

Minutes of the **By-Law Review Committee** meeting held
April 24, 2013
7:30 PM

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Board of Registrars Conference Room, Town Hall, 455 Concord Avenue

Attendees: Charles Hamann, Chair, Mark Thurber, Raymond Miyares, Ellen O'Brien Cushman (ex-officio)

Other attendees: Mike Smith, Chair Historic District Committee, Jeffrey Wheeler, Planner Office of Community Development, Bob McGaw

Agenda:

Annual Town Meeting Articles

For All Amendments to the General By-Laws

Accept and recommend Attorney General addition language because the recodified By-laws will not have been voted yet. Therefore the formatting of the recommended articles/motions will not be consistent with the recodified By-Laws. It will say " and further that the By-Law Review Committee may approve nonsubstantive changes to the numbering of this By-Law in order that it be in compliance with the numbering format of the General By-Laws of the Town of Belmont". Ellen has confirmed this language with Town Counsel, it will be included in all the Town Meeting motions to adopt or amend General By-Laws. Unanimous Vote

Demolition Delay

The By-Law Review Committee comments on the last version –

- Don't like the list within the By-Law itself. Prefer the By-Law contains reference to a named List.
- Adding and removing properties from the List – it's difficult to understand the process and some members expressed "fair process" concerns.
 - If a Demolition – remove the address from the list but no process exists for this in the By-Law.
 - Holding a hearing to add a property – notification timeline then a Town Meeting Vote? What is the intended process?
 - If a homeowner says that her/his property shouldn't be on the list at all because it doesn't meet any criteria.
- By-Law Review Committee had suggested that a process by Hearing could be added. Articulate a process to get a property on and off the List, whatever governmental body should do it. Historic District will now perform this.

Mike Smith – the List was compiled using Mass Historic Commission's data from 1978-1982 (full survey cards). Having a list within the By-Law is

consistent with other communities but the By-Law Review Committee didn't approve for form and placement including the List, so it's removed.

The Committee asked about the Notices sent to the owners of properties on the List. There is some question about the actual Addressees on the List. Questionable notice fulfillment could be a problem, especially for commercial properties.

Motion that the Committee approve the text of the Demolition Delay By-Law as presented, including all of the changes/edits requested by the Committee, document attached. Unanimous Vote

Residential Snow Removal

There were three amendments offered on this motion however the article will be dismissed, worked on and return at next available Town Meeting. Therefore the Committee took no position on the submitted amendments.

Stormwater Management and Erosion Control

The Committee reviewed the latest draft of the By-Law as distributed by Ellen, from Glenn Clancy and made very few changes/suggestions, document attached.

The Committee reviewed the amendment filed by Adam Dash today, "Moved that the first sentence of Section 34.6.2 be amended to read: ""Lots with three or fewer dwelling units existing as of the effective date of this Article shall be exempt from Sections 34.4 and 34.6." Unanimous Vote

Motion that the Committee approve the latest version of the Stormwater By-Law as distributed, including the revisions made by the Committee, and including the Adam Dash amendment. Unanimous Vote.

The Committee then reviewed the amendment filed by Bob McGaw regarding a revised definition of "maintenance of existing landscaping, gardening, or lawn areas" with a new definition, making the redline changes shown below:

LANDSCAPING AND GARDENING ACTIVITIES – The customary horticultural, floriculture, and viticulture activities, and customary activities associated with landscaping, lawns, and gardening, including without limitation, planting, re-planting, removal of plants, seeding, replacement of plants, fertilizing, application of lime, plowing and turning over soil application of insecticides, mowing, raking, thatching, pruning, edging, and mulching existing plants as well as new plants (whether in existing or new locations) as well as replacements, relocation, and enhancements of any of

them. The term "plants" includes annual and perennial flowers and vegetables as well as "~~v~~Vegetation"~~as such term is defined in this Article.~~

Amend Section 34.6.2(e) to read:"(e) Landscaping aAnd gGardening aActivities,".

Motion to accept the Bob McGaw amendment as to form and placement.
Unanimous Vote

Special Town Meeting Article – Recodification of General By-Laws with General Code

Ongoing review of the Warrant Articles for Special Town Meeting. Ellen reported that she's working with Town Counsel to finalize the documents for Town Meeting Members to explain the new structure and derivation of the new Bylaws versus the old By-Laws, including new nomenclature.

