

STORMWATER UTILITY ENTERPRISE FUND BYLAW

SECTION 1: General Provisions

- A. Title. This bylaw shall be known as the "Stormwater Utility Enterprise Fund Bylaw of the Town of Concord, Massachusetts," hereinafter referred to as the "bylaw."
- B. Purpose. The stormwater management program of the Town shall be funded by revenue collected through the stormwater fee and such other revenue as may, from time to time, be appropriated. The stormwater management program is designed to collect and treat stormwater to promote the health and safety of the public, to protect property from flooding and the damage caused by stormwater runoff, to protect and manage water quality by controlling the level of pollutants in stormwater runoff, and to comply with federal and state stormwater management mandates and permits.

SECTION 2: Definitions

The following words, terms and phrases, when used in this bylaw, shall have the meanings ascribed to them in this section, except where the context clearly requires a different meaning:

STORMWATER: The surface water runoff from precipitation, whether or not collected and discharged via pipes.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating into the underlying soil, including without limitation roads, paved parking lots and driveways, sidewalks, and rooftops.

STORMWATER FEE: The user fee imposed pursuant to this bylaw by the Town of Concord for providing Stormwater Management.

STORMWATER MANAGEMENT: All services provided by the Town which relate to the:

- (1) Transfer, control, conveyance, treatment or movement of Stormwater runoff through Town-owned infrastructure;
- (2) Maintenance, repair, grading and replacement of existing Stormwater Management Systems and Facilities owned by the Town;
- (3) Planning, development, design and construction of additional Stormwater Management Systems and Facilities to meet current and anticipated needs, including grading of roads to facilitate the movement of Stormwater;
- (4) Regulation of the use of Stormwater Management services, systems and facilities;
- (5) Compliance with applicable local, state and federal Stormwater Management; and
- (6) Services addressing the quality of Stormwater runoff as well as the quantity thereof.

STORMWATER MANAGEMENT SYSTEMS AND FACILITIES: Natural and manmade channels, swales, ditches, rivers, streams, brooks, creeks, wetlands, branches, reservoirs, ponds, drainageways, drainage structures, conveyances, storm drains, catch basins, inlets, gutters, pipes, culverts, bridges, headwalls, storm sewers, lakes, outfalls, and other physical works, properties, and improvements that collect, transport, transfer, control, pump, treat, convey, detain, retain, dispose of, or otherwise influence the movement of Stormwater runoff.

SECTION 3: Responsibility for Stormwater Management

The Concord Public Works shall be responsible for Stormwater Management and all Town owned or accepted Stormwater Management Systems and Facilities.

SECTION 4: Stormwater Utility Enterprise Fund

- A. A Stormwater Fund shall be created to hold the revenue collected through Stormwater Fees and such other funds as may be appropriated or gifted to said Stormwater Utility Enterprise Fund from other sources, including grants and loans.
- B. The Stormwater Utility Enterprise Fund may be used for any lawful Stormwater Management purpose including:
 - 1. The acquisition by gift, purchase or condemnation of real and personal property, or interests therein necessary to construct, operate and maintain Stormwater Management Systems and Facilities;
 - 2. All direct and indirect costs of the Town applicable to the administration and implementation of Stormwater Management programs pursuant to generally accepted accounting practices (GAAP); and
 - 3. Inspection and enforcement pursuant to any applicable federal, state or Town law or regulation regarding Stormwater Management.

SECTION 5: Establishment of Stormwater Fees

- A. There shall be a fixed schedule of prices or rates established by the Public Works Commission which shall not be changed more often than once each year. Changes in rates shall not be made unless the proposed new rates are first published in a newspaper in general circulation in Concord, which may be an internet based newspaper, and considered at a public hearing held for this purpose.
- B. The Director of Public Works shall, on an annual basis, recommend an annual budget for Stormwater Management to the Town Manager for inclusion in the Annual Town Budget.
- C. The Stormwater Management budget shall, beginning no earlier than the fiscal year beginning July 1, 2025, include proposed Stormwater Fees established pursuant to the authority in Mass. Gen. Laws c. 83, § 16, which, along with other revenues in the Stormwater Fund, are sufficient to pay for the Town's annual Stormwater Management budget, including operating and capital expenses.
- D. The Stormwater Fee shall be imposed on each parcel within the Town whether occupied or not, and whether owned by the Town, another public entity, or a private entity. The Stormwater Fee shall not be imposed on public streets, highways and public rights-of-way.

SECTION 6: Billing, Stormwater Utility Enterprise Fund, Credits

- A. Stormwater Fees shall be billed at least annually and no more frequently than in twelve monthly increments, as determined by the Public Works Commission.
- B. The Town may impose a late fee for unpaid Stormwater Fees and may utilize any other remedy for enforcement of unpaid Stormwater Fees under applicable law.
- C. Failure of the Town to send a bill for Stormwater Fees shall not relieve a property owner from the obligation to pay Stormwater Fees.
- D. The Town may backbill for Stormwater Fees not previously billed in prior billing cycles, but may not bill for late fees or delinquency charges in connection with such backbilling.
- E. Stormwater Fees shall be billed to the record owner of a property and may be consolidated in the same bill as is sent to a property owner for other services provided by the Town.
- F. The Public Works Commission shall develop a proposed Stormwater Management credit policy which shall provide credits or adjustments for Stormwater Fees to be applied to properties with Stormwater improvements made by the property owner, land retained without impervious surface, or properties based on an owner's income.

SECTION 7: Appeals

- A. In the event a property owner believes that a Stormwater Fee applied to it has been incorrectly charged, the property owner may, within thirty (30) days of the issuance of an invoice for a Stormwater Fee, and after full payment of the Stormwater Fee charged, apply to the Concord Public Works for an abatement of all or part the Stormwater Fee. Such application shall be supported by such information as is necessary for a reasonable person to conclude that the Stormwater Fee was incorrectly charged.
- B. Concord Public Works shall have sixty (60) days to consider an application for abatement and render a written decision approving or denying the application, in whole or in part.
- C. A property owner aggrieved by Concord Public Works' denial of its application for an abatement under this Section 6 may request a hearing before the Public Works Commission within thirty (30) days of the date of the Concord Public Works' decision. The request for a hearing shall be in writing and shall specify the basis for the property owner's dispute of the Concord Public Works' decision.
- D. The Public Works Commission shall set a date for a hearing which shall be within sixty (60) days of the filing of the appeals, and notice setting forth the place, date and time of hearing shall be sent to the property owner at least ten (10) day prior to the hearing date.
- E. The Public Works Commission shall render a written decision within thirty (30) days of the conclusion of the hearing affirming the decision of the Concord Public Works or reversing the action in whole or in part and specifying the amount of Stormwater Fees (if any) to be paid or credited the property owner.
- F. Nothing herein shall limit the ability of a property owner to seek an abatement of Stormwater Fees pursuant to the provisions of Mass. Gen. Laws c. 83, § 16E.