issue such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.
- C) Stormwater Management Manual. The Stormwater Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy, to execute the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. 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.
- D) Actions by the Stormwater Authority. The Stormwater Authority may take any of the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- E) Appeals of Action by the Stormwater Authority. A decision of the Stormwater Authority shall be final. Further relief of a decision by the Stormwater Authority made under this Bylaw shall be reviewable in the Superior Court in an action filed within *[60 days]* thereof, in accordance with M.G.L. Ch. 249 § 4.
- F) Stormwater Credit System. The Stormwater Authority shall adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Credit System. This credit system will allow applicants the option, if approved by the Stormwater Authority, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Stormwater Authority to issue such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

5.0 APPLICABILITY

- A) This bylaw shall be applicable to all new development and redevelopment, including site plan applications and subdivision applications as well as any illicit discharges. The Bylaw shall apply to any activities that will result in an increased amount of stormwater runoff or pollutants from a parcel of land, or that will alter the drainage characteristics of a parcel of land, unless exempt under Section 5.C of this Bylaw. All new development and redevelopment under the jurisdiction of this Bylaw shall be required to obtain a Stormwater Management Permit.
- B) An alteration, redevelopment, or conversion of land use to a hotspot such as: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas, shall require a Stormwater Management Permit.
- C) Exemptions

No person shall alter land within the Town of Paxton without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:

1. Any activity that will disturb an area less than 10,000 square feet or less than 25% of a contiguous property, whichever is less.
2. 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;
3. Conversion of land to agricultural use for crops and/or pasture;
4. Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling;
5. Repair or replacement of an existing roof of a single-family dwelling;
6. Construction of a single-family family dwelling, where approval is not required, as defined in the Subdivision Control Law unless the associated land disturbance activity exceeds 10,000 square feet. Prior to land disturbance activities, persons constructing single-family dwellings are strongly encouraged to consult with the Town Superintendent of the Department of Public Works about actions to reduce stormwater impacts during and after construction. It is also recommended that individuals constructing single-family dwellings prepare and grade lots in such a manner that development of the lot does not cause detrimental drainage on another lot or onto streets either during construction or upon completion. Persons constructing single-family dwellings are strongly encouraged to use stormwater control and site planning methods described in the Town of Paxton Best Development Practices Guidebook.
7. Repair or replacement of an existing septic system. Persons repairing or replacing septic systems are strongly encouraged to consult with the Town Board of Health about actions to reduce stormwater impacts during and after construction.
8. The construction of any fence that will not alter existing terrain or drainage patterns;
9. Construction of a deck, patio, retaining wall, driveway expansion, shed, swimming pool, tennis or basketball court associated with a single-family dwelling;
10. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;
11. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority;
12. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw;

D) Illicit Discharges

Notwithstanding any other provision of this bylaw, no person or entity shall dump, discharge, cause, or allow to be discharged any pollutant or non-storm water discharge into any pipe, drain, catch basin, or other structure in the MS4 such that it discharges into MS4, a water body, or a wetland resources area, whether by direct or indirect connection. No person shall construct, use, allow, maintain, or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of construction. No person or entity shall discharge, cause, or allow to be discharged any septage or septic tank or cesspool overflow in the MS4.

The Storm Water Authority or designee will investigate all suspected illicit discharges into the MS4 and take immediate action to seek out the responsible party.

6.0 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations issued as permitted under Section 4 of this Bylaw.

7.0 ENFORCEMENT

The Stormwater Authority or its designee shall enforce these Regulations, and may pursue all remedies for violations, including a written enforcement order.

If abatement of a violation and/or restoration of affected property is required, the enforcement order shall set forth a deadline within which such remediation or restoration must be completed. Where elimination is not possible within 60 days of source confirmation, a schedule for its elimination will be set for no more than 180 days. Said order shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated government agency or a contractor and the expense thereof shall be charged to the violator.

Within 30 days after correcting the violation, the violator and the property owner shall be notified of the costs incurred by the Town of Paxton including administrative costs.

