

passed 10/17/16
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1. PURPOSE

The purpose of this Bylaw is to:

- A. Adopt a local construction-term stormwater runoff control program to minimize or eliminate erosion and maintain sediment onsite so that it is not transported to a water of the Commonwealth;
- B. Reduce the discharge of pollutants found in stormwater through the retention and treatment of stormwater during and after construction;
- C. Ensure long-term operation and maintenance of stormwater drainage systems; and
- D. Meet the 2017 Massachusetts MS4 General Permit mandates for the Town of Norton.

2. AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

3. DEFINITIONS

The definitions of terms shall be consistent with Wetland Protection Act, G.L c. 131, Section 40 and its implementing regulations, 310 CMR 10.00, and Massachusetts Department of Environmental Protection Stormwater Management Handbook, as amended (the "Handbook"); except that the following definitions shall apply in the interpretation and implementation of this Bylaw:

Erosion: The process by which the ground surface is worn by natural forces including but not limited to wind, water, ice, gravity, and glaciers or by artificial means.

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

Green infrastructure: A cost-effective, resilient approach to managing wet weather impacts that reduces and treats stormwater at its source while delivering environmental, social, and economic benefits. Examples include rainwater harvesting, raingardens, bioretention swales, permeable paving, and green rooves.

Infiltration: The act of conveying of surface water into the ground for the purpose of groundwater recharge and reduction of stormwater runoff from a project site.

Impervious surface: Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using non porous material; buildings, rooftops, structures, artificial turf and compacted gravel or soil.

Land-disturbing activity: Any action that causes the alteration of land, earth, sand, rock, gravel, vegetation, or similar material on land.

List of impaired waters: Refers to the Department of Environmental Protection's Massachusetts Integrated List of Waters.

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Low Impact Development (LID): Techniques that manage rainfall at the source using uniformly distributed decentralized micro-scale controls.

Perimeter control: A measure that prevents sedimentation through the use of controls (e.g. silt fence, wattles) at the extent of land disturbing activities.

Redevelopment: Any construction, land alteration, or improvement of impervious surfaces resulting in total land disturbances equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development as defined in the 2017 Massachusetts MS4 General Permit.

Rules and Regulations: The Rules and Regulations promulgated under this Bylaw unless otherwise specified.

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

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

Stormwater: Any rainwater runoff, snow melt runoff, and surface water runoff and drainage.

Stormwater Committee: A committee comprised of the Building Inspector, Conservation Agent, Health Agent, Highway Superintendent, Town Planner, and Water/Sewer Superintendent and a resident representative.

Strip: Any activity which removes the vegetative surface cover of land including but not limited to tree removal, clearing, grubbing, and storage or removal of topsoil.

Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools as defined in 314 CMR 4.00-Massachusetts Surface Water Quality Standards.

Waters of the United States: Shall mean the same as defined in the Clean Water Rule: Definition of "Waters of the United States", 40 CFR 230.3.

Wetland: Any resource area, subject to the Wetlands Protection Act, General Laws, chapter 131, § 40.

4. JURISDICTION

No person shall clear, cut, grade, or perform any land disturbing activity or perform any activity that will result in disturbed soil, impervious surface, an increased amount of stormwater runoff or pollutants flowing from a parcel of land, alteration of the drainage characteristics of a parcel of land, or create flows that enter the municipally owned storm drain system without first applying for and receiving a Stormwater Management Permit (SMP).

- A. All development and redevelopment projects shall be designed to meet the Department of Environmental Protection (DEP) Massachusetts Stormwater Management Standards ("the Standards") as described in the Stormwater Handbook ("the Handbook"), as revised, the 2017 Massachusetts MS4 General Permit, and regulations promulgated by this Bylaw;
- B. Any stormwater discharge leading to waters of the United States with a designated Total Maximum Daily Load (TMDL), or identified pollutant according to the most recent DEP List of Impaired Waters, shall be subject to Best Management Practices (BMPs) to treat the identified pollutant; and
- C. All post-construction stormwater management systems shall be maintained by the owner in accordance with an approved Operation and Maintenance (O & M) Plan and a documented regular inspection schedule.

