

Article 27

To see if the Town will vote to adopt the following General Bylaw:

TOWN OF WEST BROOKFIELD STORMWATER BYLAW

Introduction

Land uses in Town affect our streams, lakes and drinking water supplies. Careful planning of new development will protect the quality and health of these important water resources. Therefore, the Town of West Brookfield enacts this Stormwater Bylaw to provide guidance that will prevent harmful impacts from land development activities. This Stormwater Bylaw is not retroactive and does not affect current or approved land development or redevelopment applications.

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 runoff 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 West Brookfield Flood Plain Zoning Bylaw, the Town of West Brookfield Groundwater Protection District, or any other Bylaw that may be adopted by the Town of West Brookfield. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

2.0 DEFINITIONS

Definitions in Appendix A of this Bylaw 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 the 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 West Brookfield at Town Meeting, dated *May 9, 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) The Stormwater Authority shall consist of seven members – one member from each of the following Town boards: Planning Board, Conservation Commission, Board of Health, Board of Selectmen, Water Department, Highway Department; and a citizen-at-large. Each member shall be appointed by their respective boards, and the Board of Selectmen will appoint the citizen-at-large to serve on the Stormwater Authority.
- C) 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 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.
- D) 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 treatment 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.
- E) 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.
- F) Appeals. 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 sixty (60) days thereof, in accordance with M.G.L. Ch 249 § 4.
- G) Stormwater Credit System. The Stormwater Authority may adopt a Stormwater Credit System, as part of the Regulations authorized by this Bylaw. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations.

5.0 APPLICABILITY

- A) This bylaw shall be applicable to all new development and redevelopment, including site plan applications, subdivisions, commercial uses, multi-family dwellings and houses built

by a single developer, including family members, on contiguous lots under single ownership on an accepted Town street. 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.D of this Bylaw. All new development and redevelopment under the jurisdiction of this Bylaw shall be required to obtain a Stormwater Management Permit.

- B) Redevelopment projects are presumed to meet the Bylaw requirements if the total impervious cover is reduced by 40% from existing conditions. Where site conditions prevent reduction in impervious cover, stormwater treatment practices shall address at least 40% of the site's impervious area. A combination of impervious area reduction and stormwater treatment practices shall equal or exceed a 40% reduction in total impervious cover from existing conditions.
- C) 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 and other potential water quality concerns shall require a Stormwater Management Permit.
- D) Exemptions

No person shall alter land within the Town of West Brookfield 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. Timber harvesting under an approved Forest Cutting Plan as defined by the Forest Cutting Practices Act regulation 304 CMR 11.00 and MGL Chapter 132 Sections 40 through 46.
5. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
6. Repair or replacement of an existing roof of a residential dwelling;
7. Construction of a single-family dwelling, where "approval is not required" (ANR), as defined in the Subdivision Control Act. Prior to land disturbance activities, persons constructing single-family dwellings are strongly encouraged to consult with the Highway Superintendent about actions to reduce stormwater impacts during and after construction. Persons constructing single-family dwellings are strongly encouraged to use stormwater control and site planning methods to be described in the Town of West Brookfield Best Development Practices Guidebook;
8. Repair or replacement of an existing septic system;
9. The construction of any fence that will not alter existing terrain or drainage patterns;
10. Construction of a deck, patio, retaining wall, shed, swimming pool, tennis or basketball court associated with a single-family dwelling;
11. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage,

which will not alter terrain, ground cover, or drainage patterns;

12. 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;
13. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

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 an authorized agent of the Stormwater Authority shall enforce this Bylaw, 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 any Stormwater regulations issued as permitted under Section 4 of this Bylaw. Enforcement may be made by way of noncriminal disposition pursuant to Chapter 1 Section 6 of the Town's Bylaws. The penalty under noncriminal disposition shall be \$50.00 for the first offense and \$100.00 for each subsequent offense.

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.

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

FOREST CUTTING PLAN: A plan for the cutting of trees on forest land, which is prepared and submitted in accordance with M.G.L. Chapter 132 Sections 40 - 46A. The forest cutting plan requires approval by a Service Forester of the Massachusetts Department of Conservation and Recreation, as provided under 304 CMR 11.04.

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.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, rooftops, driveways, patios, and paved roads.

MASSACHUSETTS STORMWATER 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 the 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.

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.

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 West Brookfield, and any other legal entity, its legal representatives, agents, or assigns.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater 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.

STORMWATER AUTHORITY: The Town of West Brookfield Stormwater Authority OR

its authorized agent(s). The Stormwater Authority is responsible for coordinating the review, approval and permit process as defined in this Bylaw. Other Boards and/or departments will participate in the review process as defined in the Stormwater Regulations that are adopted by the Stormwater Authority of the Town of West Brookfield.

STORMWATER 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.

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

Or take any other action relative thereto.

(Sponsored by the Stormwater Management Committee)