

TOWN OF WELLESLEY
DEPARTMENT OF PUBLIC WORKS

**STORMWATER UTILITY FEE
RULES AND REGULATIONS**

ARTICLE 4800

4801. DEFINITIONS

Credit: shall mean a reduction in the amount of a Stormwater Utility Fee charged to the owner of a property where that property owner owns, maintains and operates on-site or off-site stormwater management systems or facilities, or provides services or activities that reduce or mitigate the Town's cost of providing stormwater management services, in accordance with the Town's approved Credit Policy.

Board: shall mean the Town of Wellesley, Board of Public Works.

Department: shall mean the Town of Wellesley, Department of Public Works.

Director: shall mean the Town of Wellesley, Director of Public Works, or his or her designee. For the purpose of these regulations, the Town Engineer has been so designated.

Impervious Areas: means any surface from which most water runs off including, but not limited to, paved streets, paved areas such as driveways, parking areas, densely compacted earth, oiled macadam or other treated surfaces, walkways, roofs, patios, decks, and swimming pools.

Municipal Stormwater Drainage System: shall mean all drain pipes, culverts, structural controls, manholes, catch basins, inlet and outlet structures, improved channels, manmade detention or retention basins, and other appurtenances that are either on Town owned public ways or under the control of the Town of Wellesley by written agreement recorded at the Norfolk County Registry of Deeds.

Pollutant: shall mean anything, which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, construction debris, and noxious or offensive matter of any kind.

Stormwater: shall mean any water resulting from rainfall or other precipitation that runs off surfaces or infiltrates into the ground during or after a storm.

Stormwater Management: shall mean regulatory, structural, administrative, managerial, maintenance, physical and chemical measures or devices that are designed to prevent the discharge of pollutants to stormwater or to prevent flooding.

Stormwater Management Services or Program: shall mean all services provided by the Town that address the quality of stormwater runoff as well as the quantity thereof, and which relate to the:

1. Transfer, control, conveyance or movement of Stormwater runoff through the Town;
2. Maintenance, repair and replacement of Stormwater Management Systems and Facilities to meet current and anticipated needs;
3. Planning, development, design, and construction of new, expanded, or upgraded Stormwater Management Systems and Facilities to meet current and anticipated needs;
4. Regulation, oversight, and enforcement of the use of stormwater management services, systems, and facilities; and
5. Compliance with applicable State and Federal stormwater management regulations and permit requirements including, but not limited to, public education and outreach.

Stormwater Management Systems and Facilities: shall mean natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, headwalls, storm sewers, lakes and other physical works, properties and improvements which transfer, control, convey, detain, retain, treat or otherwise influence the movement of stormwater runoff.

Stormwater Utility Fee: shall mean a charge for the purpose of providing revenue for services provided by the Stormwater Management Program of the Town of Wellesley.

Stormwater Utility Enterprise Fund: shall mean a specific management structure for the Stormwater Utility Fee, in which a municipal utility is established to administer the fee and the Stormwater Management Program for the Town of Wellesley similar to a water or sewer utility. Pursuant to Article 29 of Town Meeting on April 11, 2023, the Town accepted the provisions of General Laws Chapter 44, Section 53F1/2 to establish a Stormwater Utility Enterprise Fund for fiscal year commencing on July 1, 2023.

Utility Bill: shall mean the periodic user fee imposed pursuant to these Regulations by the Town of Wellesley which will be dedicated to the provision of stormwater management services.

Undeveloped Land: shall mean all land that is not altered from its natural state to the extent that results in greater than three hundred (300) square feet of impervious surface area.

4802. SCHEDULE OF RATES

All charges for stormwater management services as described herein shall be computed in accordance with the Stormwater Schedule of Rates on file with the Department. This Schedule of Rates shall be approved by the Board in accordance with the laws of the Commonwealth and shall be revised periodically as appropriate.

4803. SCOPE OF RESPONSIBILITY FOR STORMWATER MANAGEMENT SYSTEMS AND FACILITIES

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

4804. ESTABLISHMENT OF STORMWATER UTILITY AND STORMWATER UTILITY FEE

- A. Pursuant to Massachusetts General Law, Chapter 83, Section 16, the Town hereby establishes a charge for the use of the stormwater management and flood control services of the Town, to be known as the "Stormwater Utility Fee."
- B. Stormwater charges shall be established by the Board such that they will provide sufficient funds, proportionately calculated and assessed, to construct, operate, maintain, and regulate the stormwater management systems and facilities in the Town of Wellesley.
- C. The Stormwater Utility Fee is assessed to each developed parcel, whether occupied or not. The fee shall be calculated on an annual basis and billed to the

record title owner of the property, or in the case of condominiums or townhouses, may be billed to a homeowner's association.

- D. The Town has established a dedicated Stormwater Utility Enterprise Fund in the Town budget and shall establish and maintain an accounting system for the purpose of managing all funds collected for the purposes and responsibilities of the Stormwater Management Program. All revenues and receipts of the stormwater utility shall be placed in the Stormwater Utility Enterprise Fund, which shall be separate from all other funds, and only expenses of the stormwater program shall be paid by the fund (as provided in Massachusetts General Law, Chapter 44, Section 53F 1/2).
- E. Expenditure of funds may consider both stormwater quality and quantity management needs and can be used as described in Section G below.

