



# Town of Barnstable

## Office of Town Clerk

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Town Clerk

June 6, 2024

To whom it may concern:

Please be advised that the following is a true copy of an item duly passed by the Barnstable Town Council on April 04, 2024:

**2024-172 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 1 GENERAL PROVISIONS, ARTICLE I NONCRIMINAL ENFORCEMENT OF VIOLATIONS, AND INSERTING A NEW CHAPTER 185 KNOWN AS "STORMWATER MANAGEMENT AND ILLICIT DISCHARGE CONTROL" INTRO: 03/21/2024**

Upon a motion duly made and seconded it was

**ORDERED:** That the Code of the Town of Barnstable be amended as follows:

**SECTION 1.** By amending Chapter 1, Article I, Section 1-2 as follows:

- A. By renumbering Subsection A (10) as Subsection A (11).
- B. By striking out in Subsection A (9) the word "and" as appearing after the semi-colon.
- C. By inserting after Subsection A (9) a new subsection "A (10) The Director of Public Works and his designees; and"

**SECTION 2.** The schedule of fines in Chapter 1, Article I, Section 1-3 is hereby amended by inserting after Chapter 184 the following:

"Ch. **185** Stormwater Management or Illicit Discharge Control

First offense	\$100
Second or subsequent offense	\$300"

**SECTION 3.** The schedule of fines in Chapter 1, Article I is hereby amended by inserting the following new Section 1-6.2:

"§ 1-6.2: Fines for the Violation of Department of Public Works Regulations

Offense  
Violation of Stormwater Management and Illicit Discharge Control Regulations

First offense  
\$100  
Second or subsequent offense  
\$300

**SECTION 3.** The Code of the Town of Barnstable is hereby amended by inserting after Chapter 184 a new Chapter 185 as follows:

**“Chapter 185 Stormwater Management and Illicit Discharge Control**

**Article I General Provisions**

- § 185-1            **Authority.**
- § 185-2            **Introduction.**
- § 185-3            **Purpose.**
- § 185-4            **Definitions.**
- § 185-5            **Administration.**
- § 185-6            **Regulations.**
- § 185-7            **Enforcement.**
- § 185-8            **Entry Upon Land to Perform Duties**
- § 185-9            **Severability.**

**Article II Illicit Discharge Control**

- § 185-10           **Purpose and Objectives.**
- § 185-11           **Prohibited Activities.**
- § 185-12           **Exempt Activities.**
- § 185-13           **Emergency Suspension of Storm Drainage System Access**
- § 185-14           **Notification of Hazardous Material Spills.**

**Article III Construction and Post Construction Stormwater Management**

- § 185-15           **Purpose and Objectives.**
- § 185-16           **Prohibited Activities.**
- § 185-17           **Exempt Activities.**
- § 185-18           **Waivers and Provisions for Relief.**
- § 185-19           **Surety.**

**Article I General Provisions**

### **§ 185-1 Authority.**

Chapter 185 of the General Ordinances is adopted in accordance with the regulations of the federal Clean Water Act found at 40 C.F.R. 122.34, as amended, the Massachusetts 401 Water Quality Certification regulations found at 314 C.M.R. 9.00 *et seq.*, Section 6 of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, and the Charter of the Town of Barnstable.

### **§ 185-2 Introduction.**

The United States Environmental Protection Agency has identified Disturbance of Land and polluted stormwater runoff as major sources of water pollution. Regulation of Illicit Connections and Discharge of Pollutants is necessary for the protection of the Town of Barnstable's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:

- (1) Impairment of water quality and reduced flow in estuaries, lakes, ponds, streams, rivers, wetlands, and groundwater.
- (2) Contamination of drinking water supplies.
- (3) Alteration or destruction of aquatic and wildlife habitat.
- (4) Flooding.
- (5) Erosion of stream channels; and
- (6) Overloading or clogging of municipal catch basins and storm drainage systems.

