

Stormwater Management and Erosion Control By-Law

(Final Approved Version – Includes all amendments)

ARTICLE 34

Stormwater Management and Erosion Control By-Law

34.1 Purposes

The purposes of this By-Law are:

- (a) To prevent pollutants from entering the Town of Belmont's Municipal Separate Storm Sewer System (MS4);
- (b) To prohibit illicit connections and unauthorized discharges to the (MS4) and to require the removal of all such illicit connections
- (c) To comply with state and federal statutes and regulations relating to stormwater discharges;
- (d) To establish the legal authority to ensure compliance with the provisions of this By-Law through permitting, inspection, monitoring, and enforcement;
- (e) To control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff,
- (f) To promote infiltration and the recharge of groundwater;
- (g) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage stormwater runoff; and
- (h) To ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

34.2 Definitions

For the purposes of this By-Law, the following definitions shall apply:

ALTERATION — Any activity, that will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, construction of new structures, earthmoving, paving, and modification of existing vegetation.

BEST MANAGEMENT PRACTICES (BMPs) — Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent or minimize increases in stormwater volumes and flows, reduce point-source and nonpoint-source pollution, and promote stormwater quality and protection of the environment.

CLEAN WATER ACT — The Federal *Water Pollution Control Act* (33 U.S.C. §§ 1251 *et seq.*) as it may hereafter be amended.

CONSTRUCTION SITE: Any site where activity is proposed or occurs that involves the alteration of more than 2,500 square feet of land.

DEVELOPMENT – The alteration of land to accommodate a new use or an expansion or modification of an existing use.

HAZARDOUS MATERIAL - Any material that, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious material, acid and alkali, and any substance defined as Toxic or Hazardous under *M.G.L. c.21C* and *c. 21E*, or the regulations at 310 CMR 30.000 or 310 CMR 40.0000.

ILLICIT CONNECTION - A surface or subsurface drain or conveyance that allows an illicit discharge into the MS4, including any connection from an indoor drain, sinks, toilet, or laundry facility, regardless of whether the connection was previously allowed, permitted, or approved before the effective date of this By-Law.

ILLICIT DISCHARGE - Any direct or indirect discharge to the MS4 or the Waters of the Commonwealth that is not composed entirely of stormwater, including, without limitation, any discharge of a pollutant, sewage, process wastewater, or wash water, except as exempted in Section 34.5.3. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit.

IMPERVIOUS SURFACE — Any material or structure on, above or below the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces may include, without limitation: paved surfaces, parking lots, sidewalks, driveways, roof tops and swimming pools.

MS4 (MUNICIPAL SEPARATE STORM SEWER SYSTEM) — The system of conveyances, owned or operated by the Town of Belmont, that is designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, swale, culvert, channel, catch basin, outfall, outlet, reservoir, or other drainage structure.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of stormwater containing pollutants into waters of the United States.

NONPOINT SOURCE POLLUTION - Any water pollution having a source that is not a "point source."

NON-STORMWATER DISCHARGE — A discharge into the MS4 that is not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN - A plan setting the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OCD – Town of Belmont Office of Community Development

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE - Any discernible, confined and discrete conveyance, including, without limitation, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

POLLUTANT - Any element or characteristic of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into Belmont's MS4 or waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (e) Excess Pesticides, herbicides, and fertilizers;
- (f) Hazardous materials and wastes;
- (g) Sewage, fecal coliform and pathogens;
- (h) Dissolved and particulate metals;
- (i) Animal wastes;
- (j) Rock, sand, salt, silt, soils;
- (k) Construction wastes and residues; and
- (l) Noxious or offensive matter of any kind.

RECHARGE — The process by which groundwater is replenished by precipitation.

RUNOFF - The water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into the MS4 or streams or other surface waters or land depressions.

SANITARY SEWER SYSTEM - A separate underground conveyance system specifically for transporting sanitary waste operated separately and independently from the MS4, to which storm, surface, and ground waters are not lawfully admitted.

STORMWATER - Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT — The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

STORMWATER MANAGEMENT AND EROSION CONTROL PERMIT — A permit issued by the Town of Belmont Office of Community Development, approving a system that is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

STORMWATER MANAGEMENT STANDARDS — The Stormwater Management Standards and accompanying Stormwater Handbook(s) issued by the Massachusetts Department of Environmental Protection or any successor agency,, as such Standards and Handbooks may be hereafter superseded or amended.

SUBSTANTIAL DEMOLITION – The demolition of at least 50% of an existing principal structure, measured by the area of the footprint of the structure on the lot

VEGETATION – Trees, shrubs, bushes and ground cover, including grass.

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, and groundwater.

