

ARTICLE 7

**STORMWATER**

**SECTION 7.1 PURPOSE**

The purpose of this By-Law is:

- (a) To prevent pollution of Needham's wetlands and surface waters from uncontrolled stormwater runoff and illicit discharges.
- (b) To prevent pollutants from entering the Town of Needham's Municipal Separate Storm Sewer System (MS4).
- (c) To prohibit illicit connections and unauthorized discharges to the (MS4) and to require the removal of all such illicit connections.
- (d) To comply with state and federal statutes and regulations relating to stormwater discharges, including the NPDES MS4 Permit issued by the U.S. Environmental Protection Agency (EPA), the Massachusetts Stormwater Standards regardless of the location of the subject property relative to wetlands or other resource areas, and the Memorandum of Understanding (MOU) issued to the Town of Needham by the EPA in 1996.
- (e) To establish the legal authority to ensure compliance with the provisions of this By-Law through permitting, inspection, monitoring, and enforcement.
- (f) To control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff.
- (g) To promote infiltration and the recharge of groundwater.
- (h) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage stormwater runoff.
- (i) 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.

**SECTION 7.2 DEFINITIONS**

For the purposes of this By-Law, refer to the definitions provided in the Stormwater Regulations.

**SECTION 7.3 ADMINISTRATION**

- 7.3.1 The Select Board shall adopt, and may periodically amend, Stormwater Regulations to effectuate the purposes of this By-law, after conducting a public hearing to receive Public comment.
- 7.3.2 The Director of Public Works shall be responsible for the day-to-day administration of this By-Law and its Regulations except as provided in Section 7.3.3 below. The Director may designate a person or persons to carry out any of his/her duties under this Stormwater By-Law.

- 7.3.3 The issuing authorities for permits (Building Department, Planning Board, Zoning Board of Appeals, and Conservation Commission) are responsible for determining compliance with this By-law for any application to these authorities. The Director of Public Works/designee shall review permit applications and provide an advisory opinion to the issuing authorities.
- 7.3.4 The Director of Public Works/designee shall have the authority to investigate suspected illicit discharges and to require the elimination of illicit discharges.

## **SECTION 7.4 APPLICABILITY**

### **7.4.1 Permits and Approvals**

All persons required to obtain a Building Permit for new construction and/or additions greater than 25% of the existing building footprint shall be subject to the requirements of this By-Law. All persons required to obtain Planning Board Site Plan approval pursuant to the Zoning By-Law, Planning Board approval for a Subdivision, and/or a Board of Appeals Decision (for new construction and/or additions greater than 25% of the existing building footprint) are also subject to the requirements of this By-Law.

### **7.4.2 Stormwater Management and Erosion Control**

All applications for new construction or redevelopment submitted to the Planning Board or Zoning Board of Appeals involving additions greater than 25% of the existing building footprint, and to the Conservation Commission, whether or not the issuance of a Building Permit is required, shall include Stormwater Management and Erosion Control provisions for their review and approval prior to the issuance of a Building Permit, if applicable, or the commencement of any development activity. Applications to the Planning Board or Zoning Board of Appeals only involving façade treatments and/or changes in use are exempt from this By-Law. Review of building permit applications requiring Zoning Board of Appeals approval shall be limited to new construction and building additions greater than 25% of the existing building footprint for Stormwater Management and Erosion Control purposes. The Director of Public Works/designee shall participate in the review process and make recommendations to the Planning Board, Zoning Board of Appeals, and/or Conservation Commission as needed.

### **7.4.3 Modification of Building Permits**

The applicant, or an agent thereof, shall obtain the approval of the Director of Public Works prior to any change or modification of an activity associated with the Stormwater Management and Erosion Control provisions of the Building Permit. The Director of Public Works shall approve or reject the change or modification in writing on the plot plan submitted within two (2) weeks of the receipt of such change or modification. If no action is taken within the said two-week period, the change or modification shall be deemed to have been approved.