### **§ 185-3 Purpose.**

The purpose of this Chapter is to comply with the conditions and requirements set forth in the Massachusetts General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer System by:

- (1) establishing the Town of Barnstable's legal authority, including that of its Department of Public Works, to prohibit, investigate, and eliminate illicit discharges into the Town's Municipal Drainage System and implement appropriate enforcement procedures and actions; and
- (2) establishing and enforcing a program to reduce Pollutants in any stormwater runoff discharged to the Municipal Storm Drain System from all construction activities that result in a Land Disturbance of greater than or equal to one acre so that it is not transported in stormwater and allowed to discharge to a water of the U.S. through the Town's MS4.
- (3) Prohibiting and eliminating Illicit Connections, the Discharge of Pollutants, safeguarding the public health, safety, environment, and general welfare, protecting aquatic resources and wildlife habitat, protecting the quality and health of water resources, conserving groundwater supplies, and fostering climate change resiliency.

This Chapter seeks to meet that purpose through the following objectives:

- (1) To prevent Pollutants from entering the Town of Barnstable's municipal storm drain system, Waters of the Commonwealth.

- (2) To prohibit Illicit Connections and unauthorized discharges to the municipal storm drain system.
- (3) To require the removal of all such Illicit Connections.
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

#### **§ 185-4 Definitions.**

For the purposes of this Chapter, the following terms shall have the following meaning:

##### **ABUTTER**

The Owner(s) of land sharing a common boundary or corner with the site of the proposed activity in any direction, including, but not limited to, land located directly across a street, way, creek, river, stream, brook, or canal.

##### **ANIMAL WASTE**

Feces, urine, or other excrement, urea, or similar substances emitted by animals (including any form of livestock, poultry, or fish). The term Animal Waste includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically found with such waste.

##### **APPLICANT**

Any Person applying for or requesting a Stormwater Management Permit for proposed Disturbance of Land activity.

##### **BEST MANAGEMENT PRACTICE or BMP**

Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the Waters of the Commonwealth. BMPs also include treatment requirements, operating procedures, and practices to control animal waste, plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

##### **CERTIFICATE OF COMPLETION**

A document issued by the Department of Public Works upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

##### **CLEARING**

Any activity that removes vegetative surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

##### **CONSTRUCTION AND DEMOLITION WASTE:**

Waste from the building materials and rubble resulting from the construction, remodeling, repair, or demolition of buildings, pavements, roads, or other structures. Construction and demolition waste includes but is not limited to:

- (1) Discarded building materials such as: concrete, bricks, asphalt pavement, masonry, plaster, gypsum wallboard, metal, lumber, and wood.
- (2) Concrete truck washout.
- (3) Chemicals.
- (4) Litter; and
- (5) Sanitary waste.

**DEPARTMENT**

The Department of Public Works of the Town of Barnstable.

**DIRECTOR**

The Director of the Department of Public Works or his or her designee.

**DISCHARGE OF POLLUTANTS**

The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Waters of Commonwealth from any source.

**DISTURBANCE OF LAND**

Action to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of topsoil's.

**DRAINAGE FACILITY**

Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage, or infiltration.

**EROSION**

The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**GRADING**

Changing the level or shape of the ground surface.

**GROUNDWATER**

Water beneath the surface of the ground including confined or unconfined aquifers.

**ILLICIT CONNECTION**

A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system or into the Waters of the Commonwealth, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Ordinance.

**ILLICIT DISCHARGE**

Direct or indirect discharge to the municipal storm drain system or into the Waters of the Commonwealth that is not composed entirely of stormwater, except as exempted in Section 185-13. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

**IMPERVIOUS SURFACE**

Any material or structure on or above the ground surface that prevents or delays water from infiltrating into the underlying soil or causes water to runoff in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, roads, driveways, parking lots, sidewalks, rooftops, patios, storage areas, concrete or asphalt paving, gravel/dense-graded crushed stone areas, and soil densely compacted by human activity.

**INFEASIBLE**

Not technologically possible, or not economically practicable and achievable in light of best industry practices.

**LOW IMPACT DEVELOPMENT or LID**

An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing, and mitigating impacts with natural, non-structural and structural measures.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS or STANDARDS**

The Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection ("DEP") under the authority of the Massachusetts Wetlands Protection Act, G.L. c. 131 § 40, and the Massachusetts Clean Waters Act, G.L. c. 21, §§ 23-56, and further defined in the Wetlands Protection Act Regulations (310 CMR 10.00) and the 401 Water Quality Certification Regulations (314 CMR 9.00). The Stormwater Management Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4 or MUNICIPAL STORM DRAIN 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, pumping facility, retention, or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Barnstable.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE PERMIT or NPDES Permit**

A permit issued by the United States Environmental Protection Agency ("EPA") or issued jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to Waters of the United States.

