

Town of Bellingham

STORMWATER UTILITY FEE REGULATIONS

SECTION 1. – GENERAL PROVISIONS

1.1 Purpose and Authority

Pursuant to the provisions of Massachusetts General Laws Chapter 83, Section 16, the Town of Bellingham Board of Selectmen hereby establishes a charge for the use of the stormwater management and flood control services of the Town, to be known as the “Stormwater Utility Fee,” for the purposes of providing revenue related to the Stormwater Management Services provided by the Town.

1.2 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Regulations, shall have the meanings hereinafter designated:

- (a) **CREDIT**: a reduction in the amount of a Stormwater Utility Fee charged to the owner of a property where that property owner owns, maintains and operates on-site or off-site stormwater management systems or facilities, or provides services or activities that reduce or mitigate the Town’s cost of providing stormwater management services or assist the Town in achieving nutrient loading reductions as required in the Town’s Municipal Separate Storm Sewer System permit, in accordance with the Town’s approved credit policy.
- (b) **IMPERVIOUS SURFACE(S)**: Areas which prevent or impede the infiltration of Stormwater into the soil in the manner in which it entered the soil, in natural conditions, prior to development. Common impervious surfaces include, but are not limited to, rooftops, buildings or structures, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, swimming pools, hockey rinks, decks, compacted gravel and soil surfaces not specifically engineered and maintained to be pervious, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of Stormwater runoff which existed prior to development.
- (c) **MUNICIPAL STORM DRAIN SYSTEM or DRAINAGE SYSTEM**: The system of conveyances designed or used for collecting or conveying Stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, swale, ditch, pumping facility, retention or detention basin, water quality treatment structure natural or man-made or altered drainage channel, reservoir, waterway or other drainage structure that together comprise the storm drainage system owned or operated by the Town.
- (d) **STORMWATER**: surface water that results from precipitation that travels over natural or developed land surfaces to discharge into a drainage system or surface water body including a river, brook or underground stream. Stormwater includes stormwater runoff, snow melt runoff, and surface water runoff and drainage.
- (e) **STORMWATER MANAGEMENT SERVICES or PROGRAM**: All services provided by the Town which relate to the:
 - (1) Transfer, control, conveyance or movement of Stormwater runoff through the Town;
 - (2) Maintenance, repair and replacement of existing Stormwater Management Systems and Facilities;
 - (3) Planning, development, design and construction of new, expanded or upgraded Stormwater Management Systems and Facilities to meet current and anticipated needs or to reduce the discharge of Stormwater pollutants to wetlands or waterways, ensure that the rate or volume of runoff discharged to wetlands or waterways approximates pre-development hydrology, or prevent or remediate flood damage;

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- (4) Regulation of the use of stormwater management services, systems and facilities on public or private properties in Bellingham; or
- (5) Compliance with applicable state and federal stormwater management regulations and permit requirements.
- (f) **STORMWATER MANAGEMENT SYSTEM AND FACILITIES:** Natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, headwalls, storm sewers, lakes and other physical works, properties and improvements which transfer, control, convey, detain, retain, treat or otherwise influence the movement of stormwater runoff.
- (g) **STORMWATER UTILITY FEE:** a charge for the purpose of providing revenue for services provided by the Stormwater Management Program of the Town of Bellingham.
- (h) **STORMWATER MANAGEMENT ENTERPRISE FUND:** A specific management structure for the Stormwater Utility Fee, in which a municipal utility is established to administer the fee and the Stormwater Management Program for the Town of Bellingham similar to a water or sewer utility. Pursuant to Article 14 of Special Town Meeting on November 13, 2019, the Town accepted the provisions of General Laws Chapter 44, Section 53F1/2 to establish a Stormwater Utility Enterprise Fund for fiscal year commencing on July 1, 2019.
- (i) **UTILITY BILL:** An invoice or bill mailed quarterly to property owners to whom a Water, Sewer, Trash, and or Stormwater fee applies under the various regulations and fee structures within the town's billing related to enterprise fund accounts. Bill are prepared by the Department of Public Works and mailed by the Tax Collector's Office. The Tax Collector shall collect payments and maintain an accurate accounting of all paid and unpaid Utility Bills.