### **7.4.4 Modification Requiring Planning Board, Zoning Board of Appeals, and/or Conservation Commission Approval**

In circumstances where Planning Board, Zoning Board of Appeals, and/or Conservation Commission approval is required prior to the issuance of a Building Permit, approval by

the respective board or commission is required prior to any significant change or modification of an activity associated with an approved Stormwater Management and Erosion Control Plan. Additional stormwater runoff and erosion control measures may be required prior to approval of the change or modification.

## **SECTION 7.5 ILLICIT DISCHARGE, DETECTION & ELIMINATION (IDDE)**

### **7.5.1 Prohibited Activities**

7.5.1.1 Illicit Discharges: No person shall cause or allow an illicit discharge into the MS4 or into the Waters of the Commonwealth. This By-Law shall not exempt stormwater discharges from regulations under the National Pollutant Discharge Elimination System (NPDES) stormwater program where applicable.

7.5.1.2 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.

7.5.1.3 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 Director of Public Works.

### **7.5.2 Regulated Activities**

7.5.2.1 No person shall connect a pipe or other appurtenance to the Town of Needham Sanitary Sewer System or the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on either system, without receiving an approved Sewer Connection Permit or Drainage Connection Permit from the Department of Public Works.

7.5.2.2 No person shall allow a pipe, swale or other point source to discharge onto a Public Way.

### **7.5.3 Exemptions** The following are exempt from the requirements of this By-Law:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters,
- (e) Uncontaminated ground water (groundwater that is free of pollutants);
- (f) Discharges from potable water sources;
- (g) Air conditioning condensation;
- (h) Lawn watering;
- (i) Flows from wetland resource areas;
- (j) Discharges or flows from firefighting activities; and
- (k) Discharges necessary to protect public health, safety, welfare or the environment.

## **SECTION 7.6 EMERGENCY SUSPENSION OF STORM DRAIN SYSTEM ACCESS**

The Director of Public Works/designee 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 Director of Public Works/designee may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

## **SECTION 7.7           STORMWATER MANAGEMENT AND EROSION CONTROL**

### **7.7.1 Regulated Activities**

A Stormwater Management and Erosion Control plan shall be required for any construction activity as set forth under Section 7.4 of this By-Law.

### **7.7.2 Exempt Activities     The following activities shall be exempt from this By-Law:**

- (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) Normal maintenance of Town-owned public land, ways, public utilities and appurtenances; and
- (e) Emergency activities necessary to protect public health or safety.

### **7.7.3 General Requirements**

#### **7.7.3.1 Pre-Construction**

A Stormwater Management and Erosion Control plan shall be submitted as part of a Building Plot Plan or independently with an application for a Building Permit, Planning Board application, Zoning Board of Appeals application, Conservation Commission application, and/or prior to any development activity.

#### **7.7.3.2 Construction**

The Stormwater Management and Erosion Control plan shall include construction period measures to prevent the discharge of silt or sediment to the MS4 and/or abutting properties.

#### **7.7.3.3 Post-Construction**

The Stormwater Management and Erosion Control Plan shall include provisions for post-construction measures to provide a minimum combined volumetric capacity to recharge a minimum of one (1) inch of rainfall depth over the total proposed impervious area of the property (buildings and impervious surfaces). For commercial projects, the Stormwater Management and Erosion Control Plan shall include stormwater runoff quality controls and other structural and non-structural Best Management Practices (BMPs) to remove pollutants from stormwater prior to recharge to the groundwater. The purpose of this plan is to

prevent or minimize increases in stormwater volumes and flows to the MS4 and to reduce pollutant loading to the MS4 and receiving waters.

#### 7.7.3.4 Standard Infiltration Method

As one option to satisfy Sections 7.7.3.1 and 7.7.3.2 and 7.7.3.3, for residential and commercial development subject to this By-Law with 4,000 square feet of impervious area or less on the property, a Standard Infiltration Method (SIM) may be utilized consisting of the installation of drywells at one or more corners of the main dwelling/building to collect the roof runoff from the structure. Building projects involving additions greater than 25% of the existing building footprint but less than 50% of the existing building footprint shall collect the entire runoff from the roof of the addition plus runoff from the roof on the side of the existing structure that contains the addition. Building projects involving additions that are 50% or greater than the existing building footprint shall capture the stormwater runoff from the entire roof. The as-built (certified) Plot Plan showing the improvements to the property shall be stamped by a Massachusetts Registered Land Surveyor.