**NEW DEVELOPMENT**

Any construction activities or Disturbance of Land resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) on an area that has not previously been developed to include impervious cover.

**NONPOINT SOURCE**

Any source of water pollution that does not meet the definition of Point Source.

**NON-STORMWATER DISCHARGE**

Discharge to the municipal storm drain system not composed entirely of stormwater.

**OPERATION AND MAINTENANCE PLAN**

A plan setting up 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.

### **OUTFALL**

The point where stormwater flows out from a Point Source which is a discernible, confined, and discrete conveyance into Waters of the Commonwealth.

### **OWNER**

A person with a legal or equitable interest in property.

### **PERSON**

An individual, group of individuals, partnership, association whether incorporated or unincorporated, firm, company, trust, estate, corporation, business organization, agency, authority, department, or political subdivision of the Commonwealth of Massachusetts, public or quasi-public corporation or body, or any other legal entity or its legal representative, 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 but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

### **POLLUTANT**

Any element or property 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 any sewage treatment works, Municipal Storm Drain System, or Waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (1) Paints, varnishes, and solvents.
- (2) Oil and other automotive fluids.
- (3) Non-hazardous liquid and solid wastes and yard wastes.
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables.
- (5) Pesticides, herbicides, and fertilizers.
- (6) Hazardous materials and wastes; sewage, fecal coliform, and pathogens.
- (7) Dissolved and particulate metals.
- (8) Animal wastes.
- (9) Rock, sand, and soils.
- (10) Construction and Demolition Waste; and
- (11) Noxious or offensive matter of any kind.

### **PROCESS WASTEWATER**

Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

### **PROFESSIONAL ENGINEER or P.E.**

A Professional Engineer licensed as a civil engineer by the Commonwealth of Massachusetts in good standing.

### **RECHARGE**

The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through soil.

### **REDEVELOPMENT**

Any construction, Disturbance of Land, or improvement of impervious surfaces resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development.

### **REVIEWING AGENT**

The Department or a person or position in the Department designated in writing by the Director responsible for enforcing this Chapter. The Reviewing Agent shall be considered a designee of the Director and Enforcing Agent under Chapter 1, Article I of the Code.

### **STABILIZATION**

The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or minimize erosion.

### **STORMWATER**

Rainwater, snow melt, surface water runoff, and drainage.

### **STORMWATER MANAGEMENT PERMIT**

The written approval granted by the Department of Public Works to undertake a Disturbance of Land activity pursuant to a Stormwater Permit Application.

### **STORMWATER MANAGEMENT PLAN**

A plan required as part of the application for a Stormwater Management Permit.

### **SURFACE WATER DISCHARGE PERMIT**

Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.

### **HAZARDOUS MATERIAL**

Any material, which 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 Material shall include, but not be limited to, substances defined as "oil," "hazardous materials," "hazardous substances," "hazardous waste," "toxic substances," "pollutants," or "contaminants" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 *et seq.*; Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802 *et seq.*; and Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6903 *et seq.*; M.G.L. c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000 and/or applicable federal and Massachusetts law now or hereafter enacted, including any synthetic or organic chemical, biological, or infectious waste or material.



**WASTEWATER**

Any sanitary waste, sludge, or septic tank or cesspool contents, and water that during manufacturing, cleaning, or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

**WATERCOURSE**

A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

**WATERS OF THE COMMONWEALTH**

All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, Great Ponds, springs, impoundments, estuaries, wetland resource areas, coastal waters, groundwaters, and vernal pools, as well as waters of the United States.

**WETLAND RESOURCE AREAS**

Areas within the jurisdiction of the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in Chapter 237, Wetlands Protection Ordinance, of the Code of the Town of Barnstable, as amended.

**§ 185-5 Administration.**

The Department shall administer, implement, and enforce this Chapter. Any powers granted to or duties imposed upon the Department may be delegated in writing by Director to employees or agents of the Department or a Reviewing Agent.

**§ 185-6 Regulations.**

The Department may promulgate rules and regulations, including a fee schedule, to effectuate the purposes of this Chapter after conducting one public hearing to receive comments on any proposed revisions. Failure by the Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Chapter.