5. EXEMPTIONS

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

- A. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 or exemptions applicable to agricultural or forestry operations, contained in the Wetlands Protection Act, G.L. c. 131, § 40 provided best management practices of the Natural Resource Conservation Services (NRCS) are implemented;
- B. Routine maintenance of vegetation and removal of dead or diseased limbs or trees, or removal of hazardous trees, control of noxious weeds or vines or to remedy a potential fire or health hazard or threat to public safety;
- C. Projects accessory to a single family dwelling, limited to construction of a deck, patio, retaining wall, shed, above-ground swimming pool, tennis or basketball court, repair or replacement of an existing driveway or expansion of less than five hundred (500) square feet;
- D. Normal maintenance of existing lawfully located landscaping, gardens or lawn areas;
- E. The construction of fencing that will not substantially alter existing terrain or drainage characteristics or patterns;
- F. Construction of utilities other than drainage which will not change contour elevations, ground cover, or drainage characteristics or patterns;
- G. Firefighting activities;
- H. Hydrant flushing or water main break repairs done by the Water Department provided that best management practices are used;
- I. Routine maintenance of existing public ways including reclamation and paving, and other routine maintenance activities that will not significantly alter the existing terrain provided best management practices are implemented; and
- J. Other construction activities which are specifically exempted from the application of this Bylaw under the Rules and Regulations promulgated under this Bylaw.

6. GRANDFATHER PROVISION

This Bylaw shall not apply to any work or projects for which all necessary approvals and permits have been filed or issued prior to the effective date of this Bylaw.

7. EROSION PREVENTION AND SEDIMENTATION CONTROLS

Erosion prevention and stabilization of soils shall be required, including but not limited to, perimeter controls, sediment controls, erosion controls, stabilized construction entrances, catch basin inlet protection, daily street sweeping and other industry-accepted practices. Dust control, dewatering means and methods, and concrete washout areas shall be required. All disturbed areas not in active use for greater than 14 days shall be stabilized with temporary erosion controls. Any disturbed soils not permanently stabilized prior to October 15 of any year, shall be temporarily stabilized to prevent erosion until active use resumes. Sediment controls shall not contain any nylon mesh or netting found to be a hazard to local wildlife. Haybales shall not be used as sediment control due to the potential to spread invasive plant species. 100% biodegradable controls are preferred such as rolled erosion control products (i.e. mulch control netting, erosion control blankets, turf mats, mulch socks, fiber rolls, wattles etc.) which must be 100% natural biodegradable material. Photodegradable, UV degradable or Oxo-(bio)degradable plastics are not considered biodegradable.

8. GENERAL CONSTRUCTION SITE CONTROLS

All construction activity shall control wastes such as demolition debris, litter, sanitary wastes, and control chemical and materials storage, stockpiling locations, concrete washout, dewatering, dust control and locations for snow removal. The contractor shall create and adhere to a Pollution Prevention Control Plan as defined in the Rules and Regulations promulgated under this Bylaw during construction.

9. PROJECT DESIGN

All projects shall utilize Low Impact Development (LID) techniques and Green Infrastructure planning and design strategies to the maximum extent feasible. Infiltration shall be the preferred method of stormwater control, to the extent feasible with soil constraints and follow Volume 2 of the Handbook or other federally or state approved BMP design guidance.

10. STORMWATER MANAGEMENT STANDARDS

All eligibility requirements and definitions are the same as in the Stormwater Management Handbook except as noted in this Bylaw. Stormwater runoff from all industrial, commercial, institutional, office, residential and transportation projects including site preparation, construction and redevelopment, and all point source discharges shall be managed according to the DEP Stormwater Management Standards as described in the Handbook except for the addition of the following standards as required by the United States Environmental Protection Agency ("EPA") in the 2017 Massachusetts MS4 General Permit:

A. New Development

- i. The first inch of runoff from impervious areas shall be retained onsite or
- ii. The treatment shall be designed such that 90% of the average annual load of total suspended solids (TSS) and 60% of the average annual load of total phosphorus generated from the impervious area on the site is removed prior to discharge.

B. Redevelopment (as defined by the Massachusetts MS4 General Permit).

- i. All redevelopment shall comply with Stormwater Standards 1, 2, 3, 5, 6 and 9 of the Handbook to the maximum extent practicable; and
 - ii. The first 0.8 inch of runoff from impervious areas shall be retained onsite or
 - iii. The treatment shall be designed such that 80% of the average annual load of total suspended solids (TSS) and 50% of the average annual load of total phosphorus generated from the impervious area on the site is removed prior to discharge.
 - iv. Offsite mitigation within the same USGS HUC10 may be allowed.
- C. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements.

