



Stormwater Financing/Utility Starter Kit

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The 101 Cities and Towns of Greater Boston

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Stormwater Financing Module 4: Administration/Management

The purpose of this section is to identify and examine various organizational structures to manage a community’s stormwater management program. As described in Module 1, there are multiple benefits to establishing a stormwater utility, which is the concept that is of primary focus in this Starter Kit. Municipal and regional governments across the U.S. have embraced the notion that water quality is not merely a governmental concern, rather something contributed by all property owners, and that therefore stormwater management is a service that all benefit from, quite similar to the provision of drinking water services. However, there are specific interests and constraints that municipalities may face that would not make this approach possible. Therefore, this Module also describes other varying administration and management approaches.

Administration Options

There are varying options to administering and managing a stormwater utility, many of which are currently utilized in other areas of the United States. Administrative options include a single municipality, sharing services among multiple municipalities, a watershed-based approach, and a regional entity (4 or more municipalities). Each option is outlined in Table 4.1 below.

Table 4.1. Administration Options – Single Municipality

Options	Included Entities	Comments	Issues
Existing Department or Municipal Utility	Public Works, or Water Dept. for example	Good option if stormwater is a well established program	Capacity for new work?
Committee/Task Force	Public works, planning, conservation, finance department, etc.	Specific responsibilities would have to be documented for each department and their respective budgets increased	Designated Manager Needed
New Utility	New “Stormwater Department”	This would be directly funded by the fee.	Start-up costs
Multi-Municipality	Two or three adjacent communities	An option where other services, like a regional high school, are shared. Communities are accustomed to working with one another	Determining “Lead” Community & responsibilities
Watershed-Based or Regional Utility	Several Municipalities	Administration based on geographic scale.	Determining a Lead entity, finance management across communities.

As noted, there are varying approaches for establishing administration. However, essentially, there are two primary administrative categories for establishing a stormwater management program within a single municipal entity, as listed below.

- ◆ Utilizing Existing Resources:
 - Existing Municipal Department
 - Stormwater Management Committee/Task Force
- ◆ Establishing a New Entity:
 - New Stormwater Management Department
 - Stormwater Utility
 - Watershed or Regional Utility

Each of these options will be described in detail within the following sections.

Utilizing Existing Resources

This option entails utilizing an existing municipal department and/or set of staff to come together to administer the stormwater management program and fee system.

Existing Municipal Department

Every community has traditionally delivered some degree of stormwater service, and since 2003 that service has been increasingly regulated by the federal EPA General Permits required for MS4 systems. The Department of Public Works (or Highway Department) is the usual municipal department responsible for meeting the general operational requirements such as street sweeping, cleaning catch basins, etc. Assisting with enforcement and regulation may be the Town Engineer, Building Commissioner/Inspector, and Conservation Commission/Agent. With the establishment of a stormwater utility fee, a community may decide to keep the program within the existing department. This may be the case particularly if the existing work program is extensive and is being carried out efficiently and effectively. The stormwater department may share some of its staff with other programs, but it would have dedicated primary staff and budget.

One variation of the existing department model is an existing municipal water department or wastewater/sewer department. One benefit is the existing billing process that could be used by the stormwater utility. This may be useful because tax exempt properties do not typically receive tax bills, but every property that receives water or wastewater service has an account.

Multiple-Department Task Force

Acknowledging the variety and amount of work to be accomplished under the proposed MS 4 Permits, a community may determine that the most efficient approach is to form a multi-department stormwater task force. Stormwater-related activities include not just the usual operational duties of street cleaning and catch basin cleaning. There are requirements for an updated Stormwater Management Program (SWMP), system mapping, public education and outreach, public participation and involvement, outfall monitoring, revising and updating local regulations and managing construction activities. Capital construction, including design and construction, is another major activity center.

Some municipalities may decide to administer this work through a multi-disciplinary task force comprised of representatives from various municipal departments. Specific responsibilities would be assigned based on area of expertise. A program or task force manager would have to be appointed to coordinate the work. Participating departments could include: Public Works/Highway Department, Engineering, Planning, Conservation Commission, Board of Health, Information Technology/GIS, and possibly someone from the School Department or Library who might assist with outreach and/or public education. Depending on the work program, the composition of the task force could be adjusted.

