

**TOWN OF BELCHERTOWN
STORMWATER MANAGEMENT BYLAW**

May 14, 2007 Annual Town Meeting Warrant Version

BACKGROUND

Land uses in Town affect our streams, lakes and drinking water supplies. Land development and other land use conversions, and their associated changes to land cover, have the potential to permanently alter the function of local watersheds, resulting in increased stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, sediment transport and discharge, and non-point source pollution, and decrease groundwater recharge. Adverse impacts can be controlled and minimized through the application of stormwater best management practices (BMPs) and low impact development principles.

Low Impact Development (LID) seeks a balance between human activities and protecting habitat and important natural resources. It is about maintaining environmental quality of life that gives the communities we live in a sense of place. The goal of LID is to integrate human development into the landscape in a way that is mindful of natural ecosystems and does not disrupt the complex hydrologic cycle that maintains them. LID can be applied through development density, reduced impervious surface coverage, lot size, open space/tree retention, street design, street width, parking design, sidewalks, and stormwater management practices. Because LID involves a comprehensive approach, it must be integrated into municipal policies, regulations, and development standards in order for it to be effective.

Careful planning of development, redevelopment, and land conversion projects will protect the quality and health of the water resources of Belchertown. Therefore, the Town of Belchertown enacts this Stormwater Management Bylaw to prevent potential harmful impacts from land development activities.

In addition, localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, Bylaws and permits which require a locality to address the impacts of construction site runoff, post-development stormwater runoff, and nonpoint source pollution.

Therefore, the Stormwater Authority has established this Bylaw to provide reasonable guidance for site planning and stormwater management for the purpose of protecting local water resources from degradation. This Bylaw addresses construction and post-construction stormwater runoff from new development and redevelopment projects.

This Bylaw is not retroactive and does not affect current or approved land development or redevelopment applications.

1. PURPOSE

- A. The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing requirements and procedures to control the adverse

impacts of stormwater runoff from new development and redevelopment. The objectives of the Bylaw are to:

1. Establish regulations for land development activities that preserve the health of water resources by reducing the adverse water quality impacts from stormwater discharges to rivers, lakes, reservoirs, and streams in order to attain federal water quality standards;
 2. Require that new development, redevelopment and all land conversion activities maintain the natural hydrologic characteristics of the land in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
 3. Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
 4. Minimize the volume and rate of stormwater discharges to rivers, lakes, reservoirs, and streams during and following development;
 5. Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
 6. Provide for the recharge of groundwater aquifers and maintain the base flow of streams;
 7. Encourage the use of LID practices such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable;
 8. Coordinate site design plans, which include greenspace, with the Town's greenspace protection plan;
 9. Provide stormwater management facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
 10. Require that the amount and quality of stormwater runoff from new development is equal to or better than pre-development conditions in order to reduce flooding, stream erosion, pollution, property damage, and harm to aquatic life;
 11. Establish maintenance provisions to ensure that stormwater treatment practices will continue to function as designed and pose no threat to public safety;
 12. Establish procedures for the Town's review of stormwater management plans, and for the Town's inspection of approved stormwater controls;
 13. Comply with state and federal statutes and regulations relating to stormwater discharges.
- B. Nothing in this Bylaw is intended to replace the requirements of the Town of Belchertown Wetlands Protection Bylaw, or any other Bylaw that may be adopted by the Town of Belchertown. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

2. DEFINITIONS

ALTER: Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

APPLICANT: A property owner or agent of a property owner who has filed an application for a Stormwater Management Permit.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN: Site design approaches and techniques that can reduce a site’s impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.

CERTIFICATE OF COMPLETION (COC): A document issued by the Stormwater Authority after all construction activities have been completed, which states that all conditions of an issued Stormwater Management Permit have been met and that a project has been completed in compliance with the conditions set forth in a Stormwater Management Permit.

CONVEYANCE: Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.

DEVELOPER: A person who undertakes or proposes to undertake land disturbance activities.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

DRAINAGE EASEMENT: A legal right granted by a landowner to a grantee allowing the use of private land for LID Management purposes.

GRADING: Changing the level or shape of the ground surface.