#### 7.7.3.5 Poor Soils

Properties located within an area of poor soils as identified on the Town's Watershed Management Plan or due to shallow depth to groundwater or other reason as determined by the Director of Public Works/designee, a small diameter drain shall be extended from the Town's stormwater drainage system (MS4) down gradient of the property to the property to collect the roof runoff from the main dwelling. If there is no portion of a drainage system within 100 feet of the property, the property owner shall contribute to a fund for the Town to construct a communal infiltration system on Town property. The contribution shall be an amount as determined by the Select Board per cubic foot of stormwater required to be recharged as described above.

#### 7.7.3.6 Operation and Maintenance Plan

An Operation and Maintenance Plan (O&M Plan) shall be submitted with the application for a Building Permit, Planning Board application, Board of Appeals application, or Conservation Commission application pursuant to this By-Law. The Operation and Maintenance Plan shall be designed to ensure compliance with this By-Law in all seasons and throughout the life of the system. The O&M Plan shall be signed by the property owner. For residential and commercial development with 4,000 square feet of impervious area or less, the O&M Plan shall consist of an annual inspection of the drywells, and removal of sediment, leaves or debris as needed.

#### 7.7.3.7 As-Built Drawing

Except as provided for in Section 7.7.3.4, as-built drawings stamped by a Massachusetts Registered Professional Engineer showing all stormwater management systems shall accompany the as-built Plot Plan at the completion of a project.

### 7.7.4 Design Criteria

7.7.4.1 Residential development and commercial development with 4,000 square feet or less of impervious area constructed using the Standard Infiltration Method (SIM) will be deemed compliant with the design criteria of this By-law.

7.7.4.2 All developments subject to this By-Law shall satisfy the following design criteria:

- (a) Stormwater Management and Erosion Control measures must, in the opinion of the Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission, as the case may be, be in compliance with all applicable provisions of the Massachusetts Stormwater Standards issued in 1996 as amended, 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 caused by the discharge of silt or sediment to municipal and/or abutting properties during and after land disturbance and construction activities.
- (c) There shall be no change to the existing conditions of abutting properties from any increase in volume or peak rate of stormwater runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands and other resource areas as defined in the Massachusetts Wetlands Protection Act and/or Needham Wetlands Protection Bylaw.
- (d) When any proposed discharge may have an impact upon streams, wetlands and/or the MS4 or its conveyance system (storm sewers), the Director of Public Works/designee may require minimization or elimination of this impact based on site conditions and existing stormwater system capacity.

## **SECTION 7.8 MAINTENANCE OF STORMWATER FACILITIES**

[Reserved]

## **SECTION 7.9 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.

## **SECTION 7.10 ENFORCEMENT**

The Director of Public Works/designee shall enforce this By-Law, and any regulations, orders, violation notices, and enforcement orders made pursuant to this By-Law as follows:

7.10.1 The Director of Public Works 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:

- (a) eliminate illicit connections or discharges to the MS4;
- (b) perform monitoring, analyses, and reporting;
- (c) cease and desist unlawful discharges, practices, or operations; and
- (d) remediate contamination in connection therewith.

7.10.2 If the Director of Public Works/designee 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, it shall be a violation of this By-Law and the Director of Public Works/designee may, at his or her option, authorize such work.

7.10.3 Any person or entity aggrieved by a decision of the Director of Public Works/designee under this provision of this Stormwater By-Law may submit a letter of appeal to the Select Board who may affirm, amend, or overrule that decision after a public meeting held not more than 45 days after the submission of a letter of appeal.

7.10.4 If a person violates the provisions of this By-Law, or any regulation, permit, notice, or order issued thereunder, the Director of Public Works/designee, with the approval of the Select Board, 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.

7.10.5 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.

#### **SECTION 7.11 EFFECTIVE DATE**

This Stormwater By-Law shall be effective on November 1, 2018.