34.3 Administration

34.3.1 The Board of Selectmen shall adopt, and may periodically amend, rules and regulations relating to the requirements, procedures, administration and enforcement of this By-Law, after conducting a public hearing to receive comments on any proposed rules and regulations.

34.3.2 The OCD shall be responsible for the day-to-day administration of this By-Law and shall be the Stormwater Management and Erosion Control Permit Granting Authority.

34.3.3 The OCD shall have the authority to investigate suspected illicit discharges and to require the elimination of illicit discharges.

34.4 Permit Process

34.4.1 A completed application for a Stormwater Management and Erosion Control Permit shall be filed with the OCD. A permit shall be obtained prior to the commencement of any work regulated by this By-Law.

34.4.2 Some permit applications may require the OCD to secure the services of a Licensed Professional Engineer with expertise in stormwater management and erosion control to assist with the administration of this By-Law. These services shall be paid for by the Applicant prior to the issuance of the Stormwater Management and Erosion Control Permit.

34.4.3 The OCD shall take final action on an application for a Stormwater Management and Erosion Control Permit within thirty (30) days from the receipt of a complete application. The OCD may approve the application; approve the application with conditions; or disapprove the application. Failure by the OCD to take final action on an application within 30 days following the receipt of a complete application shall be deemed to be approval of the application, unless this timeframe is extended by mutual agreement of the OCD and applicant.

34.4.4 The applicant, or an agent thereof, shall obtain the approval of the OCD prior to any change or modification of an activity authorized in a Stormwater Management and Erosion Control Permit. The OCD may approve the request if it determines that the change or modification is consistent with the Regulations promulgated pursuant to § 34.5 of this By-Law, the Stormwater Management Standards and Best Management Practices. The OCD has the

right to amend the existing permit and require additional stormwater runoff and erosion control measures prior to approval of the change or modification.

34.5 Illicit Connection Detection & Elimination

34.5.1 Prohibited Activities

34.5.1.1 Illicit Discharges.

No person shall cause or allow an illicit discharge into the MS4 or into the Waters of the Commonwealth. Nothing in the article shall be construed to exempt stormwater discharges from regulation under the National Pollutant Discharge Elimination System (NPDES) stormwater program where applicable.

34.5.1.2 Illicit Connections.

No person shall construct, use, allow, maintain or continue any Illicit Connection, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

34.5.1.3 Obstruction of Municipal Storm Drain System.

No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the OCD.

34.5.2 Regulated Activities

No person shall connect a pipe or other appurtenance to the Town of Belmont Sanitary Sewer System or the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on either system, without a Stormwater Management and Erosion Control Permit.

34.5.3 Exemptions

The following Non-Stormwater Discharges are exempt from the requirements of Sections 34.4 and 34.5 of this By-Law except if the OCD determines, after notice and an opportunity for hearing, that the source is a significant contributor of a Pollutant to the MS4:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters,
- (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005[20]);
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensation;
- (j) Irrigation water and springs;
- (k) Water from crawl space pumps;
- (l) Footing drains;
- (m) Lawn watering;
- (n) Car washing undertaken by individual residents at their homes;

- (o) Flows from wetland resource areas;
- (p) De-chlorinated swimming pool discharges;
- (q) Street wash water and residential building wash waters, without detergents;
- (r) Discharges or flows from firefighting activities;
- (s) Dye testing, if written approval is given by the OCD prior to the time of the test;
- (t) Non-Stormwater Discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the U.S. Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and
- (u) Discharges necessary to protect public health, safety, welfare or the environment, for which advanced written approval is received from the OCD.

34.5.4 Emergency Suspension of Storm Drain System Access

The OCD may suspend MS4 access to any person or property without prior written notice when such suspension is determined to be necessary to prevent or terminate a threatened or actual discharge of Pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event that any person fails to comply with an emergency suspension order issued pursuant to this section, the OCD may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

34.6 Stormwater Management and Erosion Control

34.6.1 Regulated Activities

A Stormwater Management and Erosion Control Permit shall be required prior to undertaking any land disturbance that involves:

- (a) An alteration that will result in land disturbances of 2,500 square feet of total area or more, or that is part of a common plan for development that will disturb 2,500 square feet or more;
- (b) An alteration that will increase the amount of a lot's impervious surface area to more than 25% of the lot's total area; or
- (c) Storage or permanent placement of more than 100 cubic yards of excavated material, fill, snow or ice.