Any person, who violates any provision of the Town of Paxton Storm Water Bylaw, or any Regulation, or permit issued thereunder, may be ordered to correct the violation and/or shall be punished by a fine of not more than \$100.00 per day thereof that such violation occurs or continues shall constitute a separate offense.

APPEALS

Any person receiving a Notice of Violation may appeal the determination of the Storm Water Authority or its designee. The notice of appeal must be received within 15 days of the notice. Hearing on the appeal before the Storm Water Authority or its designee shall take place within 30 days of the notice of appeal.

If the violation is not corrected pursuant to the requirements set forth in the Enforcement and Appeal, the Planning Board or designee may authorize a cease and desist of all operations.

The decisions or orders of the Storm Water Authority or its designee shall be final.

8.0 SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

APPENDIX A DEFINITIONS

ALTER: Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN: Site design approaches and techniques that can reduce a site’s impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the MS4.

HOTSPOT: Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.

ILLICIT CONNECTION: A surface or subsurface drain, conduit, or conveyance that allows an illicit discharge to enter the MS4, including without limitation sewage septage, process wastewater, or wash water, and any connection from indoor drains, sinks, or toilets, regardless of whether said connection was permissible under applicable law, regulation, or custom at the time of construction.

ILLICIT DISCHARGE: A discharge that is not entirely comprised of storm water. Notwithstanding the foregoing, an illicit discharge does not include discharges from the following activities or facilities: firefighting, water line flushing, landscape irrigation, uncontaminated ground water, potable water sources, foundation drains, air conditioning condensation, footing drains, individual resident car washing, flows from riparian habitats and wetlands, dechlorinated water from swimming pools, water used from street washing and water used to clean residential buildings without detergents. **These exemptions will not apply if the permittee, EPA, or MassDEP identifies such discharge as a significant contributor of pollutants to the MS4.**

MASSACHUSETTS STORM WATER MANAGEMENT POLICY: The Policy 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 G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. 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 SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention

basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Paxton.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

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 human-made pollutants, finally depositing them into water resource areas.

NON-STORM WATER DISCHARGE: Discharge to the MS4 not composed entirely of storm water. The following non-storm water discharges are exempt from this definition, provided that the source is not a significant contributor of a pollutant to the MS4: water line or hydrant flushing, discharges from fire fighting activities; foundation or footing drains; landscape irrigation and lawn watering; air conditioning condensation; dechlorinated (<1part per million chlorine) swimming pool discharges; water from individual residential car washing; discharge from street sweeping; flow from potable water sources; flow from springs; wetlands, diverted streams, or riparian habitats; rising groundwater, including uncontaminated infiltrated or pumped groundwater.

PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Paxton, and any other legal entity, its legal representatives, agents, or assigns.

POLLUTANT: Contaminant including, but not limited to, dredged spoils, incinerator residue, filter, backwash, garbage, heavy metals, munitions, toxins, oil and grease, solvents, nutrients, viruses, and bacteria, solid waste, sewage, sewage sludge, septage, agricultural waste, gasoline, diesel fuel, heat chemicals, biological materials, wrecked or discharged equipment, rock, sand, cellar dirt, detergents, fertilizers and pesticides, animal waste, industrial, municipal and agricultural discharges into water.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the *Storm Water Authority*. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion and does not refer to the construction phase of a project.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Any construction, alteration, or improvement exceeding land disturbance of 10,000 square feet, where the existing land use is commercial, or institutional.

STORM WATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

STORM WATER AUTHORITY: The Planning Board is the Town of Paxton's Storm Water Authority. The Storm Water Authority is responsible for coordinating the review, approval and permit process as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in the Storm Water Regulations adopted by the Planning Board.

STORM WATER CREDITS: A form of incentive for developers to promote conservation of natural and open space areas. Projects that comply with prescribed requirements are allowed reductions in stormwater management requirements when they use techniques to reduce stormwater runoff at the site.

STORM WATER DISCHARGE: Conveyance or system of conveyances (including pipes, conduits, ditches and channels) primarily used for collecting and conveying storm water runoff.

STORM WATER MANAGEMENT PERMIT (SMP): A permit issued by the *Storm Water Authority*, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.