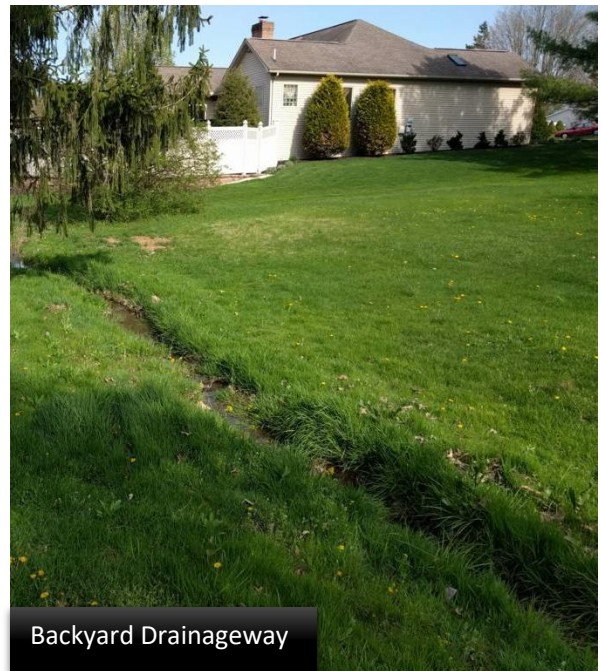

FLOOD PREVENTION FAQs

Lower Paxton Township staff and elected officials are routinely asked questions by property owners about stream maintenance and drainage concerns. These questions stem from concerns over standing water, mosquitos, and public health and safety. If legitimate concerns are handled following regulatory guidelines and sound engineering principals, flood prevention and improved water quality can result.

This frequently asked questions (FAQs) document was created to provide general guidance to property owners who live along or own land that contains drainageways and wetlands. Changes to streams and wetlands with an intent to alleviate flooding on a property can have unintended consequences to other property owners. *Owners should consult Township staff prior to starting a project. A Township permit may be required to be completed in advance.*



How do I know if a drainage concern is caused by a drainageway?

The Lower Paxton Township stormwater management ordinance defines the term 'drainageway':

"any natural or artificial watercourse, trench, ditch, pipe, swale, channel, or similar depression into which surface water flows" (§170-201).

Natural watercourses include streams and wetlands.¹ If the drainage concern is related to a feature that meets this definition, the Township has jurisdiction over changes to that feature. The Township does not have responsibility to resolve the drainage issue, but the Township does have jurisdiction over how the drainage issue is handled. This is the law because property owners can innocently cause flooding problems for other property owners if drainage issues are not handled properly, causing health and safety issues for others.

Why do I have to contact the Township about my drainage concern if I just want to put the stream back to where it used to be? It's causing flooding on my property.

Streams are natural systems consisting of a bed, bank, and flowing or intermittent water. These systems change over time and streams sometimes move in a way that puts buildings, driveways, and roadways at risk. Installing an obstruction to prevent this is a regulated activity. The construction of obstructions or making changes to existing obstructions may be a regulated activity. Contact the Township prior to initiating a project.

The Lower Paxton Township stormwater management ordinance defines the term 'obstruction':

"any wall, dam, wharf, embankment, levee, dike, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across or projecting into any channel, watercourse or flood-prone area, which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or is placed where the flow of water might carry the same downstream to the damage of life and property" (§170-201).

¹ Pennsylvania Code §105.1

Stream/watercourse definition: A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

Wetland definition: Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

How do I know if I need to contact PADEP or ACOE about what I want to do to improve the drainage concern?

The Pennsylvania Department of Environmental Protection (PADEP) and U.S. Army Corp of Engineers (ACOE) are regulatory agencies at the State and Federal level that sometimes have jurisdiction over streams and wetlands. Contact Township staff or a civil engineer with experience related to Chapter 105 requirements for guidance on whether or not State or Federal regulations apply to the project.

Who owns the stream on my property?

Refer to the link from below the Pennsylvania Department of Conservation and Natural Resources (DCNR) regarding ownership of streams. This quote summarizes the intricacy of determining private versus public ownership:

“There is a presumption that the Commonwealth owns the beds and the underlying subsurface of all navigable waters between the ordinary low water marks. Owners of land along the banks of navigable waters do not have exclusive rights in those waters; that right is vested in the Commonwealth for the benefit of the public. The lands that are owned by the Commonwealth must be conserved and maintained for the benefit of all of the citizens of Pennsylvania. Commonwealth ownership of submerged lands is based upon navigability. The waterways identified herein as having publicly-owned streambeds have been compiled by the Commonwealth over time from various sources. Identification is based upon information believed to be reliable and persuasive evidence of such ownership. The identification of a waterway as having a publicly-owned streambeds herein is not intended to be a final determination that the waterway is navigable under state or federal law. Moreover, other waterways not identified herein may be navigable under state or federal law, in which case their streambeds would also be publicly-owned. The Commonwealth reserves the right to add or remove waterways identified as having publicly-owned streambeds as additional information becomes available.”

http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr_009715.pdf

What type of maintenance can I do to the stream and/or wetland on my property without contacting the Township or other regulators?

Dormant vegetation can be cut down (but not mowed) annually in an effort to try to minimize debris. Any disturbance, including vegetation removal, may trigger a regulated activity.

Acceptable stream maintenance activities have been defined by DEP in this pamphlet:

http://files.dep.state.pa.us/Water/FactSheets/StreamMaintenance/StreamMaintenanceBooklet_forWeb.pdf

How can I determine if I have a floodplain on my property?

Consult the Federal Emergency Management Agency (FEMA) website, enter your address, and see if there is a mapped floodplain or floodway on your property. Floodways are highly regulated because changes to them have a high likelihood of impacting the function of the floodplain, which can affect the health and safety of others. References to the 100-year storm abound in the media – note that these are not storms that occur every 100 years, but rather are storms of intensity that have a 1% chance of occurring on an annual basis.

<https://msc.fema.gov/portal/home>

What other resources are available?

PADEP Advice on Flood Prevention and Management:

<http://files.dep.state.pa.us/Water/FactSheets/Fact%20Sheet%203150-FS-DEP4435.pdf>

PADEP Permitting Options for Flood-Damaged Bridges and Other Water Obstructions and Encroachments:

http://files.dep.state.pa.us/RegionalResources/SWRO/SWROPortalFiles/Regional_Roundtables/2012_01/Permits%20for%20Flood%20Damaged%20Bridges%20%26%20Obstructions.pdf

Lower Paxton Township Stormwater Tips:

<https://www.lowerpaxton-pa.gov/192/Stormwater-Tips>