EROSION CONTROL: The prevention or reduction of the movement of soil particles or rock fragments.

EROSION AND SEDIMENT CONTROL PLAN: A plan that shows the location and construction detail(s) of the erosion and sediment reduction controls to be utilized for a construction site.

FLOOD CONTROL: The prevention or reduction of flooding and flood damage.

FLOODING: A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

FOREST CUTTING PLAN: A plan for the cutting of trees on forest land, which is prepared and submitted in accordance with M.G.L. Chapter 132 Sections 40 - 46A. The forest cutting plan requires approval by a Service Forester of the Massachusetts Department of Conservation and Recreation, as provided under 304 CMR 11.04.

GROUNDWATER: All water beneath any land surface including water in the soil and bedrock beneath water bodies.

HOTSPOT: Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, rooftops, driveways, patios, and paved roads.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Belchertown.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and

carries away natural and human-made pollutants, finally depositing them into water resource areas.

OPERATION AND MAINTENANCE PLAN: A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a LID Management system to insure that it continues to function as designed.

OWNER: A person with a legal or equitable interest in a property.

PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Belchertown, and any other legal entity, its legal representatives, agents, or assigns.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Any construction, alteration, or improvement exceeding land disturbance of 10,000 square feet, where the existing land use is commercial, or institutional.

RESOURCE AREA: Any area protected under including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Belchertown Wetlands Protection Bylaw.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENTATION: A process of depositing material that has been suspended and transported in water.

SITE: The parcel of land being developed, or a designated planning area in which the land development project is located.

STORMWATER AUTHORITY: The Town of Belchertown Department of Public Works. The Stormwater Authority is responsible for coordinating the review, approval and permit process as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in Section 4 of this Bylaw.

STORMWATER MANAGEMENT: The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the adverse affects of uncontrolled and untreated stormwater runoff.

STOP WORK ORDER: An order issued which requires that all construction activity on a site be stopped.

TSS: Total suspended solids.

WATER QUALITY VOLUME: The storage needed to capture a specified average annual stormwater runoff volume. Numerically (WQv) will vary as a function of drainage area or impervious area.

3. AUTHORITY

This Bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, and pursuant to the regulations of the federal Clean Water Act, and as authorized by the residents of Belchertown at Town Meeting, dated May 14, 2007.

4. ADMINISTRATION

- A. The Department of Public Works is hereby designated as the Stormwater Authority. The Stormwater Authority shall administer, implement and enforce this Bylaw. The Stormwater Authority shall, with the concurrence of the Applicant, designate Town Boards, including the Planning Board, Conservation Commission, or Board of Health, as its authorized agent for the purposes of reviewing stormwater submittals and rendering decisions on stormwater permit applications for any project within that particular Board's (the "Reviewing Board") jurisdiction. The Reviewing Board(s) shall notify the Stormwater Authority of its decisions on stormwater management permit applications. Both the Stormwater Authority and the Reviewing Board(s) shall have authority to enforce this Bylaw.
- B. Stormwater Management Regulations. The Stormwater Authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Bylaw by majority vote of the Stormwater Authority, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. After public hearing, the Stormwater Authority may issue rules and regulations to fulfill the purposes of this Bylaw. Failure by the Stormwater Authority to issue such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

- C. Stormwater Management Manual. The Stormwater Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy to execute the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Regulations authorized by this Bylaw, stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
- D. Actions by the Stormwater Authority. The Stormwater Authority may take any of the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- E. Appeals. A decision of the Stormwater Authority shall be final. Further relief of a decision by the Stormwater Authority made under this Bylaw shall be reviewable in the Superior Court in an action filed within sixty (60) days thereof, in accordance with M.G.L. Ch 249 § 4.
- F. Stormwater Credit System. The Stormwater Authority may adopt a Stormwater Credit System as part of the Regulations authorized by this Bylaw. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure of the Stormwater Authority to promulgate such a credit system through its regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