11. OPERATION AND MAINTENANCE PLANS

An Operation and Maintenance plan (O&M plan) is required at the time of application of the SMP for all projects. The O & M shall be designed to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The O & M shall remain on file with the Conservation Commission, attached to the Stormwater Management Plan, and shall be an ongoing and perpetual requirement of the owner. The owner has the responsibility to maintain the drainage system in accordance with the O & M and provide the Conservation Commission with documentation and an annual certification that the requirements of the O & M are met.

12. APPLICATION PROCEDURES

Projects subject to this Bylaw shall be determined to be either Exempt, require an Administrative Approval, or shall require a Stormwater Management Permit (SMP).

A. Stormwater Management Permit (SMP):

- i. Any alteration of greater than 1 acre of land shall require a Stormwater Management Permit (SMP), and an application shall be filed with the Conservation Agent including:
 1. a written application;
 2. engineered plans;
 3. drainage calculations;
 4. DEP stormwater checklist;
 5. Storm Water Pollution Prevention Plan (SWPPP); and
 6. Other supporting documents, signed by the owner of the property on which the proposed activity is to be conducted.

The plans, documents and calculations submitted shall be stamped by a Massachusetts Professional Engineer or a Certified Professional in Erosion and Sediment Control. The Permit shall be reviewed for compliance with the Massachusetts Stormwater Standards, DEP Stormwater Handbook, as revised, the Town of Norton National Pollutant Discharge Elimination System (NPDES) Permit (including the 2017 Massachusetts MS4 Permit), and regulations promulgated by this Bylaw. The drainage calculations may be sent for a peer review. The Applicant may be responsible for the cost of the peer review. The

- Conservation Agent shall issue a Stormwater Management Permit within twenty-one (21) business days of the receipt of the approval of the application and/or positive peer review, as defined in the Rules and Regulations.
- ii. Upon receipt of a complete application for a SMP, the Conservation Agent shall distribute notice to the Planning Board, Department of Public Works, Board of Health, and Building Department for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations. The Conservation Agent shall not issue an SMP until reports have been received from said departments, or until fourteen (14) days have elapsed without submission of a report thereon.
 - iii. Stormwater Permits may be issued concurrently with an Order of Conditions issued by the Conservation Commission or Site Plan Review or Special Permit issued by the Planning Board;
 - iv. For a project receiving permits from both the Conservation Commission and the Planning Board, the Conservation Commission shall administer and enforce the SMP;
 - v. A project not within Conservation Commission jurisdiction, receiving Site Plan Review or Special Permit from the Planning Board shall be administered by the Planning Board, and the Building Inspector shall be the enforcement agent of the Planning Board decision;
 - vi. The following actions may be made as a result of an application for a Stormwater Management Permit and may be more specifically defined in the regulations promulgated as a result of this Bylaw: Approve, Approve with Conditions, or Deny.
 - vii. The Conservation Commission or its Agent may waive any provision of the rules and regulations promulgated under this Bylaw under their respective review, if any, except those portions specifically required by the 2017 Massachusetts MS4 General Permit when:
 1. It is an overriding public interest, or
 2. Is not inconsistent with the purposes of this Bylaw.
 - viii. A SMP shall be valid for one (1) year and may be extended upon written request received not less than thirty (30) days prior to its expiration. Permits issued concurrently with a Wetland Permit, Site Plan Review or Special Permit shall be valid for the life of the respective permit.
 - ix. Any requested changes in the final approved plan shall require a new pre-activity review and approval of the Conservation Commission or Planning Board, whichever applies. Any request for a change in the final approved plan shall be submitted in writing, clearly identifying the proposed change and clearly illustrating on a plan prepared by a Registered Professional Engineer. The Conservation Commission or Planning Board may determine that the change is minor, and if an Amended SMP is required.
 - x. At the end of the project, prior to occupancy of any dwelling or business, and upon completion of permanent site stabilization, the applicant shall submit an As-Built Plan and a Request for a Certificate of Compliance (COC). The Conservation Commission or Planning Board consulting engineer, whichever applies, shall conduct a site inspection prior to granting a COC and releasing any performance

bond or other security. The Conservation Commission or Planning Board, whichever applies, may issue a COC for work that is satisfactorily completed or deny the request if work was not completed according to the approved permit and plans.

