

**TOWN OF BELMONT, MASSACHUSETTS LOCAL
EMERGENCY PLANNING COMMITTEE (LEPC)
BY-LAWS OF THE LEPC**

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Article I. Organization and Purpose

Section 1.

The name of this organization shall be the "Belmont Local Emergency Planning Committee." It is referred herein to as "LEPC" or the "Committee."

Section 2.

The purpose of the Committee shall be to prepare and publish, and from time to time amend add update, an "LEPC Emergency Response Plan" (hereinafter the "LEPC Plan") meeting the requirements set forth in § 303 of Title III. A copy of § 303 (47 U.S.C. § 11003) is attached to these by-laws as Appendix 1. The LEPC Plan shall be consistent with the Town of Belmont Comprehensive Emergency Response Plan as may be from time to time adopted by the Board of Selectmen.

Article II. Members; The Vote

Section 1.

The members of the Committee shall be those persons from time to time appointed to the Committee by the Board of Selectmen of Belmont, from the following categories:

- a. Fire Department representative (1 member): Such person who has been nominated to the Committee by the Chief of the Belmont Fire Department.
- b. Police Department representative (1 member): Such person who has been nominated to the Committee by the Chief of the Belmont Police Department.
- c. Department of Fire Services, District HazMat Team representative (1 member): Such person who has been nominated to the Committee by the Chief of the Belmont Fire Department.
- d. Belmont Emergency Management Agency representative (1 member): Such person who has been nominated to the Committee by the Director of the Belmont Emergency Management Agency.
- e. Health Department representative (1 member): Such person who has been nominated to the Committee by the Director of the Belmont Health Department.
- f. Hospital representative (1 member): Such person who has been nominated to the Committee by the Town Administrator.
- g. EMS representative (1 member): Such person who has been nominated to the Committee by the Chief of the Belmont Fire Department.
- h. School Department representative (1 member): Such person who has been nominated to the Committee by the Superintendent of Schools.
- i. Transportation representative (1 member): Such person who has been nominated to the Committee by the Superintendent of Schools.
- j. Public Works Department representative (1 member): Such person who has been nominated to the Committee by the Director of the Belmont Public Works Department.

- k. Covered Facilities representative(s) (1 or more members): Such person or persons who has or have been nominated to the Committee by the Town Administrator, provided however, that the Town Administrator shall first have solicited from each Covered Facility the names of one or more persons whom the Covered Facility recommends be its representative, and the Town Administrator shall not absent extraordinary circumstances deemed sufficient by the Board of Selectmen (which circumstances shall include, but not be limited to, the failure of any Covered Facility to make such recommendations to the Town Administrator in timely fashion) nominate someone other than such a recommended representative.
- l. Media representative(s) (1 or more members): Such person or persons who has or have been nominated to the Committee by the Town Administrator.
- m. Community Group representative(s) (1 or more members): Such person or persons who has or have been nominated to the Committee by the Town Administrator.
- n. Other members (1 or more members): Such person or persons who has or have been nominated to the Committee by the Town Administrator.

Section 2.

For each member appointed, the Board of Selectmen may appoint an alternative member, pursuant to the same nomination procedures set forth in above applicable to the nomination of the primary member. An alternative member shall serve in the stead of the primary member to whom he has been appointed the alternate, whenever the primary member cannot attend a meeting.

Section 3.

No person shall by virtue of his appointment to the Committee be deemed to be an employee of the Town of Belmont, and, except as provided in Article III, Section 3, *infra*, no person who is not otherwise an employee or appointee of the Town of Belmont shall by virtue of his appointment to the Committee be entitled to any compensation for his service on the Committee from the Town of Belmont. All appointments to the Committee shall be classified by the Board of Selectmen to be as "Special Municipal Employees" for the purpose and within the meaning of M. G. L. chapter 268A, as amended.

Section 4.

Members of the Committee shall serve at the pleasure of the Board of Selectmen, subject to the following:

- a. The appointment of a member of the Committee shall be for such term as may be specified in the appointment of such representative, which shall not exceed three years, provided however:
 - (1) The Board of Selectmen may from time to time, without notice or hearing, remove any appointed member for any reason deemed sufficient by the Board of Selectmen, except that if the Selectmen propose to remove any member of the Committee for malfeasance in office, such member shall be entitled to notice of such proposed action, a statement of the malfeasance alleged, and an opportunity to be heard before the Board of Selectmen before any action be taken on such proposal;
 - (2) No member appointed as a representative of an agency, department, resource or facility may continue to serve once his affiliation with the agency, department, resource or facility ceases for any reason to exist; and

- (3) Any member of the Committee may resign from the Committee by a writing delivered to the Chairman of this Committee, which resignation shall be effective upon receipt of such writing.
 - (4) The term of any Member that has not been terminated by death, resignation, disaffiliation or removal shall, notwithstanding the expiration of stated term, continue until such time as that Member's successor shall have been nominated and appointed."
- b. Vacancies in the membership shall be filled by the Board of Selectmen in the same manner as provided above, and such new member shall serve for the balance of the unexpired term.
 - c. Any member who resigns, is removed, or whose term expires shall, within five calendar days of such resignation, removal or expiration, return to the Committee Chairman all books, records, plans, or other property of or in the custody of the Committee that shall have been in his possession.