5. APPLICABILITY

- A. This Bylaw applies to all new development and redevelopment, and other activities that will result in an increased amount of stormwater runoff and/or water pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 5 of this Bylaw. All actions under the jurisdiction of this Bylaw shall be required to obtain a Stormwater Management Permit.
- B. An alteration, redevelopment, or conversion of land use to a “hotspot” as defined in the most recent version of the Massachusetts Stormwater Management Policy, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots, and other potential water quality concerns shall require a Stormwater Management Permit.
- C. Exemptions

No person shall alter land within the Town of Belchertown without having obtained a Stormwater Management Permit for the proposed activity, with the following exceptions:

1. Any activity that will disturb an area less than 10,000 square feet, not including projects that will disturb an area less than 10,000 square feet that are part of a larger common plan of development or sale that will ultimately disturb greater than or equal to 10,000 square feet.

2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations 310 CMR 10.04 and MGL Chapter 40A Section 3.
3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling.
4. Repair or replacement of an existing roof of a single-family dwelling.
5. Repair or replacement of an existing septic system.
6. Construction of a deck, patio, retaining wall, shed, swimming pool, tennis or basketball court associated with a single family dwelling.
7. The construction of any fence that will not alter existing terrain or drainage patterns.
8. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns.
9. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority or Reviewing Board(s).
10. Any emergency activity that is immediately necessary for the protection of life, property, or the environment, as determined by the Stormwater Authority or Reviewing Board(s).
11. Customary cemetery management.
12. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.
13. Redevelopment projects are presumed to meet the Bylaw requirements if the total impervious cover is reduced by 40% from existing conditions. Where site conditions prevent reduction in impervious cover, stormwater best management practices shall address at least 40% of the site's impervious area. A combination of impervious area reduction and stormwater treatment practices shall equal or exceed a 40% reduction in total impervious cover from existing conditions.

6. PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations issued under Section 4 of the Bylaw. No land owner or land operator shall receive any of the building, grading, or other land development permits required for land disturbance activities, and no land owner shall commence land disturbance activities, without first receiving a Stormwater Management Permit from the Stormwater Authority and meeting the requirements of this Bylaw and associated Regulations.

The Stormwater Management Permit Application package shall include:

- A. For land altering activity subject to the Town of Belchertown Stormwater Management Bylaw involving construction of a single-family dwelling, where “approval is not required” (ANR), as defined in the Subdivision Control Act, and that disturbs less than 1 acre of land, the Stormwater Management Permit Application package shall include:
 - 1. A completed Application Form with original signatures of all owners;
 - 2. A list of abutters, certified by the Assessors Office, within 100 feet of the property line of the site, including property owners in another municipality;
 - 3. Stormwater Management Plan (see Section 6.M of the Town of Belchertown Stormwater Management Regulations);
 - 4. Payment of the application and review fees (see Section 6.E of the Town of Belchertown Stormwater Management Regulations);
 - 5. Surety bond, if determined to be required by the Stormwater Authority.
- B. For all other land altering activity subject to the Town of Belchertown Stormwater Management Bylaw, the Stormwater Management Permit Application package shall include:
 - 1. A completed Application Form with original signatures of all owners;
 - 2. A list of abutters, certified by the Assessors Office; within 100 feet of the property line of the site, including property owners in another municipality;
 - 3. Stormwater Management Plan (see Section 6.M of the Town of Belchertown Stormwater Management Regulations);
 - 4. Operation and Maintenance Plan, with Inspection and Maintenance agreement;
 - 5. Payment of the application and review fees (see Section 6.E of the Town of Belchertown Stormwater Management Regulations);
 - 6. Surety bond.

7. ENFORCEMENT

The Stormwater Authority or an authorized agent of the Stormwater Authority shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for mitigation and compliance actions taken by the Stormwater Authority. Enforcement shall be further defined and included as part of any Regulations adopted under this Bylaw. Enforcement may be made by way of noncriminal disposition pursuant to Chapter 1, Section 1-2 of the Town’s Bylaws. The Stormwater Authority shall be the enforcing entity. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$250. The penalty for the 3rd and

subsequent violations shall be \$500. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8. SEVERABILITY

The invalidity of any section, provision, paragraph, sentence or clause of this Bylaw shall not invalidate any other section, provisions, paragraph, sentence or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

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