13. INSPECTION

The members of the Stormwater Committee shall be authorized to conduct an inspection of work to ensure compliance with the terms of this Bylaw and any respective permit during regular business hours. The applicant may be required to submit periodic written reports consistent with the SWPPP. Access to the property shall be granted for the purpose of inspections for compliance with the Stormwater Permit and requirements of the Bylaw.

14. FEES

A non-refundable application fee schedule shall be promulgated for review of projects under this Bylaw. Payment of fees for peer review of drainage calculations and the stormwater system may be required under the accepted the provisions of General Laws, chapter 44, § 53E.

15. BOND

The applicant may be required to post a bond, as a condition of a permit, in form and content approved by the Treasurer/Collector before construction may commence. This bond shall ensure that the site is temporarily stabilized during construction and permanently stabilized at the completion of construction activities.

16. TOWN ACCEPTANCE OF DRAINAGE AND STORMWATER STRUCTURES AND SYSTEMS.

When a developer requests the Town to accept a drainage system, stormwater management system, and/or a stormwater BMP for a subdivision of three or more housing units the Town shall have the option to refuse or accept it. If the Town accepts the drainage system, the developer shall submit a contribution equal to \$1,000 for each drainage/stormwater management system (infiltration basin, detention basin, retention basin or underground treatment/storage BMP) and \$2,500 for every acre or portion thereof to the Stormwater Management Revolving Fund to compensate the Town for ongoing maintenance. The minimum contribution for any project shall be \$5,000.

17. RULES AND REGULATIONS

The Stormwater Committee, its employees or duly appointed agents, shall administer, implement and enforce this Bylaw. After public notice and public hearing, the Stormwater Committee 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 Bylaw by majority vote of the Stormwater Committee, 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 seven (7) days prior to the hearing date. Failure by the Stormwater Committee to promulgate 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. In the event of any conflict between the Bylaw and such Rules and Regulations, the Bylaw shall prevail.

18. ENFORCEMENT

- A. The Stormwater Committee, its employees or duly appointed agents, shall enforce this Bylaw, any rules and regulations, orders, violation notices, and enforcement orders issued pursuant thereto, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any stormwater regulations promulgated under this Bylaw.
- B. In the event that any person holding a Stormwater Permit pursuant to this Bylaw violates the terms of the Permit the Stormwater Committee, its employees or duly appointed agents, may issue a stop work order, require repair or clean up, suspend activity, issue a fine or revoke the Stormwater Permit.
- C. The Stormwater Committee, its employees or duly appointed agents, may seek remedies under this Bylaw, including civil enforcement, criminal enforcement, and/or non-criminal citations of up to three hundred (\$300.00) dollars per violation per day.
- D. If the Stormwater Committee, its employees or duly appointed agents, determines that abatement or remediation of erosion and sedimentation is required, the Stormwater Committee, its employees or duly appointed agents shall send a written order setting forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Norton may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.
- E. The alleged violator shall respond to the written order for abatement or remediation in writing within 21 calendar days to either:
 - i. Agree to the remedy or
 - ii. Request a hearing before the municipal hearing officer.
 - iii. The Stormwater Committee shall schedule a hearing not later than 45 days after receiving the request. The Stormwater Committee shall duly notify the alleged violator of the date, time and location of the hearing.
 - iv. Failure to respond to a written order for abatement or remediation within 21 calendar days will result in waiver to contest said order.
- F. Remedies Not Exclusive. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.
- G. A decision made under this Bylaw may be reviewable by a court of competent jurisdiction.

19. EDUCATION

The Conservation Commission, within its available resources, may provide education programs on soil erosion and sediment control to the general public and persons regulated by this Bylaw. Workshops and seminars should provide guidelines and advice to ease the permit application process and foster acceptance of sound erosion and sedimentation control practices.

20. EFFECTIVE DATE

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

21. SEVERABILITY

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

True Copy Attest

Lucia B. Longhurst

Norton Town Clerk