

Chapter 101

STORMWATER MANAGEMENT

[HISTORY: Adopted by the Borough Council of the Borough of Seven Valleys 8-6-2012 by Ord. No. 2012-1.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Building permits and floodplain management — See Ch. 48.
Construction in flood-prone areas — See Ch. 65.
Subdivision and land development — See Ch. 108.
Zoning — See Ch. 130.

ARTICLE I General Provisions

§ 101-1. Short title.

This chapter shall be known and may be cited as the "Seven Valleys Borough Stormwater Management Ordinance."

§ 101-2. Statement of findings.

The governing body of Seven Valleys Borough finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of the commonwealth, their resources, and the environment.
- C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).

1. Editor's Note: This ordinance repealed former Ch. 101, Stormwater Mangement, adopted 9-8-1992 by Ord. No. 92-3.

§ 101-3. Purpose.

The purpose of this chapter is to promote health, safety, and welfare within the municipality and its watershed(s) by minimizing the harm and maximizing the benefits described in § 101-2 of this chapter, through provisions designed to:

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this commonwealth.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and streambeds.
- G. Provide proper operation and maintenance of all SWM BMPs that are implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

§ 101-4. Statutory authority.

The municipality is empowered to regulate land use activities that affect stormwater impacts by the authority of the Borough Code and the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the "Stormwater Management Act."

§ 101-5. Applicability.

All regulated activities and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this chapter.

§ 101-6. Repealer.

Any other chapter provision or regulation of the municipality inconsistent with any of the provisions of this chapter is hereby repealed to give this chapter full force and effect to the extent of the inconsistency only.

§ 101-7. Severability.

In the event that a court of competent jurisdiction declares any section, clause or provision of this chapter invalid, such decision shall not affect the validity of any of the remaining sections, subsections, clauses or provisions of this chapter.

§ 101-8. Compatibility with other requirements.

Approvals issued and actions taken under this chapter do not relieve the applicant of the

responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation, or chapter.

§ 101-9. Interpretation.

Unless otherwise expressly stated, the succeeding shall, for the purposes of this chapter, be interpreted in the following manner, unless the context clearly requires literal usage:

- A. Words used in the present tense also include the future tense.
- B. Words used in the singular include the plural, and vice versa.
- C. Words of masculine gender include feminine gender, and vice versa.
- D. The words and abbreviation "includes," "including," "shall include," "such as," and "e.g." are not limited to the specific example(s) given but are intended to extend the words or words' meaning(s) to all other instances of like kind and character.
- E. The words "person," "applicant," or "developer" include a partnership, corporation, or other legal entity, as well as an individual.
- F. The words "shall," "required" or "must" are mandatory; the words "may" and "should" are permissive.

§ 101-10. Erroneous permit.

Any permit or authorization issued or approved based on false, misleading or erroneous information provided by an applicant is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such permit or other authorization is unlawful. No action may be taken by a board, agency or employee of the municipality purporting to validate such a violation.

ARTICLE II
Definitions

§ 101-11. Terms defined.

As used in this chapter, the following terms shall have the following meanings:

ACT 167 — Act of October 4, 1978, P.L. 864, (Act 167), as amended, and known as the "Stormwater Management Act."²

AGRICULTURAL ACTIVITY — Activities associated with agriculture such as, but not limited to, agricultural cultivation, agricultural operations, and animal heavy use areas. This includes the work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

APPLICANT — A landowner, developer, or other person who has filed an application to the municipality for approval to engage in any regulated activity at a project site in the municipality.

2. Editor's Note: See 32. P.S. § 680.1 et seq.

BEST MANAGEMENT PRACTICE (BMP) — Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this chapter. Stormwater BMPs are commonly grouped into one of two broad categories or measures: "structural" or "nonstructural." In this chapter, nonstructural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff, whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

BMP MANUAL — Pennsylvania Stormwater Best Management Practices Manual, as amended and updated.

BOROUGH — The Borough of Seven Valleys, York County, Pennsylvania.

COMMUNITY SWM BMPs; COMMUNITY FACILITIES — Any stormwater management facility, including but not limited to detention or retention basins, which is designed to serve a community, a subdivision, consisting of more than one lot or tract, or a land development consisting of more than one entity or end user.

CONSERVATION DISTRICT — The York County Conservation District, which District is as defined in Section 3(c) of the Conservation District Law [3 P.S. § 851(c)] that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the regulations promulgated under 25 Pa. Code Chapter 102.

COUNTY — York County, Pennsylvania.

DAM — An impoundment structure regulated by the Pennsylvania DEP promulgated under 25 Pa. Code Chapter 105.

DEP — The Pennsylvania Department of Environmental Protection.

DESIGNEE — An agent of the municipality appointed by the governing body for the purpose of administration, review or enforcement of any provisions of this chapter.

DESIGN STORM — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence, e.g., a five-year storm, and duration, e.g., 24 hours, used in the design and evaluation of stormwater management systems. Also see "return period."

DETENTION BASIN — A structure designed to retard stormwater runoff by temporarily storing and releasing the runoff at a predetermined rate.

DETENTION VOLUME — The volume of runoff that is captured and released into the waters of this commonwealth at a controlled rate.

DEVELOPER — Any person, partnership, association, corporation or other entity, or any responsible person therein or agent thereof, that undertakes any regulated activity.

DEVELOPMENT SITE (SITE) — See "project site."

DISCONNECTED IMPERVIOUS AREA (DIA) — An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and increased time of concentration as specified in Appendix B, Disconnected Impervious Area,³ of this chapter.

DISTURBED AREA — An unstabilized land area where an earth disturbance activity is occurring or has occurred.

E&S MANUAL — DEP's Erosion and Sediment Pollution Control Manual, as amended and updated.

EARTH DISTURBANCE ACTIVITY — A construction or other human activity which disturbs the surface of the land, including, but not limited to: clearing and grubbing; grading; excavations; embankments; road maintenance; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

EQUIVALENT DIA (DISCONNECTED IMPERVIOUS AREA) — An impervious or impermeable surface that is disconnected from any stormwater management facility or drainage conveyance facility and is redirected or directed to a stormwater management BMP facility as is approved by the Borough, but does not meet the requirements of a disconnected impervious area (DIA). Equivalent DIAs shall be permitted only for regulated activities of less than 1,000 square feet. Examples of SWM BMPs that may be used in conjunction with equivalent DIAs are represented in the stormwater permit application.

EROSION — The natural process by which the surface of the land is worn away by water, wind, or chemical action.

EROSION AND SEDIMENT CONTROL PLAN — A site-specific plan consisting of drawings, calculations, and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during and after earth disturbance activity.

EXISTING CONDITION — The dominant land cover during the five-year period immediately preceding a proposed regulated activity.

FEMA — Federal Emergency Management Agency.

FLOODPLAIN — Any land area susceptible to inundation by water from any natural source as delineated by applicable FEMA maps and studies as being a special flood hazard area.

FLOODWAY — The channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the one-hundred-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the one-hundred-year floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

FOREST MANAGEMENT/TIMBER OPERATIONS — Planning and activities necessary for

3. Editor's Note: Appendix B is included as an attachment to this chapter.

the management of forestland. These include conducting a timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

HYDROLOGIC SOIL GROUP (HSG) — Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The NRCS defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D (NRCS 3, 4).

ILLCIT CONNECTION — Any physical connection to a separate stormwater drainage system that conveys illicit discharges into the system and/or is not authorized or permitted by the local authority.