Minutes of April 17, 2013 meeting were approved unanimously

Meeting adjourned at 10:25 PM

Respectfully submitted,
Ellen O'Brien Cushman

4-24-13

Votes
Unanimous**ARTICLE 21: GENERAL BY-LAWS - DEMOLITION DELAY**

To see if the Town will vote to amend the General By-Laws of the Town of Belmont by adding a new Article 35 as follows:

**ARTICLE 35
Demolition Delay****35.1 Intent and Purpose**

This Article is adopted for the purpose of preserving and protecting Significant Buildings within the Town of Belmont that constitute or reflect distinctive features of the architectural, cultural, economic, political, or social history of the Town; and to limit the detrimental effect of demolition on the character of the Town. Through this Article, owners of Preferably Preserved Buildings are encouraged to seek out and consider alternative options that will preserve, rehabilitate or restore such Buildings; and residents of the Town are alerted to impending demolitions of Significant Buildings. By preserving and protecting Significant Buildings, this Article promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes, the Belmont Historic District Commission is authorized to advise the Inspector of Buildings with respect to demolition permit applications.

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35.2 Definitions

For the purposes of this Article, the following terms shall have the following definitions:

- (a) **APPLICANT** – Any person or entity that files an Application for a Demolition Permit. If the Applicant is not the owner of the premises upon which the Building is situated, the owner must indicate, on or with the Application, his/her assent to the filing of the Application.
- (b) **APPLICATION** – An Application for a Demolition Permit, including the information required in Section 35.3.2.
- (c) **BUILDING** – Any Structure used or intended for supporting or sheltering any use or occupancy.
- (d) **COMMISSION** – The Belmont Historic District Commission.
- (e) **DEMOLITION** – Any act of pulling down, destroying, removing, or razing a Building or commencing the work of total or substantial destruction with the intent of completing the same. For the purposes of this Section, the term "Demolition" shall not include routine maintenance, interior renovations, removal or construction of porches, decks, windows or other types of renovations for which Commission approval is generally not required.
- (f) **DEMOLITION PERMIT** – The permit required by the Inspector of Buildings for Demolition of a Building, excluding a permit required solely for the Demolition of the interior of a Building.
- (g) **INSPECTOR OF BUILDINGS** – The person authorized by law to issue Demolition Permits within the Town of Belmont.

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substitute
Comment [JRM1]: Definition in the Zoning Bylaw: "A roofed structure enclosing useful space."substitute for 1st Sent
Comment [JRM2]: Definition in Building Code: "The removal or dismantling of existing construction, in whole or in part, with or without the intent to replace the construction so affected."

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article →

(h) INVENTORY – ~~A list, entitled Belmont's Significant Historic Buildings Not Protected By Local Historic District Designation, to be kept on file in the Town Clerk's office and~~ ^{it} may be amended pursuant to Section 35.4.2 of this Article. The Inventory shall be made available to the public.

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Comment [JRM3]: See comments below

(i) PREFERABLY PRESERVED BUILDING – Any Significant Building that the Commission determines, following a public hearing, should be preserved or rehabilitated rather than demolished.

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(j) SIGNIFICANT BUILDING – A Building that is listed on the Inventory.

(k) ~~STRUCTURE~~ – ~~Any constructed, erected or placed material or combination of materials in or upon the ground, excluding sidewalks, stairs and paving on streets, driveways, parking areas, and patios.~~

^{Substitute}
Comment [JRM4]: Definition in Zoning Bylaws: "Anything constructed or erected, the use of which requires fixed location on the ground, ~~including buildings, mobile homes, signs, swimming pools, and tanks, but for purposes of this By-Law not including walls, fences, or paving.~~"

35.3 Procedure

35.3.1 No Demolition Permit for a Significant Building shall be issued until the provisions of this Article have been satisfied.

35.3.2 An Applicant proposing to demolish a Significant Building shall file with the Inspector of Buildings an Application containing the following information:

- The address of the Building to be demolished;
- The owner's name, address and telephone number;
- A description of the Building;
- A photograph or photographs of the Building and photographs of neighboring Buildings.

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35.3.3 The Inspector of Buildings shall, within seven (7) days of receipt of such Application, forward a copy thereof to the Commission.