**§ 185-7 Enforcement.**

- A. The Director and any Reviewing Agent may enforce this Chapter and orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies available at law, including by non-criminal disposition under Chapter 1, Article I and as provided in Section 185-7.
- B. Notices of violations and enforcement orders.
  - (1) The Director and any Reviewing Agent may issue a written notice of violation or enforcement order to enforce the provisions of this Chapter or the regulations thereunder, which may include requirements to:
    - (a) Cease and desist from construction or land-disturbing activity until there is compliance with this Chapter and the stormwater management permit.

- (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operations and maintenance plan.
  - (c) Maintain, install, or perform additional erosion and sediment control measures.
  - (d) Perform monitoring, analyses, and reporting.
  - (e) Satisfactorily address and repair adverse impacts resulting directly or indirectly from a malfunction of the stormwater management system and/or erosion and sediment control system.
  - (f) Cease and desist from unlawful discharges, practices, or operations.
  - (g) Cease and remove illicit connections or discharges to the municipal storm drain system.
  - (h) Remediate any release of hazardous materials and contamination in connection therewith, and/or
  - (i) Undertake actions determined by the Director to be required for compliance with this Chapter and the regulations thereunder.
- (2) If the Director or Reviewing Agent determines that abatement or remediation of adverse impacts is required, the enforcement order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property Owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.
- C. After completing all measures necessary to abate the violation, the person violating this Chapter or the regulations thereunder, if known, and the property Owner shall be notified of the costs incurred by the Town of Barnstable, including administrative costs. The violator or property Owner may file a written protest objecting to the amount or basis of costs with the Director within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Director affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property Owner and shall constitute a lien on the Owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. c. 59, § 57, after the thirty-first day at which the costs first become due.
- D. Upon the request of the Director, the Town Manager and Town Attorney may take legal action for enforcement under civil law. Upon request of the Director, the Chief of Police and Town Attorney may take legal action for enforcement under criminal law. Upon request of the Director, municipal boards, and officers, including any police officer, natural resource officer, or other officer having police powers, shall have the authority to assist the Director, authorized employees of the Department and any Reviewing Agent in enforcement.

- E. Civil Relief. If a person violates the provisions of this Chapter, permit, notices, or order issued thereunder, the Town may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation and may seek all other remedies available by law.
- F. Noncriminal Disposition. The Town may elect to utilize the noncriminal disposition procedure in G.L. c. 40, § 21D in which case the Director or Reviewing Agent shall be the enforcing person. Any person who violates any provision of this Chapter, the regulations thereunder, including any order or permit issued thereunder, may be punished by a penalty under the non-criminal disposition statute, G.L. c. 40, § 21D. The penalties for each offense for violating this Chapter and the regulations thereunder are the same as the fines specified for each offense in Chapter 1, Article 1, Section 1-3, Ch. 185, and Chapter 1, Article 1, Section 1-6.2 of the Code. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Appeals. The decisions or orders of the Director or Reviewing Agent shall be final. Further relief shall be to a court of competent jurisdiction.
- H. Remedies are not exclusive. The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law.

#### **§ 185-8 Entry Upon Land to Perform Duties.**

To the extent permitted by law, the Director, the Department, its Reviewing Agents, and authorized contractors may enter upon privately owned property for the purpose of performing their duties under this Chapter and regulations with reasonable notice to the Owner and/or other person in control of the property to set a mutually-agreeable time for such entry and inspection and may make or cause to be made such examinations, surveys, or sampling as the Director or Department deems reasonably necessary.

#### **§ 185-9 Severability.**

If any provision, paragraph, sentence, or clause of this Chapter shall be held invalid for any reason, all other provisions shall continue in full force and effect.

### ARTICLE II ILLICIT DISCHARGE CONTROL

#### **§ 185-10 Purpose and Objectives.**

- A. The purpose of this Article is to prohibit and eliminate Illicit Connections; Discharge of Pollutants; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- B. This Article seeks to meet that purpose through the following objectives:
  - (1) To prevent pollutants from entering the Town of Barnstable's municipal storm drain system, Waters of the Commonwealth.

- (2) To prohibit Illicit Connections and unauthorized discharges to the municipal storm drain system.
- (3) To require the removal of all such Illicit Connections.
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

#### **§ 185-11 Prohibited Activities.**

The following are prohibited unless exempted by this Article:

- A. Illicit Discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the Waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works.