ILLCIT DISCHARGE — Any discharge (or seepage) to a municipal separate storm sewer that is not composed entirely of stormwater. This does not refer to discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the regulated small MS4); certain allowable nonstormwater discharges described in the EPA regulations, NPDES MS4 permit or the MS4's chapter; and discharges resulting from firefighting activities. Examples of illicit discharges include dumping of motor vehicle fluids, household hazardous wastes, grass clippings, leaf litter, animal wastes, or unauthorized discharges of sewage, industrial waste, restaurant wastes, or any other nonstormwater waste into a separate stormwater drainage system. Illicit discharges can be accidental or intentional.

IMPERVIOUS SURFACE (IMPERVIOUS AREA) — A surface that prevents the infiltration of water into the ground. Impervious surfaces and areas shall include, but not be limited to, roofs, additional indoor living spaces, patios, garages, storage sheds and similar structures, and any new streets and sidewalks. However, any surface or area designed, constructed and maintained to permit infiltration as specified herein shall be considered pervious, not impervious. For the purposes of this chapter, a surface or area shall not be considered impervious if such surface or area does not diminish the capacity for infiltration of stormwater for storms up to, and including, a two-year, twenty-four-hour storm event.

INFILTRATION — The entrance of surface water into the soil, usually at the soil-air interface.

IWRP — The York County Integrated Water Resources Plan, which Plan includes Act 167 Plan elements and requirements.

KARST — A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage, and caves. Karst landscapes are formed on carbonate rocks, such as limestone or dolomite.

LAND DEVELOPMENT — Includes any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed

initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

- (2) The division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features.

B. A subdivision of land.

C. Development in accordance with § 503(1.1) of the Pennsylvania Municipalities Planning Code.⁴

MUNICIPALITY — The Borough of Seven Valleys, York County, Pennsylvania.

NPDES — National Pollutant Discharge Elimination System.

NRCS — USDA Natural Resources Conservation Service (previously SCS).

O&M — Operation and maintenance.

O&M PLAN — Operation and maintenance plan.

PCSWMP — Postconstruction stormwater management plan.

PEAK DISCHARGE — The maximum rate of stormwater runoff from a specific storm event.

PERCOLATION — The downward movement, under the influence of gravity, of water under hydrostatic pressure through interstices of the soil or rock.

PERSON — An individual, partnership, public or private association, limited-liability company, corporation, firm, trust, estate, homeowners' association, condominium unit owners' association, municipality, governmental unit, public utility, or any other legal entity. "Person" when used herein shall also include the successors, heirs and assigns of such person, the members of a partnership, the officers, agents and servants of a corporation of limited-liability company and the officers of a municipality or governmental unit.

PERVIOUS AREA — Any area not defined as impervious.

PRIVATE SWM BMPs; PRIVATE FACILITIES — Any stormwater management facility, including but not limited to stormwater drainage pits, which is designed to serve only an individual lot.

PROJECT SITE — The specific area of land where any regulated activities in the municipality are planned, conducted, or maintained.

QUALIFIED PERSON — Any person licensed by the State of Pennsylvania or otherwise qualified by law to perform the work required by this chapter.

REGULATED ACTIVITIES — Any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

REGULATED EARTH DISTURBANCE ACTIVITY — Activity involving earth disturbance

4. Editor's Note: See 53 P.S. § 10503(1.1).

subject to regulation under 25 Pa. Code Chapter 92,⁵ 25 Pa. Code Chapter 102, or the Clean Streams Law.⁶

RETENTION BASIN — An impoundment in which stormwater is stored and not released during a storm event. Stored water may be released from the basin at some time after the end of a storm.

RETENTION VOLUME/REMOVED RUNOFF — The volume of runoff that is captured and not released directly into the surface waters of this commonwealth during or after a storm event.

RETURN PERIOD — The average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the twenty-five-year return period rainfall would be expected to occur on average once every 25 years; or stated in another way, the probability of a twenty-five-year storm occurring in any one year is 0.04, i.e., a four-percent chance.

RIPARIAN BUFFER — A best management practice that is an area of permanent vegetation along surface waters. (Such areas serve as natural vegetative filters between upland landscapes and waterways.)

RUNOFF — Any part of precipitation that flows over the land.

SEDIMENT — Soils or other materials transported by surface water as a product of erosion.

SHEET FLOW — Water flow with a relatively thin and uniform depth.

SPILLWAY — A depression in the embankment of a pond or basin which is used to pass peak discharge greater than the maximum design storm controlled by the pond or basin.

STATE WATER QUALITY REQUIREMENTS — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Title 25 of the Pennsylvania Code and the Clean Streams Law.⁷

STORM FREQUENCY — The number of times that a given storm event occurs on average in a stated period of years.

STORM SEWER — A pipe or conduit, or a system of pipes or conduits, which intercepts and carries surface stormwater runoff, but excludes sewage, industrial wastes and similar discharges.

STORMWATER — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES — Abbreviated as BMPs or SWM BMPs throughout this chapter.

STORMWATER MANAGEMENT FACILITY — Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater

5. Editor's Note: Chapter 92 of Title 25 of the Pennsylvania Code was reserved 10-8-2010, effective 10-9-2010. See now 25 Pa. Code Chapter 92a, National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance.

6. Editor's Note: See 35 P.S. § 691.1 et seq.

7. Editor's Note: See 35 P.S. § 691.1 et seq.

runoff. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration facilities.

STORMWATER MANAGEMENT PLAN — Parts and/or elements of the York County Integrated Water Resources Plan which incorporate the requirements of the Act of October 4, 1978, P.L. 864, (Act 167), as amended, and known as the "Stormwater Management Act."⁸

STORMWATER MANAGEMENT SITE PLAN — The plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this chapter. "Stormwater management site plan" will be designated as "SWM site plan" throughout this chapter. For all NPDES permitted sites, the stormwater management site plan shall include, and be consistent with, the erosion and sediment control plan as submitted to the York County Conservation District (YCCD) and/or DEP.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts or parcels or other divisions of land, including changes in existing lot lines, for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SWM — Stormwater management.

USDA — United States Department of Agriculture.

WATERSHED — Region or area drained by a river, watercourse, or other surface water of this commonwealth.

WATERS OF THIS COMMONWEALTH — Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

WETLAND — Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

YCCD — York County Conservation District.

ARTICLE III Stormwater Management Standards

§ 101-12. General requirements.

- A. For all regulated activities, unless preparation of an SWM site plan is specifically exempted in § 101-13:

⁸. Editor's Note: See 32. P.S. § 680.1 et seq.

- (1) Preparation and implementation of an approved SWM site plan is required.
 - (2) No regulated activities shall commence until the municipality issues written approval of an SWM site plan which demonstrates compliance with the requirements of this chapter.
- B. SWM site plans approved by the municipality, in accordance with § 101-23, shall be on site throughout the duration of the regulated activity.
- C. The municipality may, after applicant consultation with DEP, approve measures for meeting the state water quality requirements other than those in this chapter, provided that they meet the minimum requirements of, and do not conflict with, state law including, but not limited to, the Clean Streams Law.⁹ The municipality shall maintain a record of correspondence with DEP pursuant to this subsection.
- D. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the regulated earth disturbance activities, i.e., during construction, to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law¹⁰ Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (E&S Manual) 2, No. 363-2134-008 (April 15, 2000), as amended and updated.
- E. For all regulated activities, implementation of the volume controls in § 101-14 is required, unless specifically exempted under § 101-12C or § 101-13A or exempted by an approved modification request as specified in § 101-20B of this chapter.
- F. Impervious areas:
- (1) The measurement of impervious areas shall include all of the impervious areas in the total proposed development even if development is to take place in phases.
 - (2) For development taking place in phases, the entire development plan must be used in determining conformance with this chapter.
 - (3) For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this chapter; except that the volume controls in § 101-14 and the peak rate controls of § 101-15 do not need to be retrofitted to existing impervious areas that are not being altered by the proposed regulated activity.
- G. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written notification to the adjacent property owner(s). A copy of such notice shall be provided to the Borough prior to issuance of the stormwater management permit. Such stormwater flows shall be subject to the requirements of this chapter.
- H. All regulated activities shall include such measures as necessary to:

9. Editor's Note: See 35 P.S. § 691.1 et seq.

10. Editor's Note: See 35 P.S. § 691.1 et seq.

- (1) Protect health, safety, and property;
 - (2) Meet the water quality goals of this chapter, as stated in § 101-3, by implementing measures to:
 - (a) Minimize disturbance to floodplains, wetlands, wooded areas, and existing vegetation.
 - (b) Maintain or extend riparian buffers.
 - (c) Avoid erosive flow conditions in natural flow pathways.
 - (d) Minimize thermal impacts to waters of this commonwealth.
 - (e) Disconnect impervious surfaces by directing runoff to pervious areas, wherever possible.
 - (f) Minimize soil disturbance and compaction. Topsoil, if removed, shall be replaced to a minimum depth equal to its depth prior to removal or a four-inch minimum depth, whichever is greater. The applicant is not required to install greater than eight inches of topsoil unless required by the design and/or plant material.
 - (3) To the maximum extent practicable, incorporate the techniques for low-impact development practices described in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual).
- I. The design of all facilities in areas of carbonate geology or karst topography shall include an evaluation of measures to minimize adverse effects, including hydrogeologic studies if required by the municipality.
 - J. Infiltration BMPs shall be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this chapter. In addition, infiltration BMPs shall include pretreatment BMPs where appropriate.
 - K. Normally dry, open-top storage facilities, designed as such, shall completely drain both the volume control and rate control capacities over a period of time not more than 96 hours from the end of the design storm. Infiltration facilities shall be designed to infiltrate in not less than 24 hours, however, any designed infiltration at such facilities is exempt from the minimum twenty-four-hour standard, i.e., may infiltrate in a shorter period of time, so long as none of the stormwater flowing into the infiltration facility is discharged directly into the surface waters of the commonwealth. (Inordinately rapid infiltration rates may indicate the presence of large fractures or other conditions for which an additional soil buffer may be required.)
 - L. The design storm volumes and precipitation intensities to be used in the analysis of discharge or runoff shall be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland, in effect at the time of application. NOAA's Atlas 14 can be accessed at: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.

- M. For all regulated activities, SWM BMPs shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law¹¹ and the Stormwater Management Act.¹²
- N. Various BMPs and their design standards are listed in the BMP Manual.
- O. For any new development or redevelopment, stormwater BMPs shall be utilized to reduce the discharge of nitrogen, phosphorus and sediment to the maximum extent practicable.

§ 101-13. Exemptions.

Any regulated activity that meets the following exemption criteria is exempt from the part(s) of this chapter as specified herein. However, the requirements of the chapter shall otherwise remain in effect. The criteria for exemption in this section apply to the total development proposed, including instances in which the development is proposed to take place in phases. The date of enactment of this chapter shall be the starting point from which future development and the respective proposed impervious surface computations shall be cumulatively considered and regulated. Exemption shall not relieve an applicant from implementing such measures as necessary to meet the intent of this chapter, or compliance with any NPDES permit requirements.

- A. Regulated activities that create impervious areas equal to or less than those set forth on Table 1 (cumulative) shall be exempt from the SWM site plan preparation requirements of this chapter, provided the activity will not adversely affect downstream property owners and will not cause erosion. The Borough reserves the right to have its designee make the determination of adverse affect after review of the stormwater permit application and review of the proposed site.
 - (1) Notwithstanding the provisions of this Subsection A and Table 1, activities that would otherwise be regulated activities pursuant to this chapter but are 100 square feet or less shall be exempt from the stormwater management site plan preparation, volume control, peak rate control and municipal review and approval provisions of this chapter, provided that the regulated activity does not adversely affect adjoining properties or cause erosion. A stormwater permit application must still be submitted for record purposes. All new impervious surfaces shall be considered in the cumulative totals in determining exemption status.
- B. Regulated activities that do not receive an exemption from SWM site plan preparation requirements per § 101-13A or regulated activities that create impervious areas greater than those set forth on Table 1 (cumulative) may qualify for submission of a simplified SWM site plan per § 101-18D(4). The Borough's designee shall determine if a simplified SWM site plan may be submitted in lieu of a full SWM site plan (per § 101-18) after review of the stormwater management permit application and review of the proposed site. The simplified SWM site plan must demonstrate that the proposed activity will not adversely affect adjoining property owners or cause erosion.

11. Editor's Note: See 35 P.S. § 691.1 et seq.

12. Editor's Note: See 32 P.S. § 680.1 et seq.

- C. Agricultural activity is exempt from the SWM site plan preparation requirements of this chapter provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102 and no adverse impacts to adjoining property owners will occur because of stormwater runoff.
- D. Forest management and timber operations may be exempt from the SWM site plan preparation requirements of this chapter provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102 and no adverse impacts to adjoining property owners will occur because of stormwater runoff.
- E. Domestic gardening and landscaping are exempt from specific approval and permitting under this chapter so long as those activities are associated with one, and only one, dwelling unit and the activities comply with all other applicable chapters and statutes.
- F. Exemptions from certain provisions of this chapter shall not relieve the applicant from the requirements in § 101-12D through O of this chapter.
- G. The municipality may deny or revoke any exemption pursuant to this section at any time for any project that poses a threat to public health, safety, property or the environment.

Table 1

Existing Lot Size (acres)	Maximum New Impervious Area Cumulative per § 101-13A (square feet)
0 to 0.25	250
Greater than 0.25 to 0.50	500
Greater than 0.50 to 0.75	750
Greater than 0.75	1,000

§ 101-14. Volume controls.

The low-impact development practices provided in the BMP Manual shall be utilized for all regulated activities to the maximum extent practicable. Water volume controls shall be implemented using the Design Storm Method in Subsection A or the Simplified Method in Subsection B below. For regulated activity areas equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this chapter establishes no preference for either methodology; therefore, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology, and other factors.

- A. The Design Storm Method (CG-1 in the BMP Manual) is applicable to any size of regulated activity. This method requires detailed modeling based on site conditions.
 - (1) No plan shall increase the postdevelopment total runoff volume for all storms equal to or less than the two-year twenty-four-hour-duration precipitation to more than the predevelopment total runoff volume.

- (2) For modeling purposes:
 - (a) Existing (predevelopment) nonforested pervious areas must be considered meadow.
 - (b) Twenty percent of the existing impervious area of a project site, when present, shall be considered meadow in the model for existing conditions, if the existing impervious area is being altered by the proposed regulated activity.
- B. The Simplified Method (CG-2 in the BMP Manual) provided below is independent of site conditions and should be used if the Design Storm Method is not followed. This method is not applicable to regulated activities greater than one acre or for projects that require design of stormwater storage facilities. For new impervious surfaces:
 - (1) Stormwater facilities shall capture at least the first two inches of runoff from all new impervious surfaces.
 - (2) At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be released into the surface waters of this commonwealth. Removal options for the first one inch of runoff include reuse, evaporation, transpiration, and infiltration.
 - (3) Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first 0.5 inch of the permanently removed stormwater runoff shall be infiltrated.

§ 101-15. Rate controls.

