

STORMWATER MANAGEMENT BYLAW

§ AAA-1. General provisions.

A. Purpose.

The purpose of this Stormwater Management Bylaw is to:

- (1) Protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to control the adverse effects of development; and
- (2) Establish a mechanism by which the Town can meet the requirements of its National Pollutant Discharge Elimination System (NPDES) General Permit.

B. Compatibility with other permit and bylaw requirements.

This Bylaw is not intended to interfere with, abrogate or annul any other Bylaw, rule or regulation, statute, or other provision of law. The requirements of this Bylaw should be considered minimum requirements, and where any provision of this Bylaw imposes restrictions different from those imposed by any other Bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

C. Adoption.

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the rules and regulations of the Federal Clean Water Act found at 40 C.F.R. 122.34, and as authorized by the residents of the Town of Lexington under Article 30 at the Annual Town Meeting of 2008.

D. Enforcement authority.

The Stormwater Agency shall enforce this Bylaw and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of the Stormwater Management Regulations.

E. Penalties.

Any person violating this bylaw is subject to any applicable penalties or other legal enforcement action by the Town.

F. Appeals.

The decisions or orders of the Stormwater Agency shall be final. Further relief of a decision by the Stormwater Agency 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. c. 249, § 4.

G. Remedies not exclusive.

The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

§ AAA-2. Definitions.

The definitions contained herein apply to the interpretation and implementation of this Bylaw. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. Additional definitions may be adopted by separate regulation.

ALTER — Any activity that 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 PRACTICES (BMPs) — 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.

DEVELOPMENT — Any alteration, construction, disturbance, improvement or modification of land or structures to accommodate a use, expansion of use or redevelopment on a site.

LOW IMPACT DEVELOPMENT (LID) — is a set of strategies that seek to maintain natural hydrologic systems both during and after the development process. This approach is implemented by engineering a site so that the post-development hydrologic functions remain close to pre-development conditions by using design techniques that infiltrate, filter, store, evaporate and detain stormwater runoff close to its source.

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) designed or used for collecting or conveying storm water, which is not a combined sewer, that is owned or operated by a city or town having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, that discharges to waters of the United States.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) — As authorized by the Federal Clean Water Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

RUNOFF — A term used to describe the water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into streams or other surface waters or land depressions.

SITE — the parcel of land being developed or a designated planning area in which the land development project is located.

STORMWATER — Water that accumulates on land because of storms, and can include runoff from urban areas such as roads and roofs.

STORMWATER AUTHORITY — The entity responsible for adopting regulations pursuant to this Bylaw.

STORMWATER AGENCY — The Town’s Department of Public Works Engineering Division is designated to administer, implement and enforce this Bylaw.

STORMWATER MANAGEMENT — The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

STORMWATER MANAGEMENT PERMIT — A permit issued by the Stormwater Agent, after review of an application, plans, calculations, and other supporting documents, approving a system that is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

§ AAA-3. Regulation of discharges to the municipal storm sewer system.

A. Prohibited activities.

The prohibition of illicit connections and discharges to the municipal storm sewer system is necessary for the protection of local water bodies and groundwater and to safeguard public safety, health and welfare.

- (1) Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- (2) Illicit connections. No person shall construct, use, allow, maintain or continue any connection to the municipal storm sewer system, except as exempted in Section 3.B below.
- (3) Obstruction of the municipal storm sewer system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer system without prior written approval from the Stormwater Authority.
- (4) Alteration of the MS4. No person shall modify or remove any part of the MS4 including surface drainage or piping that crosses private property if it serves the public as part of the drainage system.

B. Exemptions.

Stormwater discharges that are wholly subject to jurisdiction under the Wetlands Protection Act or the Wetland Protection Code of Lexington and demonstrate compliance with the Massachusetts Storm Water Management Standards as most recently revised and updated in accordance with revisions to the Wetlands regulations 310 CMR 10.00, and as reflected in an Order of Conditions or in a Determination of Applicability issued by the Conservation Commission are exempt from compliance with this section of the bylaw.

§ AAA-4. Regulation of stormwater management practices.