**SECTION 2. – SCOPE OF RESPONSIBILITY FOR
STORMWATER MANAGEMENT PROGRAM**

- (a) The Town shall be responsible for costs to operate, maintain, improve and access those stormwater management and flood systems and facilities which are located:
 - (1) Within the public road rights-of-way;
 - (2) On private property but within easements granted to, and accepted by, the Town, or which are otherwise permitted to be located on such private property by written agreements for rights-of-entry, rights-of-access, rights-of-use or such other lawful means to allow for operation, maintenance, improvement and access to the stormwater management system facilities located thereon;
 - (3) On public land which is owned by the Town and/or land of another governmental entity upon which the Town has agreements providing for the operation, maintenance, improvement and access to the stormwater management and flood control systems and facilities located thereon.
- (b) Operation, maintenance and/or improvement of stormwater management and flood control systems and facilities which are located on private or public property not owned by the Town, and for which the Town lacks a lawful right of entry, shall be and remain the legal responsibility of the property owner, except as otherwise provided for by state and federal laws and regulations.

**SECTION 3. – ESTABLISHMENT OF STORMWATER MANAGEMENT UTILITY
AND STORMWATER MANAGEMENT FEE**

- (a) The Town of Bellingham hereby establishes a Stormwater Utility to administer Stormwater Management Services provided by the Town and further establishes a charge for the use of the stormwater management services of the Town to be known as the Stormwater Utility Fee.

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- (b) The Town finds that all real property in the Town contributes to runoff and either uses or benefits from the maintenance of the Stormwater Management System and Facilities. Therefore, except as provided in this section or otherwise provided by law, the Stormwater Utility Fee shall be imposed on each parcel of residential property and each parcel of nonresidential property, whether occupied or not, including but not limited to public and tax-exempt property.
- (c) The Town establishes exemptions to the Stormwater Utility Fee as follows:
 - (1) Undeveloped land and properties with less than 0.5 ERUs of impervious surface.
 - (2) Property owned by the Town of Bellingham.
 - (3) Railroad rights-of-way. However, railroad stations, maintenance buildings, and/or other developed property used for railroad purposes shall not be exempt from Stormwater Utility fee charges.
 - (4) Any impervious areas within the federal, state, county and Town-owned right-of-way used by the traveling public will not be attributed to the parcel and will not be considered as part of the total impervious area of the parcel. However, maintenance buildings and/or other developed property used for road maintenance purposes shall not be exempt from Stormwater Utility fee charges. All other State, Federal, and County properties shall be subject to the user fee charges on the same basis as private properties.
- (d) Receipts generated from the Stormwater Management Fee shall be deposited to a special revenue account to be known as the "Stormwater Management Enterprise Fund" established in accordance with the authority granted by M.G.L. Ch. 44, § 53F 1/2. The funds deposited to this account shall be used solely to fund the Stormwater Management Program.
- (e) The Bellingham Board of Selectmen shall establish reasonable rates to defray the cost of administering and implementing the Stormwater Management Program of the Town. The initial rates, and any later modifications, shall be based upon recommendation of staff and shall be set by the Adoption of a Stormwater Fee Schedule by vote of the Board. The Stormwater Fee Schedule shall be on office of the Department of Public Works who shall post it to the Town's website.
- (f) The Stormwater Utility Fee shall be calculated on an annual basis and shall be based on equivalent residential unit (ERU) billing units derived from the typical impervious surface on a detached single-family residential property. The stormwater utility fee billing structure shall be calculated and assessed for all properties based on the amount of impervious area measured in ERUs. The Town may establish a uniform flat rate for categories of properties or the Town may assess a proportional fee for each property or a combination of these methods as long as the charge is assessed in a fair and equitable manner.

SECTION 4. – STORMWATER UTILITY FEE CREDITS

- (a) The Director of Public Works is hereby authorized to grant credits to property owners to be applied against the Stormwater Utility Fee based on the technical and procedural criteria set forth in the Stormwater Utility Credit Policy (Credit Policy) to be developed, maintained and, from time to time, amended by the Department of Public Works (DPW). The Credit Policy shall be implemented starting in the first year of the Stormwater Utility and shall be available for inspection by the public at the Department of Public Works.
- (b) The percentages for credits shall reflect the extent to which the subject properties improve stormwater runoff quality and/or quantity, or avoid other costs incurred by the stormwater management program in the delivery of services. The maximum possible credit for properties shall be detailed in the Credit Policy (to be developed by the Department of Public Works).
- (c) Any credit allowed against the Stormwater Utility Fee is conditioned on continuing compliance with the Town's design and performance standards as stated in the Credit Policy and/or upon

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continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. The Town may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Credit Policy or these Regulations.

- (d) In order to obtain a credit, the property owner must make application to the Town on forms provided by the Director of Public Works for such purpose. The forms are to be fully completed in accordance with the procedures outlined in the Credit Policy. When an application for a credit is deemed complete by the DPW, the Town shall have adequate time from the date the complete application is accepted to either grant the credit in whole, grant the credit in part, or deny the credit. Credits applied for by the property owner and granted in whole or in part, shall apply to all Stormwater Utility Fees in accordance with the terms defined in the Credit Policy.
- (g) The Director of Public Works may establish in the Credit Policy a reasonable administrative fee for review and processing application for Stormwater Utility Fee Credits. Such fees shall be paid at the time of the application submission.