- A. For computation of predevelopment peak discharge rates, 20% of the existing impervious area of a project site, when present, shall be considered meadow, if the existing impervious area is being altered by the proposed regulated activity.
- B. Postdevelopment discharge rates shall not exceed the predevelopment discharge rates for the one-, two-, five-, ten-, twenty-five, fifty-, and one-hundred-year twenty-four-hour storms. If it is shown that the peak rates of discharge indicated by the postdevelopment analysis are less than or equal to the peak rates of discharge indicated by the predevelopment analysis for one-, two-, five-, ten-, twenty-five-, fifty- and one-hundred-year, twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.

§ 101-16. Stormwater management facilities for Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission roadways and associated facilities.

- A. For the purposes of the Act 167 Stormwater Management (Plan) elements, contained within the York County Integrated Water Resources Plan, and this chapter, design policy pertaining to stormwater management facilities for Pennsylvania Department of Transportation (PennDOT) and Pennsylvania Turnpike Commission (PTC) roadways and associated facilities is provided in Section 13.7 (Antidegradation and Post Construction Stormwater Management Policy) of PennDOT Publication No. 13M, Design Manual Part 2

(August 2009), as developed, updated, and amended in consultation with the Pennsylvania Department of Environmental Protection (DEP). As stated in DM-2.13.7.D (Act 167 and Municipal Chapters), PennDOT and PTC roadways and associated facilities shall be consistent with Act 167 Plans. Dm-2.13.7.B (Policy on Antidegradation and Post Construction Stormwater Management) was developed as a cooperative effort between PennDOT and DEP. DM-2.13.7.C (Project Categories) discusses the anticipated impact on the quality, volume, and rate of stormwater runoff.

- B. Where standards in the Act 167 elements of the IWRP and this chapter are impractical, PennDOT or the PTC may request assistance from DEP, in consultation with the county, to develop an alternative strategy for meeting state water quality requirements and the goals and objectives of the Act 167 elements within the IWRP.
- C. For the purposes of the Act 167 elements in the IWRP and this chapter, road maintenance activities are regulated under 25 Pa. Code Chapter 102.

§ 101-17. Design criteria.

A. Stormwater collection system.

- (1) The stormwater collection system shall be designed and approved based upon the following criteria: Peak discharge shall be computed using the Rational Formula:

$$Q = CIA$$

Where:

Q = Peak discharge in cubic feet per second.

C = Runoff factor expressed as a percent of the total water falling on an area.

I = The rate of rainfall for the time of concentration of the drainage area in inches per hour for a given storm frequency (rainfall intensity).

A = The drainage area expressed in acres.

- (a) The runoff factor "C" is a percentage factor which represents the proportion of the total quantity of water falling on the area that remains as runoff.
- (b) The runoff factors for various types of drainage areas, as presented in the following table, shall be used for design.

**Runoff Factors for the Rational Equation
Type of Drainage Area or Surface Runoff Factor "C"**

Impervious surfaces such as but not limited to roof surface, pavement, concrete or bituminous concrete, gravel	0.95
Cultivated field	0.40
Lawn	0.25
Meadow	0.20

NOTES:

1. Consideration should be given to future land use changes in the drainage area in selecting the "C" factor.
2. For drainage area containing several different types of ground cover, a weighted value of "C" factor must be used.
3. In special situations where sinkholes, stripped abandoned mines, etc., exist, careful evaluation shall be given to the selection of a suitable runoff factor with consideration given to possible reclamation of the land in the future.

(c) Rainfall Intensity "I" shall be per § 101-12L according to the following:

[1] Storm frequency:

[a] The following storm frequency shall be used for design:

[i] Local streets: ten-year, see storm duration.

[ii] Culvert cross drains: twenty-five-year rural, fifty-year suburban, one-hundred-year urban.

[iii] Swales: one-hundred-year.

[b] When a pipe or culvert is intended to convey the discharge from a stormwater management facility, its required capacity shall be computed by the Rational Method and compared to the peak outflow from the stormwater management facility for the one-hundred-year storm. The greater flow shall govern the design of the pipe or culvert.

[c] A one-hundred-year design storm frequency may be required for design of the stormwater collection system to ensure that the resultant stormwater runoff from the postdevelopment design storm is directed into the stormwater management facility.

[d] In all cases where drainage is collected by means of a head wall or pipe end, the pipe shall be designed as a culvert. The minimum diameter of the culvert shall be 18 inches. The minimum diameter of storm sewer shall be 15 inches, when located in a public right-of-way or easement.

[e] Where the collection system may be under inlet or outlet control, the Municipal Engineer may request additional calculations, such as but not limited to hydraulic grade lines.

[2] Storm duration:

[a] A five-minute storm duration shall be used if this duration does not

result in a maximum expected discharge that exceeds the capacity of a thirty-inch pipe.

- [b] If a five-minute storm duration results in a pipe size exceeding 30 inches, the time of concentration approach shall be used in determining storm duration.
- [3] Inlet placement: In general, catch basins shall be placed as required by hydraulic capacity. For design purposes, a capture ratio (intercepted flow/design flow) of 70% or greater is required. However, the width of flow in a street cannot exceed 1/2 of the travel lane. In any event, the maximum distance between conveyed inlets shall not exceed 400 feet.
- [4] Pipe and swale capacity: Manning's equation shall be used for the design of all storm sewer pipes and for open channel design:

$$V = \frac{1.486 R^{2/3} S^{1/2}}{N}$$

Where:

V = Velocity of the water in feet per second.

R = Hydraulic radius which is equal to the net effective areas (A) divided by the wetted perimeter (W.P.):

$$R = \frac{A}{W.P.}$$

The wetted perimeter is the lineal feet of the drainage facility cross section which is wetted by the water.

S = Slope of the hydraulic gradient (for approximation, use the water surface slope in a wetted stream and the streambed slope in dry stream or the pipe slope).

n = The roughness coefficient. Roughness coefficients are as follows:

Value of Manning's Roughness Coefficient - n

Rip-rap	0.040
Grass-lined channel	0.035
Bare earth channel	0.020
Paved bituminous channel	0.016
Concrete	0.012
Turf reinforcement matting (TRM)	Per manufacturer's recommendation

The maximum permitted velocity in a lined or unlined swale shall be in accordance with the USDA Engineering Field Manual, PADEP, applicable Pa. codes and state law, whichever is less.

The maximum permitted velocity in storm sewer pipe is 20 FPS. If 20 FPS is exceeded, the pipe must be anchored in accordance with the following table:

Velocity of Flow (FPS)	Anchor Spacing (FT)
20 to 24.99	20 feet
25 to 30	10 feet

Under no circumstances shall flow velocity exceed 30 FPS.

- B. Stormwater management facilities. The plan shall be designed and approved based upon the following criteria:
- (1) General. For drainage areas 320 acres or larger the peak discharge and runoff shall be computed using the Soil-Cover Complex Method contained in "Urban Hydrology for Small Watersheds," Technical Release No. 55, published by the Engineering Division, Soil Conservation Services, United States Department of Agriculture, dated June 1986 or latest revision, except as modified herein. For drainage areas less than 320 acres the Modified Rational Method may be utilized. Alternate methods of analysis may be considered if approved by the Municipal Engineer.
 - (2) Outflow determination. The maximum permitted stormwater discharge, in cubic feet per second, from any site shall not exceed the calculated peak discharge from the site at predevelopment ground cover and soil conditions for all design storms specified in § 101-15B. For the purpose of this chapter, predevelopment ground cover conditions shall be assumed to be "meadow" for all nonforested pervious areas as defined in "Urban Hydrology for Small Watersheds," Technical Release No. 55, published by Engineering Division, Soil Conservation Service, United States Department of Agriculture, dated June 1986 or latest revision, or if using the Modified Rational Method a "C" factor of 0.20 shall be used for meadow conditions for all nonforested pervious areas. For existing impervious surfaces see § 101-15A. The maximum permitted stormwater discharge shall be calculated using the SCS method or alternative method approved by the Municipal Engineer for rainfalls having recurrence intervals of one, two, five, 10, 25, 50 and 100 years. Time of concentration (Tc) should be calculated using the SCS segmental approach in accordance with the current recommendations by SCS. For the purpose of this chapter, the rainfall depths shall be per § 101-12L.
 - (a) Rainfall intensity shall be per § 101-12L for design if using the Modified Rational Method.
 - (b) If alternate methods of analysis are utilized, the design storms recurrence interval in years shall be the same as used in the SCS TR-55 Method.
 - (3) Minimum required detention storage. The minimum required detention storage shall be determined by routing the approved postdevelopment hydrographs through the stormwater management facility, using either manual methods or computerized routing. Routing shall be based upon the modified PULS method; other routing methodologies shall be subject to the approval of the Municipal Engineer.
 - (4) Emergency spillway. Emergency spillways or overflow structures shall be designed

