

## ARTICLE XXV

### STORMWATER MANAGEMENT BY-LAW

#### DEFINITIONS:

Alter:	Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”
Best Management Practice (BMP):	Structural and nonstructural techniques that are recognized to be effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote good stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide permanent or temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source. Nonstructural BMPs include managerial techniques that focus on the preservation and protection of natural features.
Common Plan:	Any announcement or piece of documentation (including a sign, public notice or hearing, advertisement, drawing, ANR plan, or permit application, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor marking, etc.) indicating imminent or future construction activities.
Land Disturbance:	Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See also ALTER.
Massachusetts Stormwater Management Policy:	The Policy issued by the Department of Environmental Protection, and as amended from time to time, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.
Municipal Separate Storm Sewer System (MS4), or Municipal Storm Drain System, or Municipal 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, 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 Billerica.
Stormwater Authority:	Board of Health or authorized agent(s), as defined in the Stormwater Management By-law. The Board of Health, or its agent(s), is responsible for coordinating the review, approval and permit process as defined in these Regulations authorized by the Stormwater

	Management By-law. Other Boards and/or departments may participate in the review process as defined in the Stormwater Management By-law.
Stormwater Management:	The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of structural, and nonstructural stormwater management practices.
Stormwater Management Permit:	A permit issued by the Board of Health, after review of an application, plans, calculations, and other supporting documents, which show that the proposed project is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

Additional terms that apply to issuance of a Stormwater Management Permit established by this By-law shall be defined and included as part of the Regulations promulgated and, from time to time, amended under Section 2.2 of this By-law, a copy of which shall be available at the Board of Health and the office of the Town Clerk. Terms not defined in said Regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

## 1. SCOPE AND APPLICABILITY

- 1.1 Unless exempt pursuant to Section 1.2 of this By-law, all activities under the jurisdiction of this By-law shall be required to obtain a Stormwater Management Permit from the Board of Health prior to beginning any site work. This By-law shall be applicable to all new development and redevelopment projects including:
  - A. Any Subdivision as defined in the Massachusetts Subdivision Control Law (MGL, Chapter 41, Sections 81K – 81GG) requiring a Definitive Plan,
  - B. Any activity that results in a land disturbance greater than one acre within the Town of Billerica;
  - C. Any activity that results in a land disturbance of less than one acre if the project is part of a larger common plan of development that eventually will disturb more than one acre within the Town of Billerica; and
  - D. Any alteration, redevelopment, or land use conversion in an area with “higher potential pollutant loads” as described in Standard 5 of the Massachusetts Stormwater Management Policy, as it may be amended from time to time.

Plans that do not require approval under the Subdivision Control Law, hereafter referred to as “ANR lots”, and meet one or more of the applicability criteria above are subject to the provisions of this By-law and are not exempt from obtaining a Stormwater Management Permit.

- 1.2 Exemptions: No person who meets the applicability of this By-law shall alter land within the Town of Billerica without having obtained a **Stormwater Management Permit (SMP)** with the following exceptions:
  - A. In the course of customary Cemetery management,
  - B. Maintenance of existing landscaping, gardens or lawn areas,
  - C. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A Section 3,
  - D. Emergency repairs to any stormwater management facility or practice, such that the original design location, size, and technology remain the same, that poses a threat to public health or safety, or as deemed necessary by the Board of Health.
- 1.3 Coordination with Other Town Permits.
  - A. No Town Earth Removal Permit, Order of Conditions from the Conservation Commission, Building Permit, subdivision approval, special permit, variance or finding shall constitute compliance with this By-law. For a project or activity

that meets the Scope and Applicability of this By-law, no work may commence until the developer submits a complete Stormwater Management Permit application, the Board of Health issues a Stormwater Management Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved Plans and Permit.

- B. This By-law is not intended to interfere with, abrogate, or annul any other By-law, rule or regulation, statute, or other provision of law. The requirements of this By-law shall be considered minimum requirements, and where any provision of this By-law imposes restrictions different from those imposed by any other By-law, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.
- C. For projects within any resource area protected under law, including, but without limitation: the Billerica Wetlands Protection By-law, Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, or the BMP design and selection criteria given in the most current Massachusetts Stormwater Management Policy, as amended, shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Billerica Stormwater Management By-law.

## 2. ADMINISTRATION

- 2.1 **Stormwater Authority.** The Board of Health is hereby designated as the Stormwater Authority. The Board of Health, or its agent, shall administer, implement and enforce this By-law. The Billerica Board of Health may appoint an Agent to issue Permits and sign Plans provided for in this By-law. The Board of Health may appoint another Town department, commission or board to act as its authorized Agent for site inspections and enforcement of this By-law.
- 2.2 **Stormwater Regulations.** The Board of Health may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, and/or consultant fees), procedures and administration of this Stormwater Management By-law after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the Board of Health may promulgate rules and regulations to effectuate the purposes of this By-law. Failure of the Board of Health to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this By-law.
- 2.3 **Stormwater Management Manual:** The Board of Health will utilize the Massachusetts Stormwater Management Policy and Handbooks, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this By-law. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically altered in this Stormwater Management By-law, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Handbooks' design and sizing criteria may be presumed by the Board of Health to be protective of Massachusetts water quality standards.
- 2.4 **Appeals of Action by the Board of Health.** A decision of the Board of Health shall be final. Further relief of a decision by the Board of Health made under this By-law shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Chapter 249 § 4.

**3. PERMIT PROCEDURES**

Permit procedures and requirements, including permit submittals, right-of-entry, fee schedule, and public hearing process, shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

**4. PERFORMANCE STANDARDS**

Criteria for erosion and sediment control and post-construction stormwater management, including stormwater performance standards, shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

**5. WAIVERS**

5.1 The Board of Health may, at its discretion and after due consideration and consultation with the Conservation Commission, Planning Board and DPW Director, decide to waive and exempt strict compliance with any requirement of this Town of Billerica Stormwater Management By-law or the Regulations promulgated hereunder, where it makes a written finding that such action is:

- A. Allowed by federal, state and local statutes and/or regulations;
- B. In the public interest; and
- C. Consistent with the purpose and intent of the Town of Billerica Stormwater Management By-law and its Regulations.

5.2 Criteria for granting a waiver shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

5.3 Any waiver requests shall be discussed and voted on at the public hearing for the project.

**6. ENFORCEMENT**

The Board of Health, or its authorized agent, shall enforce this By-law and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the Board of Health. As an alternative to criminal prosecution or civil action, the Board of Health may elect to utilize the non-criminal disposition procedure set forth in Chapter 1, Section 19 of the Board of Health Regulations, and General By-laws Article XIV. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Health's agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-law and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary to determine compliance with a permit issued under this By-law. Enforcement shall be further defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.