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^{note: Inspection of no standard}
^{OK} 35.3.4 Within thirty-five (35) days of receipt of the Application from the Inspector of Buildings, the Commission shall hold a public hearing to determine if it is in the public interest for a Significant Building to be preserved or rehabilitated rather than demolished and, based on such determination, whether the Significant Building is a Preferably Preserved Building. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the same manner as meeting notices posted in Belmont under the Open Meeting Law, Chapter 30A, Section 20, of the General Laws, for a period of not less than seven (7) days prior to the hearing date. The Inspector of Buildings, the Applicant and the owner of the Building (if different from the Applicant) shall be notified in writing of the meeting time and place no less than fourteen (14) days prior to the hearing date.

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^{OK} 35.3.5 Within ten (10) days of the first date of such Public Hearing, the Commission shall provide written notification to the Inspector of Buildings and the Applicant as to its determination of whether the Significant Building is a Preferably Preserved Building. If agreed to in writing by the Applicant, the determination of the Commission and notification to the Inspector of Buildings may be postponed to a later date. If the Commission does not provide written notification to the Inspector of Buildings and the

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MGL C. 30A, § 20

Applicant of its determination in writing by such deadline, then the Inspector of Buildings may issue the Demolition Permit.

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35.3.6 If the Commission determines that the Significant Building is not a Preferably Preserved Building, the Commission shall so notify the Inspector of Buildings and Applicant in writing. The Inspector of Buildings may then issue the Demolition Permit.

35.3.7 If the Commission determines that the Significant Building is a Preferably Preserved Building, a Demolition Permit may thereafter be issued no sooner than six (6) months for residential buildings and twelve (12) months for commercial, institutional, and religious buildings after the date that the Application was filed with the Inspector of Buildings, unless a shorter time is otherwise authorized by the Commission based on its finding that the intent and purpose of this Article, as provided in Section 1 hereof, will be adequately served. If a building is of mixed use, having both residential and commercial, institutional or religious uses, then the relevant delay for the issuance of a Demolition Permit shall be the longer of the applicable delay periods.

35.3.8 In computing any period of time prescribed in this Article, the day of the act, event, or default after which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next business day.

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35.4 Administration

35.4.1 The Commission may adopt such rules and regulations as are necessary to administer the provisions of this Article, but may not increase the length of the delay period stated herein.

35.4.2 The Commission may add properties to or delete properties from the Inventory ^{Buildings remove Buildings} by a majority vote of approval of its members following a public hearing held at least thirty (30) days prior to such vote. Owners of record of Buildings proposed for such listing or removal shall receive written notice of the time and place of the public hearing no less than fourteen (14) days in advance thereof. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the same manner as meeting notices posted in Belmont under the Open Meeting Law, Chapter 30A, Section 20, of the General Laws, for a period of not less than seven (7) days prior to the date of said hearing. ^{upon}

35.5 Responsibility of Owners

35.5.1 The owner of a Significant Building who has applied for a Demolition Permit shall:

- Provide such information as is reasonably requested by the Commission in connection with its consideration of whether the Significant Building is a Preferably Preserved Building within the bounds of this Bylaw;
- Allow exterior access to the property on which the Significant Building is located, as reasonably requested by the Commission;
- Secure the Significant Building, if vacant, to the satisfaction of the Inspector of Buildings until a Demolition Permit is issued;

MGL c. 30A, § 20

✓
a determination as to whether the Bldg is Historic Significant made by a majority vote of the Commission members following

- Participate in the investigation of preservation options for a Preferably Preserved Building; and
- Cooperate with the Commission and any interested parties in seeking alternatives to the Demolition of a Preferably Preserved Building.

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35.5.2 If the owner of a Significant Building fails to secure the Building to the satisfaction of the Inspector of Buildings, the subsequent destruction of the Building through any cause, which shall be considered a voluntary Demolition in violation of this Article if such destruction could have been prevented by the required security measures.

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35.6 Emergency Demolition

35.6.1 Nothing in this Article shall restrict the Inspector of Buildings from ordering the immediate Demolition, in accordance with applicable law, of any Building in the event of imminent danger to the safety of the public. In the event that the Inspector of Buildings is informed that a Significant Building is dangerous to life or limb, or otherwise may be subject to a removal order, the Commission shall be notified and, where practicable, the Commission or its designee shall be allowed to accompany the Inspector of Buildings during the inspection of the Building.