- to pass the peak flow resulting from a one-hundred-year recurrence interval design storm computed at postdevelopment conditions, assuming that the principal outlet structure is nonfunctional. All retention basins and detention basins shall provide an emergency spillway. Emergency spillways shall be located in cut where feasible, if not, adequate permanent stabilization is required. All emergency spillways shall be permanently stabilized for the design peak flow rate and velocity.
- (5) Minimum bottom slope. All detention basins shall have a minimum bottom slope of 2%, if not being utilized for infiltration purposes.
 - (6) Side slopes. The maximum side slopes for detention or retention basins shall be three horizontal to one vertical in cut and four horizontal to one vertical in fill.
 - (7) Freeboard. The stormwater management facility shall have a minimum 1/2 foot of freeboard determined after routing the one-hundred-year recurrence interval design storm per § 101-17B(4) or a minimum of one foot of freeboard above the normal one-hundred-year storm routing elevation, whichever is greater.
 - (8) Seepage trench. All stormwater management detention basins shall provide as a minimum a two-foot-wide-by-ten-foot-long-by six-foot-deep seepage trench in the bottom of the basin near the outlet control structure, unless field conditions deem the seepage trench nonfunctional and concurred by the Municipal Engineer. This seepage trench is not required if the basin is being utilized for infiltration purposes.
 - (9) Fencing, trash racks and installation of childproof facilities may be required by the municipality.

ARTICLE IV
Stormwater Management (SWM) Site Plan Requirements

§ 101-18. Plan requirements.

- A. Although not a requirement of this chapter, prior to proceeding with SWM site plan preparation and submission, the applicant is encouraged to request a preapplication meeting with the municipality's Engineer and a staff member of the York County Conservation District to discuss the plan concept and responsibility for submission of required documents and information.
- B. Appropriate sections of the municipality's Subdivision and Land Development Ordinance,¹³ and other applicable ordinances of the municipality regarding subdivision and land development plan preparation and applicable plan requirements, shall be followed in preparing all SWM site plans, regardless of whether or not a SWM site plan involves a subdivision and/or land development plan.
- C. The municipality shall not approve any SWM site plan that is deficient in meeting the requirements of this chapter. At its sole discretion, and in accordance with this article, when a SWM site plan is found to be deficient, the municipality may either disapprove the submission, or, in the case of minor deficiencies, the municipality may accept the

13. Editor's Note: See Ch. 108, Subdivision and Land Development.

submission of a revised SWM site plan as noted in § 101-21 of this chapter.

D. The following items shall be included in the SWM site plan:

- (1) Provisions for permanent access and/or maintenance easements for all physical SWM BMPs, such as ponds and infiltration structures, as necessary to implement the operation and maintenance (O&M) plan discussed in Subsection D(3)(i), below.
- (2) The following signature blocks for the municipality and design engineer:

"**(Municipal engineer)**, on this date (**date of signature**), has reviewed the SWM site plan and finds it to be consistent with the design standards and criteria of the Seven Valleys Borough Stormwater Management Ordinance, Ordinance No. 1-2012."

(Design engineer), on this date (**date of signature**), hereby certifies that the SWM site plan meets all design standards and criteria of the Seven Valleys Borough Stormwater Management Ordinance, Ordinance No. 1-2012."

- (3) If not required by the municipal Subdivision and Land Development Ordinance,¹⁴ as specified in § 101-18 of this chapter, the SWM site plan shall also provide the following information where applicable:
 - (a) The overall stormwater management concept for the project, including any additional information required for a postconstruction stormwater management plan (PCSWMP) as applicable.
 - (b) A determination of site conditions in accordance with the BMP Manual. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, as well as for other environmentally sensitive areas, whether natural or man-made, including but not limited to floodplains, streams, lakes, ponds, hydric soils, wetlands, brownfields and wellhead protection zones.
 - (c) Stormwater runoff design computations, and documentation as specified in this chapter, or as otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the requirements of this chapter, including the recommendations and general requirements in § 101-12.
 - (d) Expected project time schedule.
 - (e) A soil erosion and sediment control plan in accordance with the following:
 - [1] Earth disturbance, zero to 5,000 square feet, implement erosion and sediment control measures on site, a written erosion and sediment control plan and York County Conservation District approval is not required unless required by state and/or federal permit(s) or is deemed necessary by the municipality. If earth disturbance is in a high-quality or

14. Editor's Note: See Ch. 108, Subdivision and Land Development.

exceptional-value watershed, then a written erosion and sediment control plan and YCCD approval is required.

- [2] Earth disturbance, 5,001 square feet to less than one acre, a written erosion and sediment control plan and implementation of plan on site is required. YCCD approval may be required by the municipality or state and/or federal permit(s). If earth disturbance is in a high-quality or exceptional-value watershed, then YCCD approval is required.
 - [3] Earth disturbance, one acre or greater, a written erosion and sediment control plan, YCCD approval and implementation of plan on site is required.
 - [4] In addition, under 25 Pa. Code Chapter 92,¹⁵ an individual or general, as applicable, DEP "NPDES Construction Activities" permit is required for regulated earth disturbance activities of one acre or greater.
- (f) The effect of the project in terms of runoff volumes, water quality, and peak flows on surrounding properties and aquatic features, and on any existing stormwater conveyance system that may be affected by the project.
 - (g) Plan and profile drawings of all SWM BMPs, including but not limited to drainage structures, pipes, open channels, and swales.
 - (h) The SWM site plan shall show the locations of existing and proposed on-lot wastewater facilities and water supply wells.
 - (i) The SWM site plan shall include an operation and maintenance (O&M) plan for all existing and proposed physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for O&M as well as schedules and costs for O&M activities. This (O&M) plan may be part of the SWM site plan or may be a separate recorded document.
 - (j) A description of permanent stormwater management techniques, including the construction specifications of the materials to be used for stormwater management facilities.
 - (k) A notarized signature of the owner of the parcel for which the SWM site plan is proposed.
 - (l) Existing and proposed land uses.
 - (m) The location of the proposed regulated activity relative to streets, municipal boundaries, and other significant man-made features.
 - (n) Significant physical features and associated boundary limits including flood hazard areas, sinkholes, existing drainage courses, and areas of natural vegetation.

15. Editor's Note: Chapter 92 of Title 25 of the Pennsylvania Code was reserved 10-8-2010, effective 10-9-2010. See now 25 Pa. Code Chapter 92a, National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance.

