

**Article 21**      Vote to delete Chapter 112 of the Code of the Town of Belchertown relative to the Stormwater Management By-Law and replace it with a new Chapter 112 as printed in Article 21 of the Annual Town Meeting Warrant.

**Town of Belchertown  
Stormwater Management By-Law**

**Proposed revisions – Draft 6/12/17**  
Additional changes made 7/27/17  
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Changes 4/9/2020

<b>SECTION 1: BACKGROUND</b>	<b>2</b>
<b>SECTION 2: PURPOSE</b>	<b>2</b>
<b>SECTION 3: DEFINITIONS</b>	<b>4</b>
<b>SECTION 4: AUTHORITY</b>	<b>6</b>
<b>SECTION 5: ADMINISTRATION</b>	<b>6</b>
<b>SECTION 6: REGULATIONS</b>	<b>7</b>
<b>SECTION 7: APPLICABILITY</b>	<b>7</b>
<b>SECTION 8: PROCEDURES</b>	<b>8</b>
<b>SECTION 9: ENFORCEMENT</b>	<b>10</b>
<b>SECTION 10: SEVERABILITY</b>	<b>10</b>

**SECTION 1: 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 nonpoint 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 the 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 and post-development stormwater runoff.

Therefore, the Town of Belchertown has established this Bylaw to provide reasonable guidance for the administration of site planning and stormwater management for the purpose of protecting local water resources from degradation. This Bylaw applies to construction and post-construction stormwater runoff from new development and redevelopment projects. It designates the stormwater authority, applicable projects and how regulations are created and enforced.

## SECTION 2: PURPOSE

- A. The purpose of this Bylaw is to protect, maintain, and enhance the public health, safety, environment and general welfare by establishing the process for creating requirements and procedures to control the adverse impacts of stormwater runoff from new development and redevelopment.
- B. Interests and values protected by this bylaw: :
  1. Reducing the adverse water quality impacts from stormwater discharges to rivers, lakes, reservoirs, and streams.
  2. Maintaining the natural hydrologic characteristics of the land and treating for water quality in order to: reduce flooding, stream bank erosion, siltation, nonpoint source pollution, and property damage, and to maintain the integrity of stream channels and aquatic habitats;
  3. Preventing the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
  4. Minimizing the volume and rate of stormwater discharges to rivers, lakes, reservoirs, and streams during and following development;
  5. Preventing erosion and sedimentation from during and following land development.
  6. Providing for the recharge of groundwater aquifers and maintain the base flow of streams;
  7. Promoting the use of LID practices such as limiting disturbance, reducing impervious cover, treating and infiltrating stormwater at the source, using environmentally sensitive site design, and the preservation of open space and other natural areas, to the maximum extent practicable;
  8. Ensuring that stormwater treatment practices will be maintained and continue to function for the life of the design;
  9. Providing clear procedures for the Town's review of stormwater management plans, and for the Town's inspection of approved stormwater controls;
  10. Complying with state and federal statutes and regulations relating to stormwater discharges.

- C. This bylaw is intended to integrate with other parts of the Town's land use regulations and not replace requirements, particularly 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.

### SECTION 3: 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.

**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.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of use, usually involving construction. See also new development; redevelopment.

**EROSION:** Wearing away of land by running water, waves, wind, ice abrasion and transportation.

**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 the Forest Cutting Practices Act by Massachusetts Department of Environmental Protection.

**GROUNDWATER:** All subsurface water contained in natural geologic formations or artificial fill, including soil water in the zone of aeration.

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

**GRUBBING:** Removal of stumps and large or matted roots from the ground after the removal of trees, prior to construction.

**HOTSPOT:** Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling and repair 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.

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

**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, rather than a single point of origin, caused by stormwater 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.

**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 Town of Belchertown, and any other legal entity, its legal representatives, agents, or assigns.

**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 that disturbs the ground surface or increases the impervious area on previously developed sites.

**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 (runoff):** Rainwater runoff, snow melt runoff, and surface runoff and drainage. Stormwater/runoff commonly collects in the MS4 system for treatment and discharge.

**STORMWATER AUTHORITY:** The Town of Belchertown Conservation Commission. 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 5 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 effects of uncontrolled and untreated stormwater runoff.