35.6.2 As soon as practicable after the Inspector of Buildings has issued an emergency Demolition order for a Significant Building, a copy of such order shall be provided to the Commission, together with copies of all documentation relevant thereto.

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35.7 Enforcement and Remedies

35.7.1 The Commission and/or the Inspector of Buildings are each specifically authorized to institute any and all actions and proceedings, in law or equity, as either of them may deem necessary and appropriate to obtain compliance with the requirements of this Article or to prevent a threatened violation thereof.

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35.7.2 Any owner of a Significant Building that is voluntarily demolished without first obtaining a Demolition Permit in accordance with the provisions of this Article shall be subject to a penalty of Three Hundred Dollars (\$300.00). Each day that such violation exists until a faithful restoration of the demolished Significant Building or other remediation or remediation plan has been approved by the Commission shall constitute a separate offense. This subsection may be enforced by the Inspector of Buildings by non-criminal disposition as provided in M.G.L. c. 40, §21D.

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35.7.3 If a Significant Building is voluntarily demolished without first obtaining a Demolition Permit in accordance with the provisions of this Article, no building permit authorizing construction on the lot on which the Building was located or on any adjoining lot under common ownership therewith shall be issued for a period of two (2) years from the date of the Demolition, unless agreed to by the Commission.

35.8 Severability

If any provision of this Article shall be found invalid for any reason, 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, as
set forth in Section 35.1.

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ARTICLE 23: GENERAL BY-LAWS - STORMWATER MANAGEMENT AND EROSION CONTROL

To see if the Town will vote to insert a new Article 34 into of the General By-Laws of the Town of Belmont by inserting the following:

ARTICLE 34

Stormwater Management and Erosion Control By-Law

34.1 Purposes

The purposes of this By-Law are:

- (a) To prevent pollutants from entering the Town of Belmont's Municipal Separate Storm Sewer System (MS4);
- (b) To prohibit illicit connections and unauthorized discharges to the (MS4) and to require the removal of all such illicit connections
- (c) To comply with state and federal statutes and regulations relating to stormwater discharges;
- (d) To establish the legal authority to ensure compliance with the provisions of this By-Law through permitting, inspection, monitoring, and enforcement;
- (e) To control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff,
- (f) To promote infiltration and the recharge of groundwater;
- (g) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage stormwater runoff; and
- (h) 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.

34.2 Definitions

For the purposes of this By-Law, the following definitions shall apply:

ALTERATION — Any activity, that will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, construction of new structures, earthmoving, paving, and modification of existing vegetation.

BEST MANAGEMENT PRACTICES (BMPs) — Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent or minimize increases in stormwater volumes and flows, reduce point-source and nonpoint-source pollution, and promote stormwater quality and protection of the environment.

CLEAN WATER ACT — The *Federal Water Pollution Control Act* (33 U.S.C. §§ 1251 *et seq.*) as it may hereafter be amended.

CONSTRUCTION SITE: Any site where activity is proposed or occurs that involves the alteration of more than 2,500 square feet of land.

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DEVELOPMENT – The alteration of land to accommodate a new use or an expansion or modification of an existing use.

HAZARDOUS MATERIAL - Any material that, 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 materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious material, acid and alkali, and any substance defined as Toxic or Hazardous under *M.G.L. c.21C* and *c. 21E*, or the regulations at 310 CMR 30.000 or 310 CMR 40.0000.

ILLICIT CONNECTION - A surface or subsurface drain or conveyance that allows an illicit discharge into the MS4, including any connection from an indoor drain, sinks, toilet, or laundry facility, regardless of whether the connection was previously allowed, permitted, or approved before the effective date of this By-Law.

ILLICIT DISCHARGE - Any direct or indirect discharge to the MS4 or the Waters of the Commonwealth that is not composed entirely of stormwater, including, without limitation, any discharge of a pollutant, sewage, process wastewater, or wash water, except as exempted in Section 34.5.3. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit.

IMPERVIOUS SURFACE — Any material or structure on, above or below the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces may include, without limitation: paved surfaces, parking lots, sidewalks, driveways, roof tops and swimming pools.