- (o) The location of existing and proposed utilities, stormwater facilities, sanitary sewers, and waterlines on the parcel and within 50 feet of property lines.
 - (p) Proposed changes to the land surface and vegetative cover, and the type and amount of existing and proposed impervious area.
 - (q) Existing and proposed features, such as structures, buildings, streets, driveways, access drives, and parking areas.
 - (r) Contour intervals of two feet or less. Dependent upon site conditions, alternative contour intervals proposed by an applicant or his designee may be accepted by the municipality.
 - (s) The name of the development, the name and address of the owner of the property, and the name and address of the individual or firm preparing the plan. Also to be included are the name, address, signature and seal of any registered surveyor (attesting the accuracy of the boundary survey), professional engineer, landscape architect, or professional geologist (for geomorphological assessments) contributing to and/or with a responsibility for any aspect of the plan where applicable.
 - (t) Preferred graphic and written scale of one inch equals no more than 50 feet. Dependent upon site conditions, an alternative scale proposed by the applicant or his designee may be accepted by the municipality.
 - (u) North point (arrow).
 - (v) A map showing all existing man-made features beyond the subject parcel's boundary lines that will be affected by the proposed regulated activities.
 - (w) Horizontal and vertical cross sections of all open channels, including hydraulic capacity.
 - (x) A note on the plan indicating the location, and responsibility for maintenance of, SWM facilities and/or easements that would be located on adjoining properties as a result of proposed regulated activities, and the location of such facilities and/or easements.
 - (y) A hydrogeologic assessment of the effects of stormwater runoff on sinkholes where present.
 - (z) The effect of the proposed regulated activity in terms of runoff volumes and peak flows on adjacent properties and/or any existing municipal stormwater collection system that may receive runoff from the project site.
 - (aa) Drainage flow pathways.
 - (bb) Infiltration testing performed in accordance with the BMP Manual shall be completed and the test results provided for any proposed infiltration BMPs.
- (4) Simplified SWM site plan.
- (a) The simplified site plan shall require a drawing showing:

- [1] The location and dimensions of the proposed new impervious surface, property lines, significant natural and man-made features within the project site.
 - [2] The approximate location and dimensions of all other impervious surfaces within the project site identifying those placed after the date of the enactment of this chapter.
 - [3] The location of all wells and sewage disposal systems located within the project site.
 - [4] The direction of stormwater flow from the existing impervious surfaces within the project site. The direction of stormwater flow from the proposed impervious surfaces within the project site. The general flow patterns across the project site.
- (b) The simplified site plan shall require a proposal to manage the stormwater flow from the proposed impervious surfaces. The proposal may involve:
- [1] The maintenance of a pervious flow area constructed consistent with the requirements of a DIA as set forth in Appendix B¹⁶ of this chapter, or if the requirements of Appendix B cannot be met, then an equivalent DIA may be authorized by the Borough.
 - [2] The construction and maintenance of:
 - [a] Stormwater pits approved by the Borough's Engineer as designed and sized to manage proposed increases in stormwater flow from the project site brought about by the proposed impervious surface. Infiltration tests to establish the size of the pit(s) necessary to achieve compliance with this chapter may be required by the Borough; or
 - [b] A detention basin approved by the Borough's Engineer as designed and sized to manage proposed increases in stormwater flow from the project site brought about by the proposed impervious surface. Infiltration tests to establish the size of basins necessary to achieve compliance with this chapter may be required by the Borough; or
 - [c] Any other proposal approved by the Borough Engineer or the Borough Enforcement Officer as sufficient to manage the increase in stormwater runoff brought about by the regulated activity.

§ 101-19. Plan submission.

- A. Three copies of the SWM site plan and supporting information shall be submitted as follows:
 - (1) Two copies to the municipality (one for the municipality and one for the Municipal

¹⁶. Editor's Note: Appendix B is included as an attachment to this chapter.

Engineer).

- (2) One copy to the York County Planning Commission when a SWM site plan accompanies a subdivision/land development plan application.
- B. Additional copies shall be submitted as requested by the municipality or DEP.
- C. The Borough may establish a fee schedule for the review of SWM plans, the amount of which shall be set by resolution of the Borough Council.

§ 101-20. Plan review and approval procedure.

- A. SWM site plans and supporting information shall be reviewed by the municipality for consistency with the provisions of this chapter.
- B. Modification requests:
- (1) When reviewing a SWM site plan and supporting information, whether or not the SWM site plan is included in a subdivision and/or land development plan application the municipality may, after applicant consults with DEP as noted in § 101-12C of this chapter, grant a modification of the requirements of one or more provisions of this chapter if the literal enforcement will enact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the chapter is observed.
 - (2) All requests for modifications from an applicant shall be in writing and shall accompany and be a part of the application for approval of a SWM site plan and/or a subdivision or land development plan as applicable. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision(s) of the chapter involved and the minimum modification(s) necessary.
 - (3) The municipality shall keep a written record of all action on requests for modifications. The response of any consultation and/or review by DEP shall be included as an original report if available or otherwise documented in the required written record.
- C. SWM site plan review and approval procedure:
- (1) If a SWM site plan and supporting information does not involve a subdivision and/or land development, the review of the SWM site, recommendations, approval, approval with conditions, or disapproval, i.e., the review and decision period, shall occur within 45 days of submission to the municipality. However, the municipality, in its sole discretion, may extend the review and decision period another 45 days due to the nature of the application and/or site conditions. If an extension of another 45 days is imposed or granted by the municipality beyond the first forty-five-day review and decision period designated by this subsection, the municipality shall notify the applicant in writing and deliver such notice to said applicant within 15 days of the decision to extend the review and decision period by the municipality. If no extension is imposed or granted by the municipality beyond the first forty-five-day review and decision period, and no decision has been rendered by the municipality within that

period, the SWM site plan shall be deemed approved. Similarly, if after a forty-five-day extension of the review and decision period has been imposed or granted by the municipality, and no decision has been rendered by the municipality within that period, the SWM site plan shall be deemed approved.

- (2) If a SWM site plan involves a subdivision and/or land development plan, the period of time from the submission to the municipality of the subdivision and/or land development plan application which includes the SWM plan and the approval, approval with conditions, or disapproval, i.e., review and decision period, shall be in accordance with the procedure for approval of plats in § 508 of the Pennsylvania Municipalities Planning Code.¹⁷
 - (3) From the time an application for approval of a plat involving a subdivision or land development plan, whether preliminary or final, which includes a SWM site plan, is duly filed with the municipality, no change or amendment of this chapter or other governing chapter or plan shall affect the decision on such application in accordance with the provisions of the governing chapters or plans as they stood at the time the application was duly filed, as specified in § 508(4)(I) of the Pennsylvania Municipalities Planning Code.
- D. Decision notification procedure. In all cases, the decision of the municipality to approve or disapprove the SWM site plan shall be in writing and shall be delivered to the applicant no later than 15 days following the decision. If the SWM site plan is disapproved, the written decision by the municipality shall specify the defects in the application, describe the requirements which were not met, and shall cite the provisions of the chapter relied upon. If the SWM site plan is approved with conditions, the notification to the applicant shall state the acceptable conditions for approval and the time limit for satisfying such conditions. The time limit for satisfying conditions of approval shall be the time limit prescribed for conditional approval of subdivision and land development plans as stated in the municipality's Subdivision and Land Development Ordinance.¹⁸
- E. Once the SWM site plan and supporting documents are finalized and approved, digital copies shall be provided to the Borough and its Engineer.

§ 101-21. Revision, modification of plans.