A major challenge would be to ensure that the participating personnel have the time to carry out the assigned specific stormwater tasks. Administrative time to determine tasks and budget and follow-through might require additional resources. Individual department budgets would also need to be adjusted to account for increased workload.

The benefit of this option is that it helps to integrate the stormwater work program across the entire municipal workforce, helping at least initially to raise the profile of the work and to signal the importance of the stormwater utility. It also provides the opportunity to perhaps fully fund a half-time position (such as Conservation Agent) if sufficient additional work is identified. It also allows for staff to participate in an “as needed” basis. A GIS staff person may be required only a few hours a month to maintain the system map, once developed.

Establishing a New Entity

This option includes a commitment on the part of a municipality, or multiple municipalities in the case of a regional entity, to establish a new department or utility to collect fees and administer the stormwater management program. This new entity could also be in charge of complying with MS4 permit requirements such as administering a water quality monitoring program and managing components of a water quality/quality improvement program, to accompany traditional stormwater management responsibilities.

New Stormwater Department

Depending on the results of the capacity assessment, a community may determine it is more straightforward and efficient to create an entirely new Stormwater Department. This department would receive most of the drainage fee funds, and would manage all stormwater activities. The benefit of this administrative option is that it would establish stormwater as a department level priority, on par with public works or the highway department. Disadvantages include establishing an additional administrative entity (additional bureaucracy) and possibly duplicating equipment purchasing, staff and training.

Municipal Stormwater Utility

Establishing a single, municipal stormwater utility is the most efficient type of administrative option for stormwater utilities in Massachusetts. In this case, a single municipality provides stormwater services and establishes and manages the utility fee solely for the single community.

As described in Module 1, a Stormwater Utility is a special entity set up to manage a drainage fee, or other sources of funding, which is used specifically for stormwater management. It is a dedicated service unit within the municipal government.

Local examples include Reading and Newton, Massachusetts (provided as case studies in Appendices). The advantages to a single municipal approach are outlined in the table below.

Table 4.2. Administering a Stormwater Utility by a Single Municipality

Stormwater Utility – Single Municipality	
Advantage	Comments
Funding	Funds raised in the community stay in the community
Control/Political Issues	Community maintains control to ensure compliance with permit conditions Local control for all decisions Local control on setting project priorities Avoids political problem of creating a new entity-“more bureaucracy”
Administrative Costs	Depending on the specific organizational structure, may be minimal because it takes advantage of existing administrative resources

For Massachusetts communities without much experience in regional services (such as a regional school system), forming a single municipal utility will be, at least initially, very attractive. The concept of Home Rule is deeply ingrained in many communities, and the single municipal model supports this by maintaining control for all aspects of the stormwater program within the community boundaries.

Multi- Municipal Option

Smaller than a regional stormwater utility, this model anticipates cooperation between two or three neighboring communities. These municipalities may be accustomed to coordinating services, such as a regional school or water services.

Table 4.3. Administering a Stormwater Utility by a Multi Municipality

Stormwater Utility - Multi-Municipality (2-3 Communities)	
Advantage	Comments
Funding	The majority of funds raised in the community would stay in the community
Control/Political Issues	The community would determine which stormwater services it would share or contract Politically, may be easier to adopt than a regional utility
Administrative Costs	Not a separate organizational structure; would use existing municipal department

The benefit of a multi-municipal stormwater utility administrative option is that the individual municipalities can continue with the operations currently in place, while sharing staff/equipment and the costs for new services, or contracting with another municipality in a vendor-like arrangement for additional services. This could provide the opportunity for efficient delivery of services, less duplication, and the opportunity for one or another community to “specialize” in particular aspects of the stormwater program. An example is hiring an additional GIS person for mapping services to be shared by the 2 or 3 municipalities if one community already has GIS in-house. Politically, it also may be easier to gain support for because there is still local control over the majority of the funds and the overall stormwater program.