MAINTENANCE OF EXISTING LANDSCAPING, GARDENS OR LAWN AREAS – The act of trimming, pruning, mowing or edging existing vegetation.

MS4 (MUNICIPAL SEPARATE STORM SEWER SYSTEM) — The system of conveyances, owned or operated by the Town of Belmont, that is 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, swale, culvert, channel, catch basin, outfall, outlet, reservoir, or other drainage structure.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of stormwater containing pollutants into waters of the United States.

NONPOINT SOURCE POLLUTION - Any water pollution having a source that is not a "point source."

NON-STORMWATER DISCHARGE — A discharge into the MS4 that is not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN - A plan setting 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.

OCD – Town of Belmont Office of Community Development

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts 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, without limitation, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

POLLUTANT - Any element or characteristic 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 Belmont's MS4 or waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (e) Pesticides, herbicides, and fertilizers;
- (f) Hazardous materials and wastes;
- (g) Sewage, fecal coliform and pathogens;
- (h) Dissolved and particulate metals;
- (i) Animal wastes;
- (j) Rock, sand, salt, silt, soils;
- (k) Construction wastes and residues; and
- (l) Noxious or offensive matter of any kind.

RECHARGE — The process by which groundwater is replenished by precipitation.

RUNOFF - The water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into the MS4 or streams or other surface waters or land depressions.

SANITARY SEWER SYSTEM - A separate underground conveyance system specifically for transporting sanitary waste operated separately and independently from the MS4, to which storm, surface, and ground waters are not lawfully admitted.

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STORMWATER - Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT — The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

STORMWATER MANAGEMENT AND EROSION CONTROL PERMIT — A permit issued by the Town of Belmont Office of Community Development, approving a system that is designed to

protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

✓ **STORMWATER MANAGEMENT STANDARDS** — The Stormwater Management Standards and accompanying Stormwater Handbook(s) issued by the Massachusetts Department of Environmental Protection or any successor agency, as such Standards and Handbooks may be hereafter superseded or amended.

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Deleted: pursuant to authority under the *Wetlands Protection Act*, M.G.L. c. 131, § 40, and the Massachusetts *Clean Waters Act*, M.G.L. c. 21, §§ 26 – 53

VEGETATION – Trees, shrubs, bushes and ground cover, including grass.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

34.3 Administration

34.3.1 The Board of Selectmen shall adopt, and may periodically amend, rules and regulations relating to the requirements, procedures, administration and enforcement of this By-Law, after conducting a public hearing to receive comments on any proposed rules and regulations.

34.3.2 The OCD shall be responsible for the day-to-day administration of this By-Law and shall be the Stormwater Management and Erosion Control Permit Granting Authority.

✓ 34.3.3 The OCD shall have the authority to investigate suspected illicit discharges and to require the elimination of illicit discharges.

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34.4 Permit Process

34.4.1 A completed application for a Stormwater Management and Erosion Control Permit shall be filed with the OCD. A permit shall be obtained prior to the commencement of any work regulated by this By-Law.

✓ 34.4.2 Some permit applications may require the OCD to secure the services of a Licensed Professional Engineer with expertise in stormwater management and erosion control to assist with the administration of this By-Law. ~~These services shall be paid for by the Applicant prior to the Stormwater Management and Erosion Control Permit.~~

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34.4.3 The OCD shall take final action on an application for a Stormwater Management and Erosion Control Permit within thirty (30) days from the receipt of a complete application. The OCD may approve the application; approve the application with conditions; or disapprove the application. Failure by the OCD to take final action on an application within 30 days following the receipt of a complete application shall be deemed to be approval of the application, unless this timeframe is extended by mutual agreement of the OCD and applicant.

34.4.4 The applicant, or an agent thereof, shall obtain the approval of the OCD prior to any change or modification of an activity authorized in a Stormwater Management and Erosion Control Permit. The OCD may approve the request if it determines that the change or modification is consistent with the Regulations promulgated pursuant to § 34.5 of this By-Law, the Stormwater Management Standards and Best Management Practices. The OCD has the right to amend the existing permit and require additional stormwater runoff and erosion control measures prior to approval of the change or modification.