A. Applicability

This Bylaw shall be applicable to the following activities:

- (1) Any activity that results in a land disturbance greater than one acre of land, or any activity that disturbs less than one acre if that project is part of a larger common plan of development that eventually will disturb more than one acre of land; or
- (2) A new dwelling on a vacant lot, a new dwelling replacing an existing dwelling, or the reconstruction of an existing dwelling that is demolished to the extent of 50% or more of its replacement cost, as determined by the Building Commissioner or designee; or
- (3) Any development project that:
 - [1] Requires a Special Permit or a Special Permit with Site Plan Review; or
 - [2] Requires approval of a Definitive Plan under the Subdivision Control Law.

B. Exemptions

No person who meets the applicability of this bylaw shall alter land within the Town of Lexington without having obtained a Stormwater Management Permit, except as follows:

- (1) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw;
- (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations at 310 C.M.R. 10.04,
- (3) Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, as protected under the Zoning Act, M.G.L. c. 40A, § 3;
- (4) Customary cemetery management;
- (5) Stormwater discharges that are wholly subject to jurisdiction under the Wetlands Protection Act or the Wetland Protection Code of Lexington and demonstrate compliance with the Massachusetts Storm Water Management Standards as most recently revised and updated in accordance with revisions to the Wetlands regulations 310 CMR 10.00, and as reflected in an Order of Conditions or in a Determination of Applicability issued by the Conservation Commission.
- (6) The construction, reconstruction, or repair of any fence or wall that will not alter the existing terrain or drainage patterns;
- (7) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not permanently alter terrain, ground cover, or drainage patterns;
- (8) Emergency repairs to any stormwater management facility or practice that poses a threat to public safety or health, or as deemed necessary by the Stormwater Authority.

§ AAA-5. Administration.

A. The Stormwater Authority

The Board of Selectmen shall be the Stormwater Authority.

B. Stormwater Management Regulations

The Board of Selectmen 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 Management Bylaw 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 promulgate rules and regulations to effectuate the purposes of this Bylaw.

C. The Stormwater Agency

The Town's DPW Engineering Division shall be responsible for the day-to-day administration of the Stormwater Management Bylaw and the Stormwater Management Permit granting authority.

D. Actions by the Stormwater Agency

The Stormwater Agency shall take final action within twenty-one (21) days from the receipt of a complete application unless such time is extended by written agreement between the applicant and the Agent. The Stormwater Agency may take any of the following actions on an application for a Stormwater Management Permit:

- (1) Approve the application;
- (2) Approve the application with conditions; or
- (3) Disapprove the application.

E. Stormwater “Buy-Out”

The Stormwater Agency may allow the applicant to contribute to the construction of a public or shared stormwater facility in lieu of an onsite stormwater facility where it has been demonstrated that there is not sufficient space for onsite stormwater best management practices.

F. Waivers

The Stormwater Agency may waive strict compliance with any requirement of this Bylaw, where such action is allowed by federal, state and local law or regulations, is in the public interest and consistent with the purpose and intent of the Bylaw.

Any applicant may submit a written request for a waiver as part of the application process. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrate that strict application of the Bylaw or Regulations is not necessary to meet the purposes or objectives of the Bylaw.

G. Stormwater Utility

The Stormwater Agency may recommend to the Board of Selectmen the formation of a Stormwater Utility, pursuant to M.G.L. c. 83, § 16 and c. 40, § 1A, as a special assessment district to generate funding specifically for stormwater management. Users within the district pay a stormwater fee, and the revenue thus generated directly supports maintenance and upgrade of the existing municipal separate storm sewer system (MS4); development of drainage plans, flood control measures, and water-quality programs; administrative costs; and construction of major capital improvements.

§ AAA-6. Low Impact Development (LID) and Better Site Design

The use of non-structural LID Management practices and Better Site Design are encouraged to minimize reliance on structural management measures. The use of Better Site Design and/or LID Management Practices may, if approved by the Stormwater Agency, also allow for a reduction in the treatment volume, a reduction of applicable fees associated with the project, or other incentive approved by the Agency.

§ AAA-7. Severability

If any court of competent jurisdiction declares that any section, provision, paragraph, sentence, or clause of this Bylaw, or any rule or regulation promulgated hereunder, is invalid or unconstitutional, any other section, provision, sentence or clause thereof, or other rule or regulation promulgated hereunder, shall remain in full force and effect.