There are also required elements that lend themselves to a multi-municipal approach. One example is the public outreach and education tasks. One of the municipalities could develop a public education program and provide it to the others, either through a shared-cost arrangement, or fee for service. Another service that could be shared is water quality monitoring.

Each municipality is responsible for meeting the NPDES MS 4 requirements, so there must be written agreements outlining the specific details. These will need legal review and approval as required by each municipality (Board of Selectmen, City/Town Council, Town Meeting as applicable). The issues to be addressed in development of the agreement include:

- ◆ What is the service to be provided?
- ◆ What is the remedy if the service is not provided satisfactorily? Who determines this?
- ◆ Can a member municipality leave the program? Following what process/procedures?
- ◆ Would outside contracts (third party) be allowed, and who would do this?
- ◆ How would the agreement be amended?
- ◆ Would other municipalities be permitted to join? What is the process for this?

Watershed or Regional Option

Although stormwater utilities in the US are often administered at a municipal level, there are examples in states like Florida, Texas and Washington where the utility has been established at a larger geographic or political level, such as around a watershed or county system. These utilities take a multi-jurisdictional approach to stormwater management and the funding to support their work. Additionally, in some cases these “regional” stormwater entities have been created from as an entirely new structure while in others they have developed overtime as separate municipalities and/or counties have come together both for cost efficiencies and program effectiveness. As such, the term region can be quite dynamic and is used broadly to define a situation where three or more separate organizations join together to address the issues of addressing stormwater quality and quantity.

Purpose/Goal

The motivation to develop a regional approach to stormwater management is similar to other current initiatives looking at regionalization. These include:

- ◆ *Cost Efficiency* that results from the ability to reduce costs by eliminating or sharing services, and through the opportunity to create more competitive bids for services, capital improvements or materials.
- ◆ *Program Effectiveness* due to the ability to leverage or employ more specialized or professional levels of service that support similar work across several partnering organizations.
- ◆ *Shared Goals and Challenges* that face cities and towns, and that can be addressed in a more effectively in a cooperative fashion rather than at an individual level. These may be existing responsibilities as well as new requirements.

Stormwater itself also lends itself to a broader context since stormwater is part of a hydrological cycle that does not adhere to political boundaries. Its context is likely to be both larger and smaller than a municipal or city boundary. This is most typical in the case of a watershed. The watershed for a particular water source reflects a drainage area the results from the topology and geologic function of a surrounding landscape. The watershed boundaries typically meander and do not align with municipal boundaries. Cities and towns can be located in or multiple watersheds.

Regionalization Framework

There exist several avenues in Massachusetts that could be used to implement a regional approach to stormwater management. The existing mechanisms are available to a group of municipalities either through a form of direct agreement or through state statutes. The primary approaches are:

- ◆ *Mutual Aid Agreement*: These agreements involve cities and towns lending service to one another without the requirement of payment. Also known as service exchange arrangements, mutual aid agreements typically involve sets of municipalities agreeing the sharing of equipment or services relative to the occurrence of a special event or circumstances (e.g., fire or police emergency).
- ◆ *Shared Service Agreements*: The Shared Service Agreement is a formalized contractual association between municipalities where a materials or services are shared for an agreed price. These agreements can be structured as a one-way purchase, as a ongoing relationship where transfers occur on as needed basis or as a mechanism for the joint procurement by the involved cities and towns for materials and services that would be a benefit to all. Although costs and other associated factors (e.g., liability) is shared by each municipality, under a shared service structure, one municipality (or host agency) ultimately bears responsibility for the transaction.
- ◆ *Regional Districts*: Another approach is the creation of a new entity or organization, rather than relying on existing municipalities or organizations. This new entity, which would be a regional district, can be created under state law, however, they do require specific approvals at the municipal level and are directed by the law regarding governance and any assessment mechanisms. A new district also would likely mean a reduction or an elimination of municipal control over the services to be provided by the district.
- ◆ *Consolidation*: Special legislation may be used as a way to create a new regional organization between several municipalities. This is likely an avenue when looking to regionalize a service not addressed by state law. Although the power of cities and towns to create a new governmental organization is not explicitly prohibited, most municipalities look to special legislation if services are to be consolidated under a new structure.