34.5 Illicit Connection Detection & Elimination

34.5.1 Prohibited Activities

34.5.1.1 Illicit Discharges.

No person shall cause or allow an illicit discharge into the MS4 or into the Waters of the Commonwealth. Nothing in the article shall be construed to exempt stormwater discharges from regulation under the National Pollutant Discharge Elimination System (NPDES) stormwater program where applicable.

34.5.1.2 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.

34.5.1.3 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 OCD.

34.5.2 Regulated Activities

No person shall connect a pipe or other appurtenance to the Town of Belmont Sanitary Sewer System or the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on either system, without a Stormwater Management and Erosion Control Permit.

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34.5.3 Exemptions

The following Non-Stormwater Discharges are exempt from the requirements of Sections 34.4 and 34.5 of this By-Law except if the OCD determines, after notice and an opportunity for hearing, that the source is a significant contributor of a Pollutant to the MS4:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters,
- (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005[20]);
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensation;
- (j) Irrigation water and springs;
- (k) Water from crawl space pumps;
- (l) Footing drains;
- (m) Lawn watering;
- (n) Car washing undertaken by individual residents at their homes;
- (o) Flows from wetland resource areas;
- (p) De-chlorinated swimming pool discharges;

- (q) Street wash water and residential building wash waters, without detergents;
- (r) Discharges or flows from firefighting activities;
- (s) Dye testing, if written approval is given by the OCD prior to the time of the test;
- (t) Non-Stormwater Discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the U.S. Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and
- (u) Discharges necessary to protect public health, safety, welfare or the environment, for which advanced written approval is received from the OCD.

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34.5.4 Emergency Suspension of Storm Drain System Access

The OCD 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 OCD may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

34.6 Stormwater Management and Erosion Control

34.6.1 Regulated Activities

A Stormwater Management and Erosion Control Permit shall be required prior to undertaking any land disturbance that involves:

- (a) An alteration that will result in land disturbances of 2,500 square feet of total area or more, or that is part of a common plan for development that will disturb 2,500 square feet or more;
- (b) An alteration that will increase the amount of a lot's impervious surface area to more than 25% of the lot's total area; or
- (c) Storage or permanent placement of more than 100 cubic yards of excavated material, fill, snow or ice.

34.6.2 Exempt Activities

✓ Lots with three or fewer dwelling units existing as of the effective date of this article shall be exempt from Section 34.6. In addition, the following activities shall be exempt from Section 34.6:

- (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) Stormwater discharges that are authorized by an Order of Conditions issued by the Conservation Commission;
- (e) Maintenance of existing landscaping, gardens or lawn areas; ✓

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

34.6.3 General Requirements

34.6.3.1 An Operation and Maintenance Plan shall be submitted to the OCD for approval prior to the issuance of a Stormwater Management and Erosion Control Permit. The Operation and Maintenance Plan shall be designed to ensure compliance with the Stormwater Management and Erosion Control Permit, this By-Law, and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, in all seasons and throughout the life of the system.

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34.6.3.2 As-built drawings showing all stormwater management systems shall be submitted to the OCD at the completion of a project.

34.6.3.3 The OCD may require the applicant to contribute to the cost of design, construction, and maintenance of a public or shared stormwater facility in lieu of an onsite stormwater facility where the OCD determines that there are not sufficient site conditions for onsite Best Management Practices that will satisfy the design criteria set forth in Section 34.6.4.1 of this By-Law and the performance standards set forth in the regulations promulgated under this By-Law. Funds so contributed may be used to design, construct, and maintain stormwater projects that will improve the quality and quantity of surface waters in Belmont by treating and recharging stormwater from existing impervious surfaces that is now discharged to said waters with inadequate treatment or recharge. The amount of any required contribution to the fund shall be determined by the OCD pursuant to standards established in the Regulations adopted pursuant to this By-Law.

34.6.4 Design Criteria

34.6.4.1 All Development shall satisfy the following design criteria:

- (a) Compliance with all applicable provisions of the Stormwater Management Standards, 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 during disturbance and construction activities.
- (c) There shall be no change to the existing conditions of abutting properties from any increase in volume of stormwater runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands, ground water levels or wells.
- (d) When any proposed discharge may have an impact upon streams, wetlands and/or storm sewers, the OCD may require minimization or elimination of this impact based on site conditions and existing stormwater system capacity.

34.7 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, as set forth in Section 34.1.