Section 5.

For the transaction of the business of the Committee, the vote shall be allocated as follows:

- a. The representatives of the Police Department, Fire Department, Department of Fire Services, District HazMat Team, Emergency Management Agency, Health Department, Hospital, EMS, School Department, Transportation, and the Public Works Department shall each cast one vote, except as provided in subsection II.5 hereof.
- b. If there is one representative of Covered Facilities, that member shall cast one vote. If there are two representatives of Covered Facilities, each such member shall cast one vote. If there are more than two members of Covered Facilities, each such member shall cast a fractional vote equal to two divided by the number of members (so that the aggregate of the vote cast by all such representatives shall be two).
- c. If there is one representative of Media, that member shall cast one vote. If there are two representatives of Media, each such member shall cast one vote. If there are more than two members of Media, each such member shall cast a fractional vote equal to two divided by the number of members (so that the aggregate of the vote cast by all such representatives shall be two).
- d. If there is one representative of Community Group(s), that member shall cast one vote. If there are two representatives of Community Group(s), each such member shall cast one vote. If there are more than two members of Community Group(s), each such member shall cast a fractional vote equal to two divided by the number of members (so that the aggregate of the vote cast by all such representatives shall be two).
- e. If there is one "Other" member, that member shall cast one vote. If there are two "Other" members, each such member shall cast one vote. If there are more than two "Other" members, each such member shall cast a fractional vote equal to two divided by the number of members (so that the aggregate of the vote cast by all "Other" members shall be two).
- f. The Board of Selectmen may appoint an individual to fulfil more than one of the representations set forth above, in which case such member shall cast a vote equal to the sum of the votes that such member would be entitled to cast separately for each of the representations such member fulfills, provided however, that no individual may be appointed both as a representative of one or more categories and as an "Other" member, and no individual who is an employee of the Town of Belmont or who is an appointee of the Town of Belmont in any capacity other than the Committee may be appointed as the representative of a non-Town entity.

- g. All votes shall be taken by the calling of the roll and recorded in the minutes. All votes must be cast in person, and no member may delegate his vote or give proxy to another member or other person. An alternate member may not vote if the primary member is present when the roll is called.

Article III. Officers

Section 1.

The member representative of the Belmont Emergency Management Agency shall be the Chairman of the Committee. The Chairman of the Committee shall:

- a. Call and preside over meetings of the Committee.
- b. Appoint, from within the membership of the Committee, a Vice-Chairman, to preside over meetings in the absence of the Chairman.
- c. Appoint, from within or without the membership of the Committee, a Secretary to record the proceedings of the Committee.
- d. Have oversight of the functions of the Coordinator of Information.
- e. Except as set forth herein, take such actions for and in the name of the Committee in between meetings of the Committee as in his judgment are necessary and proper for the discharge of the responsibilities of the Committee.

The Chairman shall not have the power in the absence of action by the Committee to adopt or amend an LEPC Plan, but he shall have the power, if in his judgment so doing is necessary to the discharge of the responsibilities of the Committee or the safety of the inhabitants of the Town of Belmont, to suspend any provision of the LEPC Plan until such time as a meeting of the Committee can be convened.

Section 2.

The Secretary of the Committee shall cause a true record of the proceedings of the Committee to be made and retained, and shall cause such records (or a true copy thereof) to be filed with the Town Clerk as required by the Town Bylaws of Belmont.

Section 3.

The Coordinator of Information shall be such person nominated by the Chairman of this Committee and appointed by the Committee to receive and process requests from the public for information under sections 312 and 324 of Title III, or otherwise according to law.

The Coordinator of Information may, but need not be, a member of the Committee. The Coordinator of Information shall receive such compensation for services as may be set by the Board of Selectmen at the time of his appointment, and from time to time thereafter.

Article IV. Meetings

Section 1.

Meetings of the Committee shall be at the call of the Chairman.

Section 2.

Notice of regular meetings shall be given to the members in writing, by mail or, if so requested by the member, by fax or email, at least five calendar days before the date of such meeting, and notice of such meeting shall be given to the Clerk of the Town of Belmont for posting pursuant to M. G. L. chapter 39, § 23B, as amended (the "Open Meeting Law") at least 48 hours before the time set for such meeting.