Given these approaches, the framework for a regional stormwater management approach could take one of many forms. On one end, a new regional organization could be formed to administer and manage the utility as well as be responsible for capital and maintenance work. On the other end, the group of interested cities and towns could partner around shared obligations, like public education or development and adoption of consistent stormwater-related bylaws. Broadly, however the regional structure could be grouped into two main categories: Shared Program(s) and Fully Regional Program.

Shared Stormwater Management Program(s)

A shared program structure would include municipalities looking at specific categories under a stormwater management program and cooperating around one or multiple categories. For example, a group of municipalities may each be contracting for catch basin cleaning services, a practice will could be required to occur more frequently under a new MS4 permit. These municipalities could band together and instead of contracting for the more frequent services individually, they could release a joint procurement and share a specific contractor through the use of Shared Service Agreement. Similar examples could be created around water quality testing, public education and training for staff in charge of stormwater management.

A shared program could also take advantage of shared service agreement to create a more formal arrangement around categories under a stormwater management program. For example in-house engineering may be stronger in one municipality or another and the agreement could create the opportunity to share this engineering expertise on an on-call basis.

Some examples where this approach is being used currently, although not directly related to stormwater management, are:

- ◆ [Braintree, Quincy Weymouth Joint Procurement for Solid Waste and Recycling](#): The Towns of Braintree and Weymouth and the City of Quincy joined together to procure a single contract for curbside pickup of solid waste and recyclables in the three municipalities. In June 2008, they signed a contract with Capitol Waste and have enjoyed savings from the use of their buying power. It also assisted the three municipalities in moving to a Single Stream Recycling program.
- ◆ [Regional Housing Services Office \(RHSO\)](#): The RHSO serving the Towns of Bedford, Concord, Lexington, Lincoln, Weston and Sudbury receive administrative housing services for annual fee per Inter-Municipal Agreement including: monitoring, HOME program, local support, regional efforts and resident selection. The Town of Sudbury provides the housing services through the RHSO and the work is supported through a related revolving fund.
- ◆ [The Cape Cod Commission Project STORM \(Stormwater Outreach for Regional Municipalities\)](#): Project STORM is a collaborative effort among towns on Cape Cod for the sharing of resources, ideas, and solutions for their stormwater management programs and is a central source of information on effective means to control impacts of stormwater pollution. The project provides assistance to towns that must comply with EPA Phase II stormwater regulations, and is partnered with AmeriCorps Cape Cod members, who have supported the effort by assisting towns with stormwater mapping and the identification of catch basin and outfall locations.

Fully Regional Stormwater Management Program

A fully regional stormwater program would be one where the entire set of services under a stormwater management program would be consolidated under a central organization. This could be vesting responsibility to a specific municipality that then provides the services across a set of municipalities. It could also include the creation of new organization that would be separate from the cities and towns involved using either a regional district approach or the creation a special district.

A fully regional stormwater program would likely require more to initiate and coordinate than would be a shared programs. A key piece here would be defining the geography or district that the organization would serve. The outer boundary formed by a set of municipalities could define the district, or if a watershed approach is being advanced, the district could be defined by a watershed's limits. Additionally, if a stormwater system (e.g., drains, pipes, outfalls) serves only a portion of the cities and towns involved, the district may just include these areas.

Examples of Fully Regional Programs of municipal services and stormwater utilities include:

- ◆ [South Shore Regional Emergency Communications Center](#): The South Shore Regional Emergency Communications Center combined the 911 emergency call centers for the towns of Cohasset, Hingham, Hull and Norwell into a single regional dispatch location. The center was formed through special state legislation and an intermunicipal agreement.
- ◆ [The Brevard County Stormwater Program \(BCSP\)](#) in Florida was created in 1990 and accompanied by the establishment of a stormwater utility to fund program activities. In 1999, the county program was joined by the City of West Melbourne and the Town of Malabar to create a regional coordinated stormwater program. The program uses an ERU approach based on the typical impervious square footage of a single family home and is administered by the County. The program also features a credit program that provides a reduction in stormwater assessments for various levels of stormwater treatment implemented and maintained by property owners.