A revision to a previously submitted or approved SWM site plan that involves a change in SWM BMPs, stormwater management facilities, or changes in analytical techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM site plan, as determined by the municipality, shall require a resubmission of the revised SWM site plan in accordance with this article, including applicable fees. For NPDES permitted sites, any revised SWM site plan shall also be resubmitted to the York County Conservation District for review. In the case of a SWM site plan which contains minor deficiencies, such as a missing label, omission of a required note or minor construction detail, as determined by the municipality, the municipality may accept a resubmission of such

17. Editor's Note: See 53 P.S. § 10508.

18. Editor's Note: See Ch. 108, Subdivision and Land Development.

SWM site plan without the requirement of a review fee, or for a lesser fee as provided for in the municipality's fee schedule.

§ 101-22. Resubmission of disapproved SWM site plans.

A disapproved SWM site plan may be resubmitted, with the revisions addressing the municipality's concerns as stated regarding the original submission, to the municipality in accordance with this Article IV. The applicable review fee must accompany the submission of a revised SWM site plan, unless such fee is waived by the municipality. (See § 101-21.)

§ 101-23. Authorization to construct and term of validity.

- A. SWM site plans independent of subdivision and land development plans. The municipality's approval of a SWM site plan, when such plan is submitted independent of a subdivision and/or land development plan, authorizes the regulated activities contained in the SWM site plan for a maximum term of validity of five years following the date of approval. The municipality may, in its sole discretion, specify a term of validity shorter than five years in the approval for any specific SWM site plan, particularly if the nature of the proposed SWM facilities require more frequent maintenance and/or short-term replacement of certain components. Terms of validity shall commence on the date the municipality signs the approval for an SWM site plan. If an approved SWM site plan is not completed according to § 101-24 within the term of validity, then the municipality may consider the SWM site plan disapproved and may revoke any and all permits. SWM site plans that are considered disapproved by the municipality may be resubmitted in accordance with § 101-22 of this chapter.
- B. SWM site plans included in a subdivision and/or land development plan. The municipality's approval of a SWM site plan, which is a part of a subdivision and/or land development plan, authorizes that plan and the regulated activities therein so that no subsequent change or amendment in this chapter or other governing chapters or plans shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval, as specified in Section 508(4)(ii) through (vii) of the Pennsylvania Municipalities Planning Code.¹⁹

§ 101-24. As-built plans, completion certificate and final inspection.

- A. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM site plan. The as-built plans and an explanation of any discrepancies with the construction plans shall be submitted to the municipality.
- B. The as-built submission shall include a certification of completion signed a qualified person verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. If any licensed qualified person contributed to the construction plans, then a licensed qualified person must sign the completion certificate.
- C. After receipt of the completion certification by the municipality, the municipality may

19. Editor's Note: See 53 P.S. § 10508.

conduct a final inspection to verify compliance with, and accuracy of, the as-built plans.

- D. Once the as-built plans are approved by the municipality, digital copies of the as-built plans and executed certification of completion shall be provided to the municipality and its Engineer. This shall be in addition to the digital copies of the plan required by § 101-20E, above.

§ 101-25. Performance guarantee.

The applicant shall provide financial security to the municipality prior to approval of a SWM site plan to guarantee installation and construction of all stormwater management facilities depicted on the approved SWM site plan (including associated erosion and sedimentation facilities) in the amount of 110% of the total estimated construction cost. Financial security shall be provided in a form that is acceptable to the municipality's legal counsel. The financial security shall comply with the requirements of Section 509 of the Pennsylvania Municipalities Planning Code, except that the financial security shall only be released upon submittal and approval of an as-built plan and professional certification as required by § 101-24. All remedies available to the municipality pursuant to Sections 509, 510, and 511 of the Pennsylvania Municipalities Planning Code²⁰ shall be available pursuant to this chapter.

ARTICLE V
Operation and Maintenance

§ 101-26. Operation and maintenance program.

- A. The municipality shall make the final determination as to the adequacy of ownership operation and maintenance provisions prior to final approval of the SWM site plan.
- B. The Operation and Maintenance Plan shall be recorded as a restrictive covenant that runs with the land in perpetuity, and a reference to the plan, all easements (see § 101-27), and all operation and maintenance agreements (see § 101-28), including at a minimum the place, book, and page where each is recorded, shall also be included on each deed.
- C. Each SWM site plan shall contain provisions, which clearly set forth ownership, operation and maintenance responsibilities for all permanent stormwater management facilities. At a minimum, the provisions shall include:
 - (1) A description of the routine and periodical operation and maintenance activities that are necessary to ensure proper operation and function of the stormwater management facilities such as is required to meet the intent of the approved SWM site plan.
 - (2) Establishment of suitable easements as specified in § 101-27. The municipality, agents and employees shall have the right to enter easement areas where stormwater management and erosion and sediment control facilities are located for the purpose of inspecting said facilities.
 - (3) Identification of the responsible party or entity for ownership and maintenance of community permanent stormwater management facilities. In meeting this

20. Editor's Note: See 53 P.S. §§ 10509, 10510 and 10511.

requirement, the following priority for ownership is herein established:

- (a) (1st) As a first priority, ownership and maintenance of stormwater management facilities shall be the responsibility of a homeowner's association. The municipality shall have complete discretion in determining whether or not the first priority can be achieved. The stated responsibilities of the homeowner's association in terms of owning and maintaining the stormwater management facilities shall be submitted with final plans for determination of their adequacy and, upon their approval, shall be recorded with the approved subdivision and/or land development plan with the Recorder of Deeds of York County, Pennsylvania. In addition, the approved subdivision and/or land development plan and any deed written from said plan for a lot or lots shown therein shall contain a condition that it shall be mandatory for the owner or owners of said lot to be members of said homeowner's association. As part of this ownership priority, in the event that both the owner of the property on which the facility is located and the homeowner's association to pay such costs in full, the owners of each lot in the subdivision shall be responsible for their proportionate share of the operation and maintenance costs, which share shall be determined by the percentage each lot bears to the total number of lots in the subdivision. This priority shall not apply to minor subdivisions as defined in § 108-6 of the Seven Valleys Borough Subdivision and Land Development Ordinance, which shall be addressed pursuant to the terms of the second priority, below.
- (b) (2nd) As a second priority, in the event that the first priority cannot be achieved, or for minor subdivisions, the stormwater management facilities shall be incorporated within individual lots so that respective lot owners will own and be responsible for maintenance in accordance with this section and the recorded deed restrictions, agreements, and other related documents. In addition, a nonrefundable deposit in an amount to be set by the municipality shall be made by the developer for each stormwater management facility that is intended for ownership by the lot owner to cover the cost of inspections and necessary maintenance and repairs, except that the municipality can waive this deposit, and require that the developer create covenants to permit the municipality to place a lien on the residual tract of the subdivision as well as the lot on which the facility is located, in the event that a lot owner's failure to maintain or repair the facility requires the municipality to maintain or repair it.
- (c) (3rd) Municipal ownership. The municipality reserves the right to accept or reject the ownership, operation and maintenance responsibility for any or all of the stormwater management facilities.

§ 101-27. Easements.

Easements provided in compliance with this section shall be depicted graphically on all subdivision, land development and SWM site plans. The provisions in Subsections C through F of this section shall be stated in note form on all subdivision, land development and SWM site plans.

- A. Where a development site is traversed by federal- or state-regulated natural watercourses, drainage easements shall be provided conforming to the alignment of the watercourse and the physical limits of any associated features that are regulated. If the physical limits of the regulated features are not known, then the width of the easement shall be equal to the top width of the maximum anticipated flow in the watercourse during a one-hundred-year design storm event, or 20 feet, whichever is greater.
- B. Access easements shall be provided around all stormwater management facilities and are required to provide ingress to and egress from a public right-of-way. Access easements shall have a minimum width of 20 feet and be centered on the facility (i.e., pipe, swale) to which access is being provided. For storage, retention and infiltration facilities easements shall be provided conforming substantially to the size, shape and configuration of each facility.
- C. Where individual on-lot controls are proposed, the municipality shall be granted access to inspect on-lot facilities in the event of a malfunction.
- D. No person shall place any obstruction or encroachment in an easement associated with a federal- or state-regulated resource without prior written authorization by the appropriate regulatory authority.
- E. No person shall place any obstruction or encroachment in a stormwater facility or drainage easement without prior written authorization by the municipality.
- F. The Borough, its agents and employees shall have the right to enter easement areas where stormwater management and erosion and sediment control facilities are located for the purpose of inspecting and, if necessary, maintaining or repairing, said facilities.