F. **Stormwater Utility Fee Exemptions**

- 1. The Town finds that all real property in the Town contributes to runoff and either uses or benefits from the maintenance of the Stormwater Management Systems and Facilities. Therefore, except as provided in this section or otherwise provided by law, the Stormwater Utility Fee shall be imposed on each parcel of residential property and each parcel of nonresidential property, whether occupied or not, including but not limited to public and tax-exempt property. No exception, credit, offset, or other reduction in stormwater utility fee charges shall be granted based on age, tax status, economic status, race, religion or other condition unrelated to the cost of providing stormwater management services and facilities.
- 2. The Town establishes exemptions to the Stormwater Utility Fee as follows:
 - a) Undeveloped Land.
 - b) Property owned by the Town of Wellesley.
 - c) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, and/or other developed property used for railroad purposes shall not be exempt from Stormwater Utility fee charges.
 - d) Public streets, highways and rights-of-way. However, maintenance buildings and/or other developed property used for road maintenance purposes shall not be exempt from stormwater utility fee charges. All other state, federal, and county properties are subject to the user fee charges on the same basis as private properties.

G. **Rates**

- 1. The Board shall establish reasonable rates to defray the cost of administering and implementing the Stormwater Management Program of the Town. The initial rates, and any later modifications, shall be based upon recommendation

of staff and shall be set by the adoption of a Stormwater Schedule of Rates by vote of the Board. The Stormwater Schedule of Rates shall be on file in the office of the Department of Public Works, who shall post it to the Town's website.

2. Stormwater Schedule of Rates shall be calculated and updated on an annual basis and shall be based on equivalent residential unit (ERU) billing units derived from the median or typical impervious surface on a detached single-family residential property. The stormwater utility fee billing structure shall be calculated and assessed for all properties based on the amount of impervious area measured in ERUs. The Town may establish a uniform flat rate for tiers or categories of properties or the Town may assess a proportional fee for each property or a combination of these methods as long as the charge is assessed in a fair and equitable manner.
3. Impervious area per parcel is determined by the Department by utilizing available GIS data layers to calculate the area of building footprints, building structures, driveways, pathways, private sidewalks, active recreation areas (e.g., sport courts, pools, spas), and parking areas. The Town may include additional impervious area in the future as mapping is improved and updated. Any impervious areas within the Town-owned right-of-way will not be attributed to the parcel and will not be considered as part of the total impervious area of the parcel.

4805. PURPOSES OF THE STORMWATER UTILITY FUND

Receipts from the Stormwater Utility fee shall be used to provide stormwater management services as defined in these regulations and may also include the following:

1. The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain stormwater management systems and facilities;
2. All costs of administration and implementation of the stormwater management program, including the cost of labor and equipment attributable to the stormwater management program and the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements;
3. Payment on principal and interest on debt obligations;
4. Engineering and design, debt service and related financing expenses, construction costs for new facilities (including costs for contracted services) and enlargement or improvement of existing facilities;

5. Operation and maintenance of the stormwater system, including catch basin cleaning, ditch maintenance, street sweeping, pipe repairs, and stormwater facility repairs;
6. Capital investments including stormwater best management practices (BMPs) and components (e.g., purchase of plants, soils, and other amenities to support stormwater management alternatives utilizing vegetation);
7. Illicit discharge detection and elimination;
8. Monitoring, surveillance, and inspection of stormwater control devices;
9. Water quality monitoring and water quality programs;
10. Retrofitting developed areas for pollution control;
11. Inspection and enforcement activities;
12. Billing and related administrative costs; and
13. Other activities which are reasonably necessary to properly manage the stormwater system, including costs related to regulatory compliance.

4806. STORMWATER UTILITY FEE CREDITS

- A. The Director of Public Works or his or her designee is hereby authorized to grant credits to property owners to be applied against the Stormwater Utility Fee based on the technical and procedural criteria set forth in the Stormwater Utility Credit Policy (Credit Policy) to be developed, maintained and, from time to time, amended by the Department of Public Works (DPW). The Credit Policy shall be implemented starting in the first year of the Stormwater Utility and shall be available for inspection by the public at the Department of Public Works.
- B. The percentages or amount for credits shall reflect the extent to which the subject properties improve stormwater runoff quality and/or quantity, or avoid other costs incurred by the stormwater management program in the delivery of services, and shall be approved by the Director. The maximum possible credit for properties shall be detailed in the Credit Policy.
- C. Any credit allowed against the Stormwater Utility Fee is conditioned on continuing compliance with the Town's design and performance standards as stated in the Credit Policy and/or upon continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. The Town may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Credit Policy or these Regulations.

- D. In order to obtain a credit, the property owner must make application to the Director on forms provided by the Town for such purpose. The forms are to be fully completed in accordance with the procedures outlined in the Credit Policy.
- E. When an application for a credit is deemed complete by the Director or his or her designee, the Director may either grant the credit in whole, grant the credit in part, or deny the credit. Credits applied for by the property owner and granted in whole or in part, shall apply to all Stormwater Utility Fees in accordance with the terms defined in the Credit Policy.

