

“CHAPTER XXVI: LOW IMPACT DEVELOPMENT (LID) BYLAW”

Introduction

Land uses in Town affect our streams, lakes and water supplies. Careful planning of new development and redevelopment will protect the quality and health of these important water resources. Therefore, the Town of Ashburnham enacts this Low Impact Development bylaw to provide guidance that will prevent harmful impacts from land development activities.

1.0 PURPOSES

- A) The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing requirements and procedures to manage stormwater runoff, promote groundwater recharge and to prevent water pollution from new development and redevelopment. This Bylaw seeks to meet that purpose through the following objectives:
1. Establish regulations for land development activities that preserve the health of water resources;
  2. 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;
  3. Establish LID management standards and design criteria to control the quantity and quality of stormwater runoff;
  4. Encourage the use of “low-impact development practices,” such as reducing impervious cover and preserving greenspace and other natural areas;
  5. Establish maintenance provisions to ensure that stormwater treatment practices will continue to function as designed and pose no threat to public safety;
  6. Establish procedures for the Town’s review of low impact development plans and for the Town’s inspection of approved stormwater treatment practices;
- B) Nothing in this Bylaw is intended to replace the requirements of either, the Town of Ashburnham Wetlands Protection Bylaw, Open Space Residential Development Bylaw, or any other Bylaw that may be adopted by the Town of Ashburnham. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

2.0 AUTHORITY

This Bylaw is adopted under 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 the Town of Ashburnham at Town Meeting, dated November 15, 2007.

### 3.0 SCOPE AND APPLICABILITY

A) This Bylaw shall be applicable to all new development and redevelopment, including, site plan review applications, subdivision applications and subdivision applications where approval is not required under the Subdivision Control Law. The Bylaw shall apply to any activities that will result in an increased amount of stormwater runoff or pollutants from a parcel of land, or that will alter the drainage characteristics of a parcel of land, unless exempt under Section 3B of this Bylaw. All new development and redevelopment, under the jurisdiction of this Bylaw, shall be required to obtain a LID Permit. The LID Permit process shall be coordinated with existing permitting, where applicable. An alteration, redevelopment, or conversion of land use or activities to those with higher potential pollutant loadings such as: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas, shall require a LID Permit.

#### B) Exemptions

No person shall alter land within the Town of Ashburnham without having obtained a LID Permit for the property with the following exceptions:

1. Any activity that will disturb an area less than 7,500 square feet;
2. Normal maintenance and improvement of land in agricultural use as defined by the wetlands Protection Act, 310 CMR 10.04 and MGL Chapter 40A Section 3.
3. Timber harvesting conducted under the terms of an approved Forest Cutting Plan as defined by the Forest Cutting Practices Act regulation 304 CMR 11.00 and MGL Chapter 132 Sections 40 through 46.
4. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
5. Repair or replacement of an existing septic system;
6. Repair or replacement of an existing roof of a single-family dwelling;
7. The construction of any fence that will not alter existing terrain or drainage patterns;
8. Construction of a deck, patio, addition, garage, retaining wall, driveway expansion, accessory building, shed, swimming pool, tennis or basketball court associated with an existing single-family dwelling provided that the resulting runoff does not discharge untreated into a resource area;
9. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;

10. Emergency repairs to any Stormwater Management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Planning Board;
11. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

#### 4.0 DEFINITIONS

The definitions are in Appendix A of this Bylaw and shall apply in the interpretation and implementation of the Bylaw. Terms not defined in this Appendix shall be understood according to their customary and usual meaning. Additional definitions may be adopted by separate regulation.

#### 5.0 ADMINISTRATION

- A) The Planning Board is hereby designated as the LID Authority. The Planning Board shall administer, implement and enforce this Bylaw. Any powers granted or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents.
- B) LID Regulations. The Planning Board shall adopt, and may 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 LID Bylaw by majority vote of the Planning Board, 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 notice, public hearing and review by a Registered Professional Engineer, the Planning Board may issue rules and regulations to fulfill the purposes of this Bylaw. Failure by the Planning Board to issue such rules and regulations or a legal declaration of their invalidity by a court shall not suspend or invalidate the effect of this Bylaw.
- C) Simplified LID Regulations. The Planning Board shall adopt and implement a Simplified LID Permit program for specific types of projects associated with a single-family residence. The purpose of the Simplified LID Permit is to streamline the permitting process under this Bylaw by eliminating many of the standard requirements for minor residential projects. The Simplified LID Permit Application form and Simplified LID Permit requirements shall be defined and included in the LID Regulations.
- D) The Planning Board shall, with the concurrence of the Applicant, designate another Town Board, including the Conservation Commission, Zoning Board of Appeals, Department of Public Works, and Board of Health, as its authorized agent for the purposes of reviewing all LID submittals and approving LID permits for any project within that particular Board's jurisdiction.
- E) Stormwater Management Handbooks. The Planning Board will use 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

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 LID Regulations, stormwater management 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.

- F) Actions by the Planning Board. The Planning Board may take any of the following actions as a result of an application for a LID Permit: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- G) Appeals of Action by the Planning Board. A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this Bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch. 249 § 4.
- H) LID Credit System. The Planning Board may adopt a LID Credit System through the Regulations authorized by this LID Bylaw. This credit system will allow applicants the option, if approved by the Planning Board, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of the Regulations Failure by the Planning Board to issue 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.

## 6.0 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations issued as permitted under Section 5 of this Bylaw.

## 7.0 ENFORCEMENT

The Planning Board or an authorized agent of the Planning Board shall enforce this Bylaw regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any LID Regulations issued as permitted under Section 5 of this Bylaw.

## 8.0 SEVERABILITY

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

## APPENDIX A DEFINITIONS

**APPLICANT:** A property owner or agent of a property owner who has filed an application for a LID 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 quality and protection of the environment. “Structural” BMP’s are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMP’s 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 LID Management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for LID Management.

**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.

**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, sidewalks, roof tops, driveways, patios, and paved, gravel and compacted dirt surfaced roads.

**LID AUTHORITY:** Town of Ashburnham Planning Board that has the authority to administer, implement, and enforce these LID Bylaws. The Planning Board 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 these LID Bylaws.

**LID CREDIT SYSTEM:** A form of incentive for developers to promote conservation of natural and open space areas. Projects that comply with prescribed requirements are allowed reductions in stormwater management requirements when they use techniques to reduce stormwater runoff at the site.

**LOW IMPACT DEVELOPMENT PERMIT (LIDP):** A permit issued by the Planning Board, for projects in the categories and meeting the standards defined in this Bylaw, after review of an application, plans, calculations, and other supporting documents. Projects in these categories that meet these generic standards and are properly implemented are assumed to meet the requirements and intent of this Bylaw which is designed to protect the environment of the Town of Ashburnham from the deleterious affects of uncontrolled and untreated stormwater runoff.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state Bylaws 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.

**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.

**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 Ashburnham, and any other legal entity, its legal representatives, agents, or assigns.

**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.

**PRE-DEVELOPMENT:** The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Planning Board. 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.

**RECHARGE:** The replenishment of underground water reserves.

**REDEVELOPMENT:** Any construction, alteration, transportation, improvement exceeding land disturbance of 7,500 square feet, where the existing land use is commercial, industrial, institutional, or multi-family residential.

**RESOURCE AREA:** Any area protected under including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Ashburnham Wetlands Protection Bylaw. For the purposes of this Bylaw a resource area includes all land lying within 100 feet of a wetland and 200 feet of a perennial stream.”