- ◆ [Yakima County](#), WA, serves the Regional Stormwater Lead on behalf of the cities of Yakima, and Union Gap and urban Yakima County. The county is vested responsibility through an Intergovernmental Agreement to administer the stormwater program in compliance with the state’s NPDES Phase II permit. Through this role, the county development a stormwater management plan, mapping resources, educational materials, and developed procedures for construction and post-construction water management practices among others.

Legal Authority

The legal authority to advance a Shared Program(s) or a Fully Regional Program is enabled by the following set of state laws and statutes:

- ◆ *Intermunicipal Agreement*: Housed in [MGL, Chapter 40, Section 4A](#), the intermunicipal agreement (IMA) allows two or more cities and towns to act in unison and in line with what a single municipality is permitted to do. Upon approval by the “chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of a governmental unit”, the group of municipalities may enter into mutual aid or shared service agreements, with guidelines such as maximum terms (i.e. 25 years) and financial liabilities for those involved. One limitation under the existing IMA legislation is that municipalities do have the explicit power (“joint powers”) to form new entities.
- ◆ *Special Legislation*: It is within the powers of cities and towns to petition for special legislation that would enable the creation of regional entities. If a set of municipalities was to draft special legislation such as a home rule petition, it would have to be approved by the municipal legislative body and then submitted to the state legislature for approval. In the case of stormwater, it would be important to coordinate with the Executive Office of Energy and Environmental Affairs (EOEEA) and the Department of Environmental Protection (DEP) as both would comment, and potentially lend support, to the petition for special legislation.
- ◆ *Special Districts*: There are statutes in the state’s general laws that authorize municipalities to create districts that can serve a regional function. These currently include such districts as Regional School Districts, Regional Water and Wastewater Districts and Veterans Districts. However, the regional management of a stormwater program is not included in this category, but it presents itself as an option for more consistent creation of such districts. For example, there may be the potential for stormwater to be addressed under the Regional Water and Wastewater District.

Authorization: Bylaw/Ordinance

In order for a municipality to establish a drainage fee and/or stormwater utility, it must be authorized in their stormwater bylaw/ordinance or other law that specifies stormwater management procedures. For example, some municipalities may not have a separate stormwater bylaw or ordinance, however stormwater management may be prescribed in its General Bylaw or Zoning Code.

For example, the Town of Brookline does not have a separate stormwater bylaw, rather, stormwater management is included as an article in the Town’s General Bylaws, introduced as follows:

The purpose of Section 8.26.1 is to eliminate nonstormwater discharges to the Town of Brookline’s Municipal Storm Drain System (storm drain).

Interestingly, Brookline defines the term “non-stormwater discharge” as: “Discharge to the storm drain not comprised entirely of stormwater.” Stormwater is defined as “runoff from precipitation or snowmelt.” Therefore, Brookline makes a distinction regarding stormwater – as a natural occurrence that should only contain rainwater or snow in its natural form, and what is often classified as stormwater pollution in other municipalities as “non-stormwater discharge.” This nuanced difference is important to note, as a campaign for a drainage fee in this community may only include “non-stormwater drainage.” Most importantly, the bylaw does not authorize a drainage fee or utility.

The City of Newton amended its Zoning Code in 2006 to ensure that the proposed stormwater fee was authorized. The following language was instated into the Code:

Sec. 29-80. Sewer /Stormwater use charge.

“(a) Every estate whose building sewers discharge directly or indirectly into public sewers of the city, shall pay a charge for the use of main drains, stormwater facilities and sewage works.”

In the absence of both, a municipality must develop a new bylaw/ordinance that is specific to stormwater management, in order to include language regarding the authorization of a drainage fee/utility. Example language regarding this authorization may look something like the following:

ADMINISTRATION

Stormwater Utility. The *[Stormwater Authority]* may adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Utility pursuant to M.G.L. Chapter 83 Section 16 and Chapter 40 Section 1A. The *[Stormwater Authority]* shall administer, implement and enforce this Utility. Failure by the *[Stormwater Authority]* to promulgate such a Stormwater Utility 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.

Examples of these, and other relevant bylaws/ordinances, can be found in the Appendices.