#### **§ 185-12 Exempt Activities.**

The following activities are exempt from the requirements of this Article:

- A. Discharge or flow pursuant to a valid Stormwater Management Permit issued by the Department.
- B. Discharge or flow resulting from firefighting activities.
- C. The following non-stormwater discharges or flows are exempt from this Article, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
  - (1) Waterline flushing.
  - (2) Flow from potable water sources.
  - (3) Natural springs.
  - (4) Natural flow from riparian habitats and wetland resource areas.
  - (5) Lawfully diverted stream flow.
  - (6) Rising groundwater.
  - (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20) or uncontaminated pumped groundwater, unless otherwise regulated or prohibited by the Department pursuant to regulations hereunder.
  - (8) Landscape irrigation or lawn watering.
  - (9) Water from individual residential car washing.
  - (10) Discharge from street sweeping.
  - (11) Dye testing provided notification is given to the Department prior to the time of the test.
  - (12) Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental

Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.

- (13) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment; and
- (14) Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Barnstable Town Manager, Town Council or Board of Health.

#### **§ 185-13 Emergency Action by Department.**

The Department may issue an enforcement order, or a verbal directive in an emergency to be followed by a written order, to suspend municipal storm drain system access to any person or property when such suspension is necessary to address or stop an actual or threatened discharge of pollutants that presents risk of harm to the public health, safety, welfare, or the environment. If any person fails to comply with the verbal directive or enforcement order, the Department may take all reasonable steps, at the expense of the owner, permittee or other person responsible for the discharge of pollutants, to prevent or minimize harm to the public health, safety, welfare or the environment, including without limitation entering private property to disconnect the property from the municipal storm drain system or abate a discharge of pollutants to waters of the Commonwealth.

#### **§ 185-14 Notification of Hazardous Material Spills.**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or Waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Department, local Fire District, and Barnstable Police Department.

### ARTICLE III CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

#### **§ 185-15 Purpose and Objectives.**

- A. The purpose of this Article is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- B. This Article seeks to meet that purpose through the following objectives:
  - (1) Establish the Department as the Town department with the authority to ensure compliance with the provisions of this Article and any regulations issued hereunder through a review process, inspections, monitoring, and enforcement.
  - (2) Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post construction monitoring.

- (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserves and/or restores the health of local water resources such as lakes, ponds, streams, rivers, wetlands, embayment's, and groundwater; and
- (4) Ensure compliance with requirements of the NPDES General Permit for Stormwater Discharges from MS4 and other applicable federal and state mandates.

**§ 185-16 Prohibited Activities.**

- A. No construction activity, including clearing, grading, or excavation that results in a Disturbance of Land equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town may commence without first obtaining a Stormwater Management Permit issued by the Department, and in accordance with any regulations promulgated hereunder by the Department.
- B. The Applicant and/or Owner is responsible for ensuring all required local, state, federal, and/or other permit or license approvals are obtained prior to commencing any Disturbance of Land activities.

**§ 185-17 Exempt Activities.**

The following are exempt from the requirements of this Article:

- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended.
- (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling.
- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns.
- (4) Normal maintenance and improvements of the Town of Barnstable publicly owned roadways and associated drainage infrastructure, as defined in Section 903-7 B. (6); and/or
- (5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board.

**§ 185-18 Waivers and Provisions for Relief.**

- A. The Director may waive strict compliance with any requirement of this Article, or regulations promulgated under this Chapter, where:
  - (1) Such action is allowed by federal, state and local statutes and/or regulations.
  - (2) Is in the public interest.
  - (3) A public safety issue exists; and/or
  - (4) It is consistent with the purpose and intent of this Article.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Article does not further the purposes or objectives

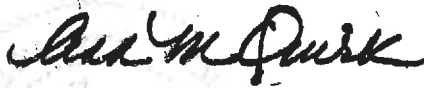
of this Article. The Department may require documentation to be submitted and stamped by a Professional Engineer.

**§ 185-19 Surety.**

The Department may require the permittee to post before the start of Disturbance of Land or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security or financial assurance mechanism. The form of the bond or financial assurance shall be approved by the Department and be in an amount deemed sufficient by the Department to ensure that the work will be completed in accordance with the permit. If the project is phased, the Department may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit, but the bond may not be fully released until the Department has received a final inspection and issued a Certificate of Completion in accordance with the regulations promulgated hereunder.”

**VOTE: PASSES 12 YES AS AMENDED**

**ROLL CALL: Bloom, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen.**



Ann M. Quirk  
Town Clerk/Town of Barnstable