4807. FEE BILLING, DELINQUENCIES AND COLLECTION

- A. The Stormwater Utility Fee shall appear as a separate item on the Utility Bill.
- B. Stormwater Utility Fees shall be committed to the Treasurer/Collector for collection by the authorizing board pursuant to General Laws Chapter 83, Section 16. In any case of nonpayment of a Stormwater Utility Fee, appropriate interest and late charges to the fees in accordance with MGL c. 83, § 16 and as previously approved by the Treasurer will appear on the subsequent Utility Bill. Notification of fees assessed under the stormwater utility system shall be provided to the property owner, as identified from public records of the Town of Wellesley, on the next Utility Bill. The Tax Collector shall collect and maintain an accurate accounting of all paid and unpaid stormwater utility bills.
- C. Failure to receive a stormwater utility bill is not justification for nonpayment. The property owner, as identified from public records of the Town of Wellesley, shall be obligated to pay the appropriate stormwater utility fee for that property. If a property is unbilled, or if no bill is sent for a particular parcel of developed land, the Town may back-bill for the fees as applicable for a period not to exceed one year of charges. No late fee or interest penalty shall be charged on said omitted bill as long as payment is received on or before the established due date.
- D. Payment of annual stormwater utility fee bills shall be due and payable on or before the 30th day from the postmark date without penalty. Charges for the stormwater utility fee, together with interest thereon and any costs relative thereto, shall be a lien upon the real estate for which the charge was billed. In accordance with Section 19.20 of the Wellesley Town Bylaws, the Select Board must approve municipal lien charges following the giving of due notice to the person to be charged and an opportunity to be heard. Such lien shall take effect by operation of law on the day immediately following the due date of such charge and, unless dissolved by payment or abatement, shall continue until such charge has been added to or committed as a tax in accordance with the requirements of Section 16C of Chapter 83 of the General Laws, and thereafter, unless so dissolved, shall continue as provided in Section 37 of Chapter 60 of the said General Laws.
- E. In addition to the method of collection specified in MGL c. 83, §§ 16A - 16F, the overdue charge may be collected through any other lawful means.

4808. ABATEMENTS, APPEALS AND HEARINGS

- A. In the event that a property owner believes the Stormwater Utility Fee is improperly calculated or is otherwise incorrect, the property owner may apply for an abatement thereof by filing a written petition with the Director. The request for abatement shall be supported by such information as is necessary for the Director or their designee to conclude that the fee was not properly calculated or assessed. The Director shall have sixty (60) days to consider the request for abatement and render a written decision, which may deny the abatement, grant the abatement in full or grant the abatement in part.
- B. In the event that a property owner is aggrieved by a written decision from the Director or their designee denying an application for abatement in whole or in part, or denying an application for a credit, in whole or in part, the property owner shall have thirty (30) days from the date of the written decision to request a hearing by the Board. The request shall be in writing and shall specify the grounds thereof. Upon the filing of a request for hearing, the Board shall set a date for hearing and notice thereof setting forth the place, date and time of hearing shall be sent to the property owner no less than ten (10) days prior to the hearing date. The Board shall render a written decision after the conclusion of the hearing, affirming the action or reversing the action. If reversing the denial of an abatement, the decision shall specify the sum to be abated, which shall not exceed the amounts paid. If reversing the denial of a credit, the decision shall specify the credit to be applied prospectively against future charges unless the property owner has paid the full amount of the Stormwater Utility Fee as charged and has also requested an abatement.
- C. In the event that a property owner is aggrieved by a written decision from the Board denying an application for abatement in whole or in part, or denying an application for a credit, in whole or in part, the property owner may appeal to the Appellate Tax Board of the Commonwealth of Massachusetts within three months of the date of the decision of the Board. As the right to Appellate Tax Board review under this Subsection (3) is derived from applicable sections of the General Laws as contained in Chapters 59 and 83 thereof; to the extent that the terms of these Regulations conflict with the terms specified therein, the terms specified in the General Laws control.
- D. If an abatement of the whole or a portion of a fee paid is abated in accordance with the previous sections, the property owner shall be given a credit on future bills until the abatement is fully realized. In the event it is determined that the property owner is not subject to the fee, the owner shall be given a full refund.

4809. SEVERABILITY

- A. Severability: If any of these Regulations are for any reason declared to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not

affect the validity of the remaining portions or sections of these Regulations or amendments thereto.

- B. DEP Compatibility: No provision of these Regulations shall contravene nor render ineffective any lawfully established rule and regulation of the Massachusetts Department of Environmental Protection.
- C. Authority: The Wellesley Board of Public Works, acting as Sewer Commissioners, has established these Rules and Regulations under the authority of the Massachusetts General Laws, Ch. 83, Section 16.
- D. Right to Amend Regulations: The Board reserves the right to amend these regulations in any manner and to establish more stringent limitations or requirements as are deemed necessary or appropriate.

EFFECTIVE DATE: _____