34.8 Enforcement

The OCD shall enforce this By-Law, and any regulations, orders, violation notices, and enforcement orders made pursuant to this By-Law, and may pursue all civil and criminal remedies for such violations.

- (a) The OCD 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:
- eliminate illicit connections or discharges to the MS4;
 - perform monitoring, analyses, and reporting;
 - cease and desist unlawful discharges, practices, or operations; and
 - remediate contamination in connection therewith.
- (b) If the OCD 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, the OCD may, at its option, authorize such work, and the expenses thereof shall be charged to the violator in an amount not exceeding the penalty specified in Section 34.8 (e).
- (c) If the OCD performs the work described in Section 34.8 (b), the violator and the property owner shall be notified of the costs incurred by the OCD, including administrative costs, within thirty (30) days after completing all measures necessary for the abatement or remediation. Within thirty (30) days of receipt of such notification, the violator or property owner may file with the Town Administrator a written protest objecting to the amount or basis of the costs incurred. Upon receipt of such a protest, the Town Administrator may adjust the amount of the costs to be charged to the violator pursuant to Section 34.8(b).
- (d) If a person violates the provisions of this By-Law, or any regulation, permit, notice, or order issued thereunder, the OCD, with the approval of the Board of Selectmen, 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.
- (e) As an alternative to criminal remedies set forth in this Section, the OCD may elect to utilize non-criminal disposition procedures set forth in M.G.L. c.40, § 21D. The penalty for the first violation shall be \$100.00. The penalty for the second violation shall be \$200.00. The penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (f) To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the OCD, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this section and regulation, and may make or cause to be made such examinations, surveys or sampling as the OCD deems reasonably necessary.
- (g) 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.

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Proposed Residential Snow Removal By-Law

20.15 Any owner of residential property bordering on a street where there is a paved sidewalk shall be responsible for the removal of all snow and ice to the extent practicable down to the sidewalk's natural surface and otherwise treat the sidewalk as necessary same to prevent slipping. This responsibility shall be subject to the following terms and conditions:

20.15.1 The removal and treatment of ice and snow shall be accomplished within twelve (12) hours after the same has snow has ceased to fall or be formed on such sidewalks. Treatment of sidewalks shall be accomplished within 12 hrs after ice has formed thereon.

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20.15.2 Snow and ice shall be removed from all portions of sidewalks to a minimum width of 48 inches or, in the case of sidewalks narrower sidewalks a minimum width of 36 inches than 48 inches, to their full width.

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20.15.3 The Board of Selectmen shall adopt rules and regulations providing for exemptions from the requirements of this Section for persons for whom compliance would constitute a hardship.

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The owner of an owner occupied property who qualifies for relief under the following Clause 17 D or 41C Elderly Exemption, Clause 37A Blind Exemption, or Community Preservation Act Low/Moderate Income Seniors Exemption can apply for an exemption from Section 20.15. All requests for an exemption shall be submitted annually and must be received by the office of the Board of Selectmen no later than October 1.

20.15.4 Violation of this Section shall be disposed of in the discretion of the Office of Community Development. The provisions of this Section may be enforced by non-criminal disposition as provided in Chapter 40, Section 21D of the General Laws ("Section 21D"). The penalty for such violation shall be: First offense within a winter period - \$100; Second offense - \$200; Third offense and each succeeding offense - \$300.

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20.16 In addition to the provisions for enforcement described above, the provisions of Sections 20.1, 20.2, 20.4.1, 20.5.1, 20.7, 20.9, 20.12, 20.13 and 20.14 and of this Article 20 and any regulations promulgated thereunder may also be enforced by non-criminal disposition as provided in Chapter 40, Section 21D of the General Laws ("Section 21D"); provided, however, that an enforcing person taking cognizance of such a violation shall give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof in accordance with the provisions of Section 21D. The penalty for such violations shall be \$300 for each offense. Each day or part thereof shall constitute a separate offense.

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"Enforcing person" as used in this Section shall mean any police officer of the Town, the Director of Public Works and any other Town employee designated by the Board of Selectmen as an enforcing person.

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Deleted: An enforcing person taking cognizance of a violation of this Article or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof for the non-criminal disposition thereof in accordance with the provisions of Section 21D. The provisions of Section 21D are incorporated herein by this reference.