**STORMWATER MANAGEMENT PLAN:** A plan to be submitted with the application for a Stormwater Management Permit, which shall include current and proposed site conditions, proposed improvements, proposed stormwater control measures, development schedules, and such other matters as may be required by the Stormwater Authority.

#### SECTION 4: AUTHORITY

This Bylaw, as amended, 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.

#### SECTION 5: RESPONSIBILITY FOR ADMINISTRATION

The Conservation Commission is hereby designated as the Stormwater Authority. The Stormwater Authority shall administer, implement and enforce this Bylaw. The Stormwater Authority may designate Town Boards, including (but not limited to) the Planning Board, Dept. of Public Works, and the Board of Health, as its authorized agent for the purpose of reviewing and making recommendations on stormwater permit applications within the designated Board's expertise (the "Reviewing Board"). The Reviewing Board(s) shall notify the Stormwater Authority of its recommendations on stormwater management permit applications. Both the Stormwater Authority and the Reviewing Board(s) shall have authority to enforce this Bylaw.

#### SECTION 6: REGULATIONS

- A. 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, 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.
- B. Waivers. The Stormwater Authority may waive strict compliance with this Bylaw if such action is allowed by federal, state and local statutes, bylaws, and/or regulations; is in the public interest; and is consistent with the purposes of this Bylaw.
- C. 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, or Disapproval.
- D. 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.
- E. Stormwater Credit System. The Stormwater Authority may adopt a Stormwater Credit System as part of the Stormwater Management Regulations authorized by this Bylaw. 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.

## SECTION 7: APPLICABILITY

### A. Permit Required

Notwithstanding any exemption provided pursuant to Section 7B, for any proposed development project listed below, no person may initiate construction, any land clearing and grubbing, land grading, earth moving, or other development activities without approval or waiver of the requirement for a stormwater management permit by the authorized permitting agency. Proponents of these projects are required to submit drainage reports, plans, construction drawings, specifications, and as-built information in accordance with the permit standards, procedures and requirements defined in the Stormwater Regulations.

1. Construction activities that disturb land greater than or equal to 10,000 square feet,
2. Construction activities that disturb land less than 10,000 square feet if part of a larger common or phased plan.
3. Any alteration, redevelopment, or conversion of land use to a “hotspot” as defined in this bylaw, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots, and other potential water quality concerns, regardless of the amount of land altered.
4. Construction activities that are not part of a larger common plan and that result in the disturbance of less than 10,000 square feet of land, or are not located on a hotspot, are still required to minimize impervious surface, disconnect impervious area runoff from the public storm drainage system, wetlands, waterways, and adjacent off-site impervious areas; or otherwise treat, infiltrate or retain stormwater runoff by implementing stormwater management measures designed in accordance with best management practices as defined by the Stormwater Authority. The applicant shall submit evidence to the building inspector that the requirements of this paragraph and the grading and drainage requirements from the most recently issued edition of the Massachusetts Building Code have been met prior to issuance of a building permit.

### B. Exemptions

The following use and activities are exempt from the requirements for submittal and approval of a Stormwater Management Plan. All exempt uses and activities must still comply with the purposes and the stormwater performance standards within the Regulations. Failure of an exempt activity to comply with these standards shall be interpreted as a violation and exempt status revoked.

- a. Any agricultural activity that is consistent with an approved soil conservation plan prepared or approved by the Natural Resources Conservation Service;
- b. Any logging that is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Environmental Protection;
- c. Developments that disturb less than 10,000 square feet of land, provided that they are not part of a larger common development plan;
- d. Activities that are exclusively limited to maintenance and improvement of existing roadways (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects).
- e. Repairs to any stormwater treatment system deemed necessary by the Department of Public Works;

- f. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Department of Public Works, Board of Health or Police and Fire.

#### SECTION 8: PROCEDURES

Permit Procedures and Requirements shall be defined and included in the Stormwater Management Regulations adopted under this Bylaw. Failure to promulgate such procedures or a legal declaration of its invalidity by a court shall not act to suspend or invalidate this Bylaw.

#### SECTION 9: ENFORCEMENT

The Stormwater Authority or an authorized agent of the Stormwater Authority shall have the authority to 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 the Stormwater Management Regulations adopted under this Bylaw.

#### SECTION 10: 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.

(Vote – Unanimous Yes)