SECTION 5. – FEE BILLING, DELINQUENCIES, COLLECTIONS

- (a) The Stormwater Utility Fee shall appear as a separate item on the Utility Bill
- (b) Failure of the Town to send Utility Bill or to include the for the Stormwater Utility Fee on a Utility Bill shall not relieve the property owner of record from the obligation to pay the Stormwater Utility Fee. If a property is unbilled, or if no bill is sent for a particular parcel of land, the Town may back bill for the fees as applicable for a period not to exceed one year of charges, but no late fees or delinquency charges of any kind shall be charged or recovered from any property owner so back-billed.
- (c) Utility Bills with Stormwater Utility Fees shall be committed to the Treasurer/Collector for collection by the authorizing board pursuant to General Laws Chapter 83, Section 16. In any case of nonpayment of a Utility Bills with Stormwater Utility Fees, appropriate interest and late charges to the fees in accordance with MGL c. 83, § 16, and as previously approved by the Treasurer will appear on the subsequent quarterly Utility Bill.
- (d) In accordance with MGL c. 83, §§ 16A - 16F, charges for the Stormwater Utility fee, together with interest thereon and costs relative thereto, shall be a lien upon the real estate for which the charge was billed. Such lien shall take effect by operation of law on the day immediately following the due date of such charge and, unless dissolved by payment or abatement, shall continue until such charge has been added to or committed as a tax in accordance with the requirements of MGL c. 83, §§ 16C, and thereafter, unless so dissolved, shall continue as provided in MGL c. 60, §§ 37.
- (e) In addition to the method of collection specified in MGL c. 83, §§ 16A - 16F, the overdue charge may be collected through any other lawful means.

SECTION 6. - APPEALS AND HEARINGS

- (a) As an alternative to the abatement procedure set forth in Section 16E of Chapter 83 of the General Laws, a property owner who believes the Stormwater Utility Fee is more than properly due, or that applied for credits have been denied, may, within sixty (60) days from the date of issuance of the Stormwater utility bill, said owner may apply to the Board of Selectmen or their designee, in writing, for abatement. The application for abatement shall be supported by such information as is necessary for the Board of Selectmen or their designee to conclude that the fee was not properly calculated or assessed. The Board shall render a written decision on the application, granting the abatement, in whole or in part, or denying the abatement. The

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provisions of this and the following paragraph shall only apply if the fee has been paid in full prior to its due date.

- (b) In the event that a property owner is aggrieved by a written decision from the Board of Selectmen or their designee denying an application for abatement in whole or in part, or denying an application for a credit, in whole or in part, the property owner shall have sixty (60) days from the date of the written decision to request a hearing by the Board of Selectmen. The request shall be in writing and shall specify the grounds thereof. Upon the filing of a request for hearing, the Board shall set a date for hearing and notice thereof setting forth the place, date and time of hearing shall be sent to the property owner no less than ten (10) days prior to the hearing date. The Board shall render a written decision after the conclusion of the hearing, affirming the action or reversing the action. If reversing the denial of an abatement, the decision shall specify the sum to be abated, which shall not exceed the amounts paid. If reversing the denial of a credit, the decision shall specify the credit to be applied prospectively against future charges unless the property owner has paid the full amount of the Stormwater Utility fee as charged and has also requested an abatement.
- (c) In the event that a property owner is aggrieved by a written decision from the Board of Selectmen denying an application for abatement in whole or in part, or denying an application for a credit, in whole or in part, the property owner may appeal to the appellate tax board upon the same terms and conditions as a person aggrieved by the refusal of the assessors of a city or town to abate a tax.
- (d) If the Board of Selectmen finds that some or a portion of the Stormwater Utility Fee is more than is properly due, a reasonable abatement shall be made. The provisions of this paragraph shall only apply if the fee is not paid by the date due and a lien is imposed in accordance with Section 16E of Chapter 83 of the General Laws.
- (e) If an abatement of the whole or a portion of a fee paid is abated in accordance with the previous sections, the property owner shall be given a credit on future bills until the abatement is fully realized. In the event it is determined that the property owner is not subject to the fee, the owner shall be given a full refund.

SECTION 7. – SEVERABILITY

If any provision, paragraph, word, section, or article of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 8. – EFFECTIVE DATE

These Regulations shall be in full force and effect from and after the tenth day following their filing with the Town of Bellingham Town Clerk.

APPROVED this 24 day of August, 2020.

Bellingham Board of Selectmen