§ 101-28. Operation and maintenance agreements.

- A. The applicant shall prepare and execute an operation and maintenance agreement (see sample agreement in Appendix A²¹).
- B. When ownership will ultimately be the responsibility of a homeowner's association an agreement shall be provided to the Borough by the applicant/owner/developer defining the terms and conditions under which ownership and maintenance responsibilities will be transferred to the homeowner's association. Other items may be required in the agreement where determined necessary to guarantee satisfactory installation and maintenance of all facilities. The agreement shall be subject to a review and approval by the municipality, shall be recorded with the County Recorder of Deeds, and shall constitute a covenant running with the property and/or equitable servitude and shall be binding on the landowner, his administrators, executors, assigns, heirs and any other successors in interests in perpetuity. The agreement shall also be included, or specifically referred to (including at a minimum the place, book, and page where it is recorded), in any and all documents relating to the homeowner's association, including but not limited to any declarations or restrictive covenants.
- C. If the landowner fails to adhere to the operation and maintenance agreement, the

21. Editor's Note: Appendix A is included as an attachment to this chapter.

municipality may perform the services required and charge the landowner appropriate fees.

- D. Payment of any fees, costs, or expenses incurred by the municipality as a result of this section shall be the responsibility of the homeowner's association, the landowner, or the owners of each lot in the subdivision, as the case may be. Failure by any owners to pay their share, whether all or part, may result in a lien against the property and/or any other action authorized by law or agreement.

§ 101-29. Municipal stormwater BMP operation and maintenance fund.

Persons installing stormwater management facilities the purpose of which is to control stormwater runoff for community uses shall be required to pay a specified amount to the Borough for a stormwater maintenance fund to help defray the Borough's costs of periodic inspections. In addition, the Borough may require other stormwater management facilities to pay a specified amount to the stormwater maintenance fund if, in the discretion of the Borough or its Engineer or other designated official, such facility exhibits characteristics that pose a threat or potential threat to public health or safety. The amount of the deposit shall be calculated to cover the cost of periodic inspections performed by the Borough for a minimum of 11 years, as estimated by the Borough's Engineer. The Borough at its discretion may require the amount of the deposit to be calculated for terms exceeding 11 years. After the designated period of time for Borough inspections, inspections shall be performed by the then-current owner of the stormwater management facility at the owner's expense; a copy of these inspection reports is to be sent to the Borough and its Engineer, on the schedule established by § 101-35.

ARTICLE VI
Fees and Expenses

§ 101-30. General.

The municipality may include all costs incurred in the review fee charged to an applicant. The review fee may include, but not be limited to, costs for the following:

- A. Administrative/clerical processing.
- B. Review of the SWM site plan and related documents, including operation plans and agreements, easements, declarations, or restrictive covenants, by the Municipal Engineer, qualified professional, designee of the municipality, and/or solicitor of the municipality, as needed.
- C. Attendance at meetings.
- D. Inspections.
- E. Legal fees incurred by the municipality in enforcing this chapter.

ARTICLE VII
Prohibitions

§ 101-31. Prohibited discharges and connections.

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any

nonstormwater discharge including sewage, process wastewater, and wash water to enter the waters of this commonwealth is prohibited.

- B. No person shall allow, or cause to allow, illicit discharges into waters of this commonwealth which are not composed entirely of stormwater, except as provided in Subsection C below and discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of this commonwealth:

- Discharges from firefighting activities

- Potable water sources including waterline flushing

- Irrigation drainage

- Air-conditioning condensate

- Springs

- Water from crawl space pumps

- Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used

- Diverted stream flows

- Flows from riparian habitats and wetlands

- Uncontaminated water from foundations or from footing drains

- Lawn watering

- Dechlorinated swimming pool discharges

- Uncontaminated groundwater

- Water from individual residential car washing

- Routine external building wash-down (which does not use detergents or other compounds)

- Water discharged in well testing for potable water supplies

- D. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute to pollution of the waters of this commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

§ 101-32. Roof and driveway drains and sump pump discharges.

Roof drains, driveway drains and sump pumps shall discharge to infiltration or vegetative BMPs to the maximum extent practicable or satisfy the criteria for DIAs or equivalent DIAs to the maximum extent practicable.

§ 101-33. Alteration of SWM BMPs.

No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures in a manner without the written approval of the municipality, with the exception of necessary maintenance activities such as mowing.

ARTICLE VIII
Enforcement and Penalties

§ 101-34. Right of entry.

Upon presentation of proper credentials, the designee of the municipality may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this chapter.

§ 101-35. Inspection.

- A. The municipality or its designee may inspect all phases of the construction, operation, maintenance and any other implementation of SWM BMPs. A municipal inspection due to a report or information of lack of maintenance, a defect, or failure, of a SWM BMP shall be paid for by the landowner.
- B. SWM BMPs shall be inspected by the landowner, or the landowner's designee, according to the following list of minimum frequencies:
 - (1) Annually for the first five years.
 - (2) Once every three years thereafter.
 - (3) During or immediately after the cessation of any storm event with a rainfall of one inch or greater.

§ 101-36. Enforcement.

- A. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM site plan, unless specifically exempted in § 101-13.
- B. It shall be unlawful to violate any provision of this chapter.
- C. Inspections regarding compliance with the SWM site plan are a responsibility of the municipality.

§ 101-37. Suspension and revocation.

- A. Any approval or permit issued by the municipality pursuant to this chapter may be suspended or revoked for:
 - (1) Noncompliance with or failure to implement any provision of the approved SWM site plan or O&M agreement.
 - (2) A violation of any provision of this chapter or any other applicable law, chapter, rule, or regulation relating to the regulated activity.

- (3) The creation of any condition or the commission of any act during the regulated activity which constitutes or creates a hazard, nuisance, pollution, or endangers the life or property of others.
- B. A suspended approval shall be reinstated by the municipality when:
 - (1) The municipality has inspected and approved the corrections to the violations that caused the suspension.
 - (2) The municipality is satisfied that the violation has been corrected.
 - C. An approval that has been revoked by the municipality cannot be reinstated. The applicant may apply for a new approval under the provisions of this chapter.
 - D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, the municipality may provide a limited time period for the landowner or responsible parties to correct the violation. In these cases, the municipality will provide the owner or responsible parties, or their agent, with a written notice of the violation and the time period allowed for the owner to correct the violation. If the owner does not correct the violation within the allowed time period, the municipality may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this chapter.

§ 101-38. Violations and penalties.

- A. Any person, partnership, corporation, or other entity who or which has violated the provisions of this chapter shall commit a summary offense, and shall, upon conviction, pay a fine of not more than \$600. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership, corporation or other entity violating the chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation.
- B. The municipality may institute civil, injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

§ 101-39. Appeals.

- A. Any person aggrieved by any action of the municipality or its designee, relevant to the provisions of this chapter, may appeal to the municipality within 30 days of that action.
- B. Any person aggrieved by any decision of the municipality, relevant to the provisions of this chapter, may appeal to the York County Court of Common Pleas within 30 days of the decision of the municipality.