34.6.2 Exempt Activities

Alteration on lots with one, two or three dwelling units existing as of the effective date of the Article shall be exempt from 34.4 and 34.6, except for Alteration on any such lot associated with the Substantial Demolition of such dwelling unit(s) and Alteration on such lot thereafter. In addition, the following activities shall be exempt from Section 34.6:

- (a) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-Law;
- (b) 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, to the extent protected under the *Zoning Act, M.G.L. c. 40A, § 3*;
- (c) Customary cemetery management;

- (d) Stormwater discharges that are authorized by an Order of Conditions issued by the Conservation Commission;
- (e) Customary landscaping, gardening, and lawn care activities;
- (f) Activities not expressly regulated by Section 34.6.1.;
- (g) Normal maintenance of Town-owned public land, ways, public utilities and appurtenances; and
- (h) Emergency activities necessary to protect public health or safety

34.6.3 General Requirements

34.6.3.1 An Operation and Maintenance Plan shall be submitted to the OCD for approval prior to the issuance of a Stormwater Management and Erosion Control Permit. The Operation and Maintenance Plan shall be designed to ensure compliance with the Stormwater Management and Erosion Control Permit, this By-Law, and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, in all seasons and throughout the life of the system.

34.6.3.2 As-built drawings showing all stormwater management systems shall be submitted to the OCD at the completion of a project.

34.6.3.3 The OCD may require the applicant to contribute to the cost of design, construction, and maintenance of a public or shared stormwater facility in lieu of an onsite stormwater facility where the OCD determines that there are not sufficient site conditions for onsite Best Management Practices that will satisfy the design criteria set forth in Section 34.6.4.1 of this By-Law and the performance standards set forth in the regulations promulgated under this By-Law. Funds so contributed may be used to design, construct, and maintain stormwater projects that will improve the quality and quantity of surface waters in Belmont by treating and recharging stormwater from existing impervious surfaces that is now discharged to said waters with inadequate treatment or recharge. The amount of any required contribution to the fund shall be determined by the OCD pursuant to standards established in the Regulations adopted pursuant to this By-Law.

34.6.4 Design Criteria

34.6.4.1 All Development shall satisfy the following design criteria:

- (a) Compliance with all applicable provisions of the Stormwater Management Standards, regardless of the proximity of the development to resource areas or their buffer zones, as defined by the *Wetlands Protection Act, M.G.L. c. 131, § 40* and its implementing regulations.
- (b) Erosion and sediment controls must be implemented to prevent adverse impacts during disturbance and construction activities.
- (c) There shall be no change to the existing conditions of abutting properties from any increase in volume of stormwater runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands, ground water levels or wells.
- (d) When any proposed discharge may have an impact upon streams, wetlands and/or storm sewers, the OCD may require minimization or elimination of this impact based on site conditions and existing stormwater system capacity.

34.7 Severability

If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 34.1.

34.8 Enforcement

The OCD shall enforce this By-Law, and any regulations, orders, violation notices, and enforcement orders made pursuant to this By-Law, and may pursue all civil and criminal remedies for such violations.

- (a) The OCD may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include (but are not limited to) an order to:
 - (i) eliminate illicit connections or discharges to the MS4;
 - (ii) perform monitoring, analyses, and reporting;
 - (iii) cease and desist unlawful discharges, practices, or operations; and
 - (iv) remediate contamination in connection therewith.
- (b) If the OCD determines that abatement or remediation of contamination is required, the order shall set 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 OCD may, at its option, authorize such work, and the expenses thereof shall be charged to the violator in an amount not exceeding the penalty specified in Section 34.8 (e).
- (c) If the OCD performs the work described in Section 34.8 (b), the violator and the property owner shall be notified of the costs incurred by the OCD, including administrative costs, within thirty (30) days after completing all measures necessary for the abatement or remediation. Within thirty (30) days of receipt of such notification, the violator or property owner may file with the Town Administrator a written protest objecting to the amount or basis of the costs incurred. Upon receipt of such a protest, the Town Administrator may adjust the amount of the costs to be charged to the violator pursuant to Section 34.8(b).
- (d) If a person violates the provisions of this By-Law, or any regulation, permit, notice, or order issued thereunder, the OCD, with the approval of the Board of Selectmen, may seek injunctive relief in a court of competent jurisdiction to restrain such person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.
- (e) As an alternative to criminal remedies set forth in this Section, the OCD may elect to utilize non-criminal disposition procedures set forth in *M.G.L. c.40, § 21D*. The penalty for the first violation shall be \$100.00. The penalty for the second violation shall be \$200.00. The penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (f) To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the OCD, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this section and regulation, and may make or cause to be made such examinations, surveys or sampling as the OCD deems reasonably necessary.

(g) The remedies set forth in this Section are not intended to be exclusive of any other remedies available under applicable federal, state, or local law.

TRUE COPY ATTEST: _____
Ellen O'Brien Cushman, Town Clerk