Section 3.

Whenever he deems an emergency requiring immediate action by the Committee to exist, the Chairman may call a meeting on less notice than provided in the foregoing section, but he shall take care to give as much notice to the members as the circumstances permit.

Notice of an emergency meeting shall contain a brief description of the action proposed action to be taken. The failure of any member to receive notice of an emergency meeting shall not invalidate any action taken by the Committee, a quorum being present, at such meeting.

Section 4.

A quorum of the Committee sufficient for the conduct of business shall be at least 50% of the appointed members, representing at least 7 of the represented departments, agencies, facilities or other entities.

Article V. Definitions

Section 1.

As used in these by-laws, the following terms shall have the meaning set forth in this article:

- a. "Covered Facility" means
 - (1) such persons who are the owners or operators of a any real or personal property or activity within the Town of Belmont at which is present any substance listed on the Substance List in a Threshold Quantity, or
 - (2) any other facility designated by the Governor or MEMA pursuant to 42 U.S.C.A. § 11002(b)(2).
- b. "Administrator" means the Administrator of the United States Environmental Protection Agency.
- c. "Substance List" means the list of extremely hazardous substances from time to time published by the Administrator pursuant to 42 U.S.C.A. § 11002.
- d. "Threshold Quantity" means the quantity of a substance established by the Administrator pursuant to 42 U.S.C.A. § 11002.
- e. "Governor" means the Governor of the Commonwealth of Massachusetts.
- f. "MEMA" means the Massachusetts Emergency Management Agency.
- g. "Title III" means Title III of the "Emergency Planning and Community Right to Know Law," P.L. 99-499, 100 Stat. 1731, 47 U.S.C.A. § 11001 et seq.

As adopted by vote of the Belmont Local Emergency Planning Committee on December 11, 2002, and thereafter amended by vote of that Committee on February 12, 2003.

Appendix 1: 42 U.S.C.A. § 11003

§ 11003. Comprehensive emergency response plans

(a) Plan required.

Each local emergency planning committee shall complete preparation of an emergency plan in accordance with this section not later than two years after the date of the enactment of this title. The committee shall review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require.

(b) Resources.

Each local emergency planning committee shall evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources.

(c) Plan provisions.

Each emergency plan shall include (but is not limited to) each of the following:

- (1) Identification of facilities subject to the requirements of this subtitle [42 USCS § § 11001 et seq.] that are within the emergency planning district, identification of routes likely to be used for the transportation of substances on the list of extremely hazardous substances referred to in section 302(a) [42 USCS § 11002(a)], and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirements of this subtitle, such as hospitals or natural gas facilities.
- (2) Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances.
- (3) Designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the plan.
- (4) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred (consistent with the emergency notification requirements of section 304 [42 USCS § 11004]).
- (5) Methods for determining the occurrence of a release, and the area or population likely to be affected by such release.
- (6) A description of emergency equipment and facilities in the community and at each facility in the community subject to the requirements of this subtitle [42 USCS § 11001 et seq.], and an identification of the persons responsible for such equipment and facilities.
- (7) Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes.

- (8) Training programs, including schedules for training of local emergency response and medical personnel.
- (9) Methods and schedules for exercising the emergency plan.
- (d) Providing of information.

For each facility subject to the requirements of this subtitle [42 USCS § § 11001 et seq.]:

- (1) Within 30 days after establishment of a local emergency planning committee for the emergency planning district in which such facility is located, or within 11 months after the date of the enactment of this title, whichever is earlier, the owner or operator of the facility shall notify the emergency planning committee (or the Governor if there is no committee) of a facility representative who will participate in the emergency planning process as a facility emergency coordinator.
- (2) The owner or operator of the facility shall promptly inform the emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur.
- (3) Upon request from the emergency planning committee, the owner or operator of the facility shall promptly provide information to such committee necessary for developing and implementing the emergency plan.
- (e) Review by the State emergency response commission.

After completion of an emergency plan under subsection (a) for an emergency planning district, the local emergency planning committee shall submit a copy of the plan to the State emergency response commission of each State in which such district is located.

The commission shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency planning districts. To the maximum extent practicable, such review shall not delay implementation of such plan.

- (f) Guidance documents.

The national response team, as established pursuant to the National Contingency Plan as established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall publish guidance documents for preparation and implementation of emergency plans. Such documents shall be published not later than five months after the date of the enactment of this title.

- (g) Review of plans by regional response teams.

The regional response teams, as established pursuant to the National Contingency Plan as established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), may review and comment upon an emergency plan or other issues related to preparation, implementation, or exercise of such a plan upon request of a local emergency planning committee.

Such review